IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.445 of 2018 (O&M)
Date of Decision: 15.03.2019.

United India Insurance Company Ltd. ...Appellant

Versus

Manjit Kaur and others. ....Respondents

Coram : Hon'ble Mr. Justice B.S.Walia

Present: Mr. Shubham Jain, Advocate for the appellant.
Mr. Neeraj Khanna, Advocate for respondent Nos. 1 to 5.
None for respondent No. 6.

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B.S.Walia, J.,

1. Appeal has been filed by the Insurance Company challenging award dated 14.09.2017 whereby the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') awarded compensation of ₹ 19,20,000/– in the ratio of 50% to claimant-respondent No. 1-wife, 20% each to claimant respondent Nos.2 and 3 i.e. the sons of the deceased and 10% to claimant respondent No. 4 i.e. the mother of the deceased Harjinder Kumar who died on 9th October 2016 on account of injuries sustained in a motor vehicular accident on 4th October 2016. Prayer is for modification of award and reduction of compensation by awarding future prospects @ 40% instead of 50% awarded by the Tribunal, by reducing compensation on account of loss of consortium from ₹ 1,00,000/- to ₹ 40,000/– and that too only on account of loss of spousal consortium, reduction of compensation awarded on account of funeral expenses from ₹ 25,000/– to ₹ 15,000/– besides setting aside of compensation of ₹1,50,000 awarded on account of loss of love and affection.

2. The learned Tribunal by treating the deceased as an unskilled labourer of 33 years of age, assessed his income at ₹7500/- per month, made an

addition of 50% of established income of the deceased for working out future prospects, by treating the wife, two minor sons and mother of the deceased as his dependants and making deduction of 1/4th of the income of the deceased towards his personal expenses and by applying multiplier of '16', awarded total compensation of ₹19,20,000/- to respondent Nos. 1 to 4 in the ratio stipulated in paragraph No. 1 above.

3. Learned counsel for respondent Nos.1 to 5 very fairly did not oppose the prayer for reduction of compensation awarded in the light of decision of Hon'ble the Supreme Court in **National Insurance Company Ltd versus Pranay Sethi and others 2017 ACJ 2700,** but prayed that compensation on account of loss of estate not awarded despite entitlement be awarded @ ₹ 15,000/-.

4. I have considered the submission of learned counsel for the parties and am of the considered view that for the reasons as are mentioned hereunder the appeal is liable to be allowed and compensation payable reduced. As per paragraph No. 61 (iv) of the decision in Pranay Sethi's case (supra), where the deceased was self-employed and below the age of 40 years, 40% of the established income, minus the tax component is to be taken into account for the purpose of working out the future prospects payable, while as per paragraph No.54, no amount is payable on account of loss of care and guidance for minor children as the head relating to loss of care and minor children does not exist, and as per paragraph No. 61 (viii), ₹40,000 is payable on account of loss of spousal consortium, ₹ 15,000 on account of funeral expenses and like amount on account of loss of estate.

5. In the light of the position as noted above the appeal is liable to be allowed, award modified and respondent Nos. 1 to 4 held entitled to the payment of compensation as per details given as under :-

Sr. No.	Head	Amount assessed by Tribunal in ₹	Amount assessed by this Court in ₹
1	Monthly Income	7500/-	7500/-
2	Future prospects	50% = 3750/–	40%= 3000/–
3	Deduction towards personal expenses of deceased	1/4th i.e. ₹11,250 - ₹2812.5= ₹8437.5/–	1/4th i.e. ₹10,500 - ₹2625= ₹7875/–
4	Multiplier applied	16	16
5	Compensation awarded	₹8437.5 x 12 x 16 = ₹16,20,000/-	₹7875 x 12 x 16= ₹15,12,000/–
6	Loss of love and affection.	₹1,50,000/–	Nil
7	Loss of consortium	₹100,000/–	₹40,000/-
8	Funeral expenses	₹25,000/–	₹15000/-
9	Loss of estate	Nil	₹15,000/-
10	Interest	7% per annum	7% per annum
11	Total	₹18,95,000/- (wrongly calculated as ₹19,20,000/-)	₹15,82,000/–

6. In the light of the position as noted above, as against compensation of ₹18,95,000/– (wrongly calculated as ₹ 19,20,000/– by the Tribunal), the appellant is liable to pay compensation of ₹ 15,82,000/– to respondent Nos. 1 to 4 in the ratio as stipulated by the Tribunal along with interest @ 7% per annum less payment if any already made. Needless to mention, while making payment of compensation, the Insurance Company shall deduct tax liability if any qua amount payable on account of future prospects in accordance with the decision in Pranay Sethi's case (supra). Appeal is allowed. Award dated 14.09.2017 passed by the learned Tribunal is modified to the extent as noted above.

(B.S. Walia)
Judge

March 15, 2019
DP&S

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No