

[226] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1794-2015(O&M)

Date of Decision :24.04.2023

The Oriental Insurance Company Limited ...Appellant

versus

Asmina and othersRespondents

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

Present : Mr. Sanjiv Pabbi, Advocate for the appellant.
None for the respondents.

B.S. Walia, J. (Oral)

CM-5277-CII-2015

For the reasons as are mentioned in the application, the same is
allowed. Delay of 60days' in late filing of the appeal is condoned.

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[1] Learned Counsel contends that appeal by the Insurance Company is for reduction of compensation of Rs.13,47,960/- awarded by the learned MACT to the respondents-claimants on account of death of Taslim, aged 29 years, by reducing the future prospects from 50% to 40% as well as making deduction @ 1/4th instead of 1/5th besides reducing the spousal consortium from Rs.50,000/- to Rs.40,000/- and funeral expenses from Rs.25,000/- to Rs.15,000/-.

[2] None is present on behalf of the respondents.

[3] I have considered the submissions of learned counsel.

[4] Admittedly, the deceased-Taslim was 29 years of age. The

per month as admissible under the Minimum Wages Act for the relevant period, added 50% of the income of the deceased towards future prospects although mention in the award is to addition of 30% of the income of the deceased towards future prospects, took into account 07 dependents of the deceased and made deduction @ $1/5^{\text{th}}$ whereas in view of father of the deceased being hale and hearty therefore in terms of the decision of Hon'ble the Supreme Court in '**Sarla Verma and others versus Delhi Transport Corporation and another**', 2009 (3) RCR (Civil) 77 the father of the deceased is not entitled to be treated as dependent. Accordingly, by excluding the father as dependent, 06 persons remained as dependent upon the deceased, therefore, deduction was to be made @ $1/4^{\text{th}}$ as per the decision of Hon'ble the Supreme Court in '**Sarla Verma's** case (supra). Further the learned Tribunal awarded loss of spousal consortium of Rs.50,000/- to the wife of the deceased whereas, as per the decision of Hon'ble the Supreme Court, loss of spousal consortium is to be awarded @ Rs.40,000/-. The learned Tribunal also awarded a sum of Rs.25,000/- on account of funeral expenses though only a sum of Rs.15,000/- is payable on account of funeral expenses in view of the decision of Hon'ble the Supreme Court in '**National Insurance Company Limited versus Pranay Sethi and others**', 2017(4) RCR (Civil) 1009. However, no amount was awarded on account of loss of estate whereas, as per the decision in '**Pranay Sethi's** case (supra), a sum of Rs.15,000/- is payable on account of loss of estate. As regards, loss of filial and parental consortium, in view of the decision of Hon'ble the Supreme Court in '**Shri Ram General Insurance Co. Limited**

versus **Bhagat Singh Rawat and others**,

Civil Appeal Nos.2410-2412/2023 [@ SLP [c] Nos.11669-11671/2020, the claimants are entitled to be granted a lump sum of Rs.40,000/- in total under the Head of loss of consortium as followed by a Co-ordinate Bench of this Court in FAO No.3590 of 2015 in case titled as '**Baljit Kaur and others** versus **Jai Singh and others**' decided on 19.04.2023.

[5] In view of the position noted above, compensation as awarded by the learned Tribunal and as assessed by this Court is as under:-

Sr. No.	Head	Amount assessed by Tribunal in Rupees	Amount assessed by this Court in Rupees
1.	Income of the deceased	Rs.5200/- per month	Rs.5200/- per month
2.	Future prospects	50% (although recorded as 30% i.e. 2600/-)	40% in view of Para No.61(iii) of the decision of Hon'ble the Supreme Court in <u>Pranay Sethi's</u> case (<i>supra</i>) i.e. Rs.2080/-)
3.	Net Income	5200 + 2600 = 7800	5200 + 2080 = 7280
4.	Deduction	1/5 th of Rs.7800/- = 1560/- 7800 – 1560 = 6240/-	1/4 th of Rs.7280/- = Rs.1820/- = 5460/-
5.	Multiplier applied	17	17
6.	Compensation awarded	6240 x 12 x 17 = 12,72,960/-	5460 x 12 x 17 = 11,13,840/-
7.	Loss of spousal consortium	50,000/-	40,000/-

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8.	Loss of filial consortium (Mother)	Nil	--
9.	Loss of parental consortium	Nil	Rs.40,000/- in lump sum to all the claimants in view of the decision of Hon'ble the Supreme Court in ' <u>Shri Ram General Insurance Co. Limited's</u> case (supra)
10.	Funeral Expenses	25,000/-	15,000/-
11.	Loss of Estate	Nil	15,000/-
12.	Interest	7.5%	7.5%
Total		Rs.13,47,960/-	Rs.12,23,840/-

[6] Accordingly, in view of the position noted above, appeal is partly allowed and award of learned MACT, Mewat, is modified. As against compensation of Rs.13,47,960/-, claimants are held entitled to total compensation of Rs.12,23,840/- in the proportion as worked out by the learned Tribunal along with interest @ 7.5% with effect from the date of entitlement till date of payment. Payment, if any, be released to the claimants as per their entitlement within four weeks from today.

(B.S. Walia)
Judge

24.04.2023
'Rajneesh'

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