IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.471-CII of 2017 and
FAO No.118 of 2017 (O&M)

Date of decision: 11.03.2019

Khushi Ahuja and others. ….. Appellants

Versus

Dharam Dev and others. ….. Respondents

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

Present: Ms. Gunjan Gera, Advocate for the appellants.

Mr. R.K. Singla, AAG, Haryana for respondent No.2.

Mrs. Shamsher Kaur, Advocate for respondent No.3 – Insurance Company.

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<u>B.S. WALIA, J. (ORAL)</u>

<u>CM No.471-CII of 2017</u>

For the reasons as are mentioned in the application, the same is allowed. Delay of 146 days in filing of the appeal is condoned subject to all just exceptions.

<u>FAO No.118 of 2017</u>

[1] Appeal has been filed by the appellants i.e. widow, daughter and father of deceased Pawan Ahuja who died in a motor vehicular accident on 24.06.2015, praying for enhancement of compensation of ₹ 51,46,648/- awarded by the learned Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal').

[2] Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified, compensation payable enhanced by taking into account established income of the deceased towards award of future prospects as also by award of compensation on account of loss of estate in accordance with the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**.

[3] Per contra, learned counsel for respondent No.3-Insurance Company while not opposing the claim in appeal contended that although a sum of ₹ 50,000/- had been awarded on account of loss of consortium, only ₹ 40,000/- was payable in terms of the decision in Pranay Sethi's case (Supra). Likewise, ₹ 25,000/- awarded on account of funeral expenses and transportation charges was liable to be scaled down to ₹ 15,000/- on account of funeral expenses only, besides, ₹ 1,00,000/- awarded on account of loss of love and affection was not payable in view of the decision in Pranay Sethi's case (Supra).

[4] I have considered the submissions of learned counsel for the parties.

[5] Admittedly, the deceased was 33 years of age, self-employed and having income of ₹ 38,842/- per month after deduction of income tax. Accordingly, as per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra), the appellants are entitled to taking into account 40% of the aforementioned established income of the deceased towards future prospects while computing the compensation payable. Likewise, as per paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra), widow of the deceased would be entitled to ₹ 40,000/-

on account of loss of consortium as against ₹ 50,000/- awarded by the learned Tribunal. Besides, ₹ 15,000/- is payable towards funeral expenses as against ₹ 25,000/- awarded by the learned Tribunal on account of funeral expenses and transportation charges. Further a sum of ₹ 15,000/- is payable on account of loss of estate which was not awarded by the learned Tribunal. ₹ 1,00,000/- awarded on account of loss of love and affection is not payable in terms of paragraph No.54 of the decision in Pranay Sethi's case (Supra).

[6] In the light of the position as noted above, the appellants are held entitled to the following compensation:-

Sr. No.	**Heads**	**Amount assessed by the Tribunal**	**Amount assessed by the Court**
1.	Income (after deduction of income tax at source)	₹ 38,842/- (per month)	₹ 38,842/- (per month)
2.	Future Prospects	Nil	40% of ₹ 38,842/- = ₹15,536.80/- (rounded off to ₹ 15,537/-)
3.	Total Income Assessed	₹ 38,842/-	(₹ 38,842/- + ₹ 15,537/-) = ₹ 54,379/-
4.	Multiplier applied	16	16
5.	Deduction (towards personal expenses of deceased)	1/3rd of ₹ 38,842/- = ₹ 12947/-	1/3rd of ₹ 54,379/- = ₹ 18,126/-
6.	Dependency	(₹ 38,842/- - ₹ 12,947/- = ₹ 25,895/- (but assessed as **₹ 25,894/-**) (per month)	(₹ 54,379/- - ₹ 18,126/-) = ₹ 36,253/- (per month) and ₹ 36,253/- x 12 = ₹ 4,35,036/-

		₹ 25,894/- x 12 = ₹ 3,10,728/-	
7.	Compensation awarded by applying multiplier	₹ 3,10,728/- x 16 = ₹ 49,71,648/-	₹ 4,35,036/- x 16 = ₹ 69,60,576/-
8.	Loss of consortium	₹ 50,000/-	₹ 40,000/-
9.	Funeral Expenses and Transportation charges	₹ 25,000/-	₹ 15,000/- (for funeral expenses only)
10.	Loss of Estate	Nil	₹ 15,000/-
11.	Love and affection	₹ 1,00,000/-	NIL
12.	Rate of interest	6% per annum	6% per annum
Total		**₹ 51,46,648/-**	**₹ 70,30,576/-**

[7] Accordingly, as against compensation of ₹51,46,648/- awarded by the Tribunal, the appellants are held entitled to compensation of **₹ 70,30,576/-**along with interest @ 6 % per annum with effect from the date of claim petition till date of payment, less payment, if any, already made. Apportionment of compensation shall be made in accordance with the ratio stipulated in the award passed by the learned Tribunal.

[8] Accordingly, appeal is allowed by modifying Award dated 30.03.2016 passed by the learned Tribunal, Patiala to the extent as noted above.

(B.S. WALIA)
JUDGE

11.03.2019
Amit

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