IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5414 of 2017 (O&M)
Date of decision: 08.03.2019

United India Insurance Co. Ltd.

….. Appellant

Versus

Guddi Devi and others

….. Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Suvir Dewan, Advocate for the appellant.
Mr. Kuldeep Sheoran, Advocate for the respondents.

***

B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the Insurance Company challenging award dated 05.04.2017 passed by the learned Motor Accidents Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') awarding compensation of ₹20,69,000/-.

[2] Prayer is for modification of the award and reduction of compensation payable by taking into account 40% of the income of the deceased towards future prospects instead of 50% taken into account by the learned Tribunal as also by awarding appropriate compensation under the conventional heads by holding the respondents-claimants to be entitled only to ₹15,000/- on account of funeral expenses and ₹15,000/- on account of loss of estate as against ₹1,00,000/- awarded on account of loss of love and affection to the mother of the deceased and ₹25,000/- on account of transportation charges and last rites.

[3] The learned Tribunal by taking into account income of the deceased as ₹9,000/- per month, by adding 50% of the established income of the deceased towards future prospects and by working out dependency at

₹1,08,000/- annually and by applying multiplier of 18 and further by awarding ₹1,00,000/- on account of loss of love and affection to the mother of the deceased and ₹25,000/- on account of transportation and last rites of the deceased, awarded total compensation of ₹20,69,000/-.

[4] Admittedly, the deceased was 22 years of age. No evidence has come on record whether the deceased was holding a permanent job or was self-employed. Therefore, in the circumstances, learned counsel for the appellant contends that the income of the deceased be taken as that of a self-employed person. Learned counsel further contends that in view thereof, as per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others, 2017 (4) RCR (Civil) 1009,** 40% of the established income of the deceased minus the tax component was to be taken into account towards future prospects while computing the compensation payable. Learned counsel further contends that no amount ought to have been awarded on account of loss of love and affection, besides, amount of compensation payable on account of transportation and last rites of deceased at ₹25,000/- was liable to be scaled down to ₹15,000/- for funeral expenses only.

Learned counsel however admits that the income of the deceased being less than the taxable limit, no income tax is payable.

[5] Learned counsel for the respondents does not oppose the submissions made by learned counsel for the appellant.

[6] I have considered the submissions of learned counsel for the parties. Since, the deceased was 22 years of age and has been treated as self-employed, therefore, as per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case, instead of 50%, only 40% of the established income of the deceased is to be taken into account towards future

prospects. No amount is payable on account of loss of love and affection in terms of paragraph No.54 of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra).

[7] Likewise, in terms of paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra), sum of ₹25,000/- awarded by the learned Tribunal on account of transportation and last rites is scaled down to ₹15,000/- on account of funeral expenses only. Further, ₹15,000/- is payable on account of loss of estate.

[8] Accordingly, in the light of the position as noted above, as against compensation of ₹20,69,000/- awarded by the learned Tribunal, the respondents/claimants are held entitled to the following compensation:-

Sr. No.	**Heads**	**Amount assessed by the Tribunal**	**Amount assessed by the Court**
1.	Income	₹9000/-	₹9000/-
2.	Future Prospects	50% of ₹9000/- = ₹4500/-	40% of ₹9000/- ₹3600/-
3.	Total Income Assessed	₹9000/- + ₹ 4500/= ₹13,500/-	₹9000/- + ₹3600/- = ₹12,600/-
4.	Multiplier applied	18	18
5.	Deduction (towards personal expenses of deceased)	1/3rd of ₹13,500/- = ₹4500/-	1/3rd of ₹12,600/- = ₹4200/-
6.	Dependency (Annual)	(₹13,500/- - ₹ 4500/-) = ₹9000/- (per month) and ₹9000/- x 12 =	(₹12,600/- -₹4200/-) = ₹8400/- (per month) and (₹ 8400/- x 12) = ₹1,00,800/- (annually)

		₹1,08,000/- (annually)	
7.	Compensation awarded by applying multiplier	₹1,08,000/- x 18 = ₹19,44,000/-	₹1,00,800/- x 18 = ₹18,14,400/-
8.	Loss of Love and Affection	₹1,00,000/-	NIL
9.	Transportation and Last Rites	₹25,000/-	₹15,000/- (for funeral expenses only)
10.	Loss of Estate	NIL	₹15,000/-
11.	Rate of interest	9 % per annum	9% per annum
	Total	₹20,69,000/-	₹18,44,400/-

[9] Accordingly, as against compensation of ₹20,69,000/- awarded by the Tribunal, Hisar along with interest @ 9% p.a., the respondents/claimants are held entitled to compensation of ₹18,44,400/- along with interest @ 9% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

[10] Accordingly, appeal is allowed by modifying Award dated 05.04.2017 passed by the learned Tribunal, Hisar to the extent as noted above.

(B.S. WALIA)
JUDGE

08.03.2019
amit

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.