121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4574-2009 (O&M)
Date of Decision :24.03.2023

Master Harsh and others …Appellants

versus

Ashlem and others ….Respondents

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

Present : Mr. Arun Singhal, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

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B.S. Walia, J. (Oral)

CM-5235-CII-2023

For the reasons as are mentioned in the application, the same is allowed.

Appellant Nos.1 and 2 are allowed to proceed the appeal in their own name.

CM-5236-CII-2023

Prayer in the application is for fixing actual date of hearing in the main appeal.

Notice of the application.

Mr. Rajneesh Malhotra, Advocate, accepts notice on behalf of respondent No.3 and states that he has no objection to the prayer made in the application.

In view of the position noted above, the application is allowed. Main appeal is taken up for hearing for today itself.

FAO-4574-2009

Challenge in the appeal is to award dated 02.03.2009, passed by the learned Motor Accident Claims Tribunal, Panipat, (hereinafter referred to as 'the Tribunal'), awarding compensation of Rs.12,70,000/- along with interest @ 7.5% per annum to two minor children and father of deceased, Sunil Kumar.

2. Prayer is for enhancement of compensation awarded by taking into account 40% of the established income of the deceased for working out future prospectus, awarding Rs.16,500/- for loss of estate and like amount towards funeral expenses, besides Rs.44,000/- to each of the appellants/claimants in view of the decision of Hon'ble the Supreme Court in**National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, and **Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram, 2018 (4) RCR (Civil) 333.**

3. The deceased – Sunil, father of appellant Nos.1 and 2 and son of appellant No.3 was 29 years of age at the time of his death on 26.04.2008, was doing business and was having annual income of Rs.1,04,250/- (rounded off to Rs.1,05,000/-) as per income tax return filed by him. The learned Tribunal by applying multiplier of '18', cut of 1/3rd of the income of the deceased towards his personal expenses besides by awarding Rs.10,000/- towards transportation charges, awarded total compensation of Rs.12,70,000/-.

3. Learned counsel for respondent No.3/Insurance Company does not dispute the prayer for enhancement of compensation awarded to the appellants but contends that in view of the deceased being 29 years of age, therefore in view of the decision of Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77**, multiplier of '17' was applicable instead of '18', besides no amount is payable on account of transportation

charges as the same are covered under the head of loss of estate.

4. I have considered the submissions of learned counsel.

5. Counsel for the parties arein agreement on the factual aspect of the matter, namely of the deceased being 29 years of age, having an annual income of Rs.1,04,250/- (rounded off to Rs,1,05,000/-) and of having died in a motor vehicular accident on 26.04.2008 while leaving behind two minor children and his father. Since the deceased was 29 years of age, therefore, in terms of paragraph No.32 of the decision of Hon'ble the Supreme Court in Sarla Verma's case (supra), multiplier of '17' is applicable while as per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranaty Sethi's case (supra), the deceased being a permanent employee and being less than 40 years of age, 40% of the established income of the deceased is liable to be added towards future prospects. Likewise, in view of paragraph No.61(viii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra),the appellants are held entitled to award of Rs.16,500/- on account of loss estate and like amount on account of loss of funeral expenses, besides, each of the appellants are held entitled to Rs.44,000/- on account of loss of parental/filial consortium respectively. Amount of Rs.10,000/- awarded by the learned Tribunal on account of transportation charges is not admissible, being covered under the head of loss of estate.

6. Accordingly, in the light of the position noted above, details of compensation awarded by the learned Tribunal and the compensation assessed by this Court, are as under :-

Sr. No.	Head	Amount assessed by Tribunal in Rupees	Amount assessed by this Court in Rupees
1.	Annual income of	Rs.1,04,250/-	Rs.1,05,000/-

	the deceased	rounded off to Rs.1,05,000/-	
2.	Future prospects	Nil	40% of Rs.1,05,000/- = 42000 (Total 1,05,000 + 42,000= Rs.1,47,000/-)
3.	Deduction	1/3rd of Rs.1,05,000/-= Rs.35,000/-	1/3rdof Rs.1,47,000/- = Rs.49,000/-
4.	Dependency	105000-35000= 70000	147000-49000 = 98000/-
5.	Multiplier applied	18	17
6.	Compensation awarded	70000x18 = 12,60,000/-	98000x17= Rs.16,66,600/-
7.	Funeral Expenses	Nil	Rs.16,500/-
8.	Loss of Estate/ Transportation Charges	Rs.10,000/- awarded on account of transportation	Loss of Estate - Rs.16,500/-
9.	Loss of consortium	Nil	Rs.44,000/- to each of the appellants i.e. Rs.44,000 x 3 = Rs.1,32,000/-.
10.	Interest	7.5% per annum	7.5% per annum
Total		12,70,000/-	Rs.18,31,600/-

8. Accordingly, in the light of the position noted above, the appeal is allowed and award modified to the extent noted above. Accordingly, as against compensation of Rs.12,70,000/- awarded by the learned Tribunal along with interest at the rate of 7.5% per annum, compensation payable to the appellants/claimants is enhanced to Rs.18,31,600/- along with interest @ 7.5% per annum with effect from the date of the claim petition till date of payment, less payment if any already made, in the proportion as ordered by the learned Tribunal.

(B.S. Walia)
Judge

24.03.2023
rajesh

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