IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5984 of 2017
Date of decision: 01.02.2019

Raj Bala and another ….. Appellants

Versus

Raj Kumar and others ….. Respondents

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

Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate for the appellants.

Mr. Gopal Mittal, Advocate for respondent No.3 – Insurance Company.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the parents of Sandeep @ Deepak who died in a motor vehicular accident on 28.08.2016.

[2] Prayer is for enhancement of compensation of ₹ 14,83,000/- awarded to the appellants.

[3] Brief facts of the case leading to the filing of the appeal are that the learned Motor Accidents Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal') took into account the age of the deceased as 20 years, occupation as motor mechanic and by treating the deceased as skilled worker assessed his income as ₹6,000/- per month. Thereafter by applying multiplier of 18 and by making deduction of 50% from the income of the deceased towards his personal expenses, besides, by awarding ₹ 25,000/- on account of funeral expenses, awarded total compensation of ₹ 14,83,000/- along with interest @ 7.5 % per annum.

[4] Learned counsel for the appellants has produced Photostat copy of the notification issued by the State of Haryana under the Minimum Wages Act, 1948 (for short 'the Act) reflecting ₹ 9342/- per month as the minimum wages payable to a skilled labourer for the relevant period. Copy of the notification duly signed by counsel for the appellants is taken on record as Mark- 'A'. Learned counsel for respondent No.3-Insurance Company does not dispute minimum wages payable to the deceased for the relevant period (i.e. ₹ 9342/- per month) in view of notification (i.e. Mark 'A'). Accordingly, the income of the deceased is taken as ₹ 9342/- per month as against ₹ 9000/- taken into account by the learned Tribunal.

[5] Learned counsel for respondent No.-3 Insurance Company contends that the learned Tribunal has wrongly awarded future prospects awarded @ 50% and the same is liable to be reduced to 40% in terms of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others, 2017 (4) RCR (Civil) 1009** as the deceased was self employed and less than 40 years of age.

[6] Learned counsel for respondent No.3-Insurance Company further contends that as against ₹ 25,000/- awarded on account of funeral expenses, the appellants are entitled to only ₹ 15,000/- in accordance with paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra).

[7] At this stage, learned counsel for the appellants states that no amount has been awarded on account of loss of estate. Besides, as per paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. vs Nanu Ram alias Chuhru Ram, 2018 (4) RCR (Civil) 333**, a sum of ₹ 40,000/- is payable to each of the appellants on account of loss of filial consortium. Aforementioned prayer has not been opposed by learned counsel for the respondent.

Accordingly, in the light of the position as noted above, ₹ 25000/- awarded by the learned Tribunal on account of funeral expenses is reduced to ₹ 15000/- while ₹ 15,000/- is awarded on account of loss of estate in terms of paragraph No. 61(viii) of the decision in Pranay Sethi's case (supra). Further, as per paragraph No.8.7 of the decision in Magma General Insurance's case (Supra), a sum of ₹ 40,000/- is awarded to each of the appellants on account of loss of filial consortium.

[8] In the light of the position as noted above, the following compensation is held to be payable:-

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by the Court
1.	Income	₹ 9000/-	₹ 9342/-
2.	Future Prospects	50% of ₹ 9000/- = ₹ 4500/-	40% of ₹ 9342/- = ₹ 3736.8/- (rounded off ₹ 3737/-)
3.	Total Income Assessed	₹ 13,500/-	₹ 9342/- + ₹ 3737/- = ₹ 13,079/-
4.	Multiplier applied	18	18
5.	Deduction (towards personal expenses of deceased)	50% of ₹ 13,500/- = ₹ 6750/-	50% of ₹ 13,079/- = ₹ 6539.5/- (rounded off ₹ 6540/-)
6.	Dependency (Annual)	(₹ 13,500 /- - ₹ 6750/-) = ₹ 6750/- (per month) and (₹ 6750-/- x 12) = ₹ 81,000/- (Annually)	(₹13,079/- - ₹6540/-) = ₹ 6539/- (per month) and (₹ 6539/- x 12) = ₹ 78,468/- (Annually)
7.	Compensation awarded by applying multiplier	₹ 81,000/- x 18 = ₹ 14,58,000/-	₹ 78,480/- x 18 = ₹ 14,12,424/-
8.	Loss of filial consortium	NIL	₹ 40,000/- to each of the appellants i.e. ₹ 80,000/-.

9.	Funeral Expenses	₹ 25,000/-	₹ 15,000/-
10.	Loss of Estate	NIL	₹ 15,000/-
11.	Rate of interest	7.5 % per annum	7.5% per annum
	Total	₹ 14,83,000/-	**₹ 15,22,424/-**

[9] Accordingly, as against compensation of ₹ 14,83,000/- awarded by the Tribunal, appellant No.1 (i.e. mother of the deceased) is held entitled to compensation of **₹ 14,67,424/-** while appellant No.2 (i.e. father of the deceased) is held entitled to award of **₹ 55,000/-** on account of loss of filial consortium and proportionate share of funeral expenses and loss of estate along with interest @ 7.5% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

[10] Needless to mention, direction of the learned Tribunal in paragraph No.39, to keep the amount with regard to future prospects in Fixed Deposit is modified and the amount as per entitlement as has been worked out in the preceding paragraph on account of future prospects is ordered to be released to appellant No.1 (i.e. mother of the deceased) in accordance with law after getting the FDR en-cashed.

[11] Accordingly, appeal is allowed. Award dated 15.02.2017 passed by the learned MACT, Kaithal is modified as above.

(B.S. WALIA)
JUDGE

01.02.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.