IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.234 **FAO-114-2018 (O&M)**
Date of Decision: 14.11.2022

Krisna and another .... Appellants

Versus

Parambir Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Service of respondents No.1 and 2 already dispensed with.

Mr. Vinod Gupta, Advocate
for respondent No.3.

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TRIBHUVAN DAHIYA, J. (ORAL)

This is claimants' appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh, vide award dated 18.08.2017.

2. The facts of the case in brief are, the deceased-Mewa Singh died in a motor vehicular accident on 07.09.2016. He was 63 years of age at the time of death. His income has been assessed as that of an unskilled labourer at the rate of Rs.7,175/- per month. For assessing the dependency, half of the assessed income was deducted towards deceased's personal expenses, and the amount of compensation on half of the income was assessed by applying multiplier of seven. The amount so assessed was Rs.3,01,350/-. Apart from that, claimants were awarded compensation of

Rs.1 Lakh towards loss of consortium and Rs.25,000/- for funeral expenses. In all, total amount of Rs.4,26,350/- was awarded along with interest at the rate of 7.5% per annum, holding the respondents liable to pay jointly and severally.

3. Learned counsel for the appellants has argued that the dependency has been wrongly assessed by deducting half of the deceased's income. As per law laid down in ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another; 2009(3) RCR (Civil)*** *77* that in case the number of dependants is two, only 1/3rd of deceased's income is required to be deducted for assessing the dependency.

4. Learned counsel for the insurance company is not in a position to dispute that the Tribunal has wrongly assessed the dependency. He, however, submits that the amount of compensation awarded by the Tribunal towards conventional heads is contrary to the law settled by the Supreme Court of India in ***National Insurance Company Limited v. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009.***

5. Therefore, following the law settled in *Sarla Verma case (supra),* the award passed by the Tribunal needs to be modified by setting aside its findings on assessment of dependency. Since both the claimants, deceased's wife and child, were dependent on him, the dependency is to be assessed by deducting only 1/3rd of the assessed income, instead of one half. As per law settled in *Pranay Sethi case (supra)*, reasonable figures under the conventional heads, namely, loss of estate, loss of consortium and funeral expenses, should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% every three

years. Accordingly, the claimants would be entitled to 10% enhancement with respect to compensation under the conventional heads; with 10% increase the amount under the conventional heads comes to Rs.16,500/-, Rs.44,000/- and Rs.16,500/- respectively.

6. In view of the aforesaid, the award passed by the Tribunal dated 18.08.2017 is modified to the extent that claimants are held entitled to assessment of compensation by deducting only 1/3rd of the deceased's assessed income towards his personal expenses, and compensation under the conventional heads is reduced as per the settled law. The appellants/claimants are entitled to the following amount of compensation:

Sr. No.	Head	Compensation awarded by this Court.
1	Annual Income (7175x12)	86,100/-
2	Future prospects @10%	8,610/-
3	Total income including future prospects	86,100 +8,610 = 94710/-
4	Income after 1/3rd deduction	94,710 – 31,570 = 63140/-
5	Multiplier of Seven	4,41,980/-
6	Loss of Estate	16,500/-
7	Loss of Consortium	44,000 x 2 = 88,000/-
8	Funeral expenses	16,500/-
9	Total amount of compensation	5,62,980/-

7. Accordingly, the appellants-claimants are held entitled to compensation of an amount of Rs. 5,62,980/- with interest at the rate of 7.5% per annum from the date of filing the claim petition till its actual realization. The liability to satisfy the award, share of the claimants, and the procedure of disbursal shall be as already determined by the Tribunal.

8. Appeal stands disposed of.

9. Pending miscellaneous application(s), if any, stand disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

14.11.2022
Maninder

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