

FAO-1862-2016

Date of Decision: 12.01.2023

Jaswant Kaur and others

...Appellants

Versus

Balkar Singh and others

....Respondents

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

Present: Mr. Jagram Singh Cooner, Advocate for the appellants.

Mr. Satpal Dhamija, Advocate for respondent No.3.

B.S.Walia, J (Oral).

1. Prayer in the appeal is to modify award dated 16.12.2015 passed by the learned Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal'), by enhancing the compensation of Rs.9,27,000/- awarded to the appellants/claimants i.e. widow, two sons and mother of deceased i.e. proforma respondent No.4.

2. Learned Counsel contends that the Tribunal while taking income of the deceased as Rs.6,000/- per month, made deduction of 1/4th of the monthly income towards the personal expenses of the deceased, consequentially assessed monthly / annual dependency of Rs.4500/- / Rs. 54,000/- respectively, applied multiple of '13' and thereby assessed total dependency of Rs.7,02,000/- (Rs.54000x13), awarded Rs.1,00,000/- on account of loss of consortium to the widow, Rs.1,00,000/- on account of loss of love and affection, Rs.25,000/- on account of funeral expenses, i.e. total compensation of Rs.9,27,000/- plus interest @ 7.5% per annum, with effect from the date of filing of the claim petition till the date of payment, whereas,

the appellants-claimants and proforma respondent No.4 are entitled to award of future prospectus @ 25% of the established income of the deceased while computing compensation payable in view of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009. Learned counsel further contends that as against loss of consortium of Rs.1,00,000/- awarded to the widow, each of the appellants as well as proforma respondent No.4 are entitled to Rs.44,000/- on account of loss of filial, spousal and parental consortium (total Rs.1,76,000/-) in view of the decision of Hon'ble the Supreme Court in the case of Magma General Insurance Co. Ltd. vs. Nanu Ram Alias Chuhru Ram, 2018 (4) RCR (Civil) 333 and United India Insurance Company Ltd. Vs. Satinder Kaur alias Satwinder Kaur and others, 2021 (11) SCC 80. Learned Counsel further contends that no amount was awarded on account of loss of estate whereas as per the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra), the appellants are entitled to award of Rs.16,500/- on account of loss of estate.

3. Learned counsel for respondent No.3/Insurance Company states that he does not oppose the claim of the appellants for taking into account 25% of the established income of the deceased towards future prospects while computing the compensation payable nor the claim with regard to payment of Rs.1,76,000/- to the mother, widow and sons on account of loss of filial, spousal and parental consortium besides Rs.16,500/- on account of loss of estate. Learned counsel however, contends that no amount is payable on account of loss of love and affection besides Rs.25,000/- awarded by the tribunal on account of funeral expenses is liable to be reduced to Rs.16,500/- . Learned counsel for the appellants does not dispute the stand of learned

4. Accordingly, in view of the decision of Hon’ble the Supreme Court in Pranay Sethi’s case (supra), Magma General Insurance Co. Ltd. and United India Insurance Company Ltd. as well as consensus arrived at amongst learned counsel for the parties, the appellants and proforma respondent No.4 are held entitled to the award of following compensation:-

Sr. No.	Head	Amount assessed by Tribunal in Rupees	Amount assessed by this Court in Rupees
1	Monthly Income	6000	6000
2	Future prospects	Nil	25% of 6,000/- i.e. 1500/- (Rs.6,000/- + Rs.1,500/- = Rs.7500/-)
3	Deduction towards personal expenses of deceased	1/4 th i.e. 6000/- - Rs.1500 = 4500/- per month	1/4 th i.e. 7500/- - 1875 = Rs.5,625/-
4	Multiplier applied	13	13
5	Compensation awarded	4500x12x13 = 7,02,000/-	5625x12x13 = 8,77,500/-
6	Loss of consortium	Rs.1,00,000/-	Rs.44,000/- to each of the appellants/proforma respondent No.4 i.e. Rs.1,76,000/-
7	Funeral expenses	25,000/-	16,500/-
8	Love and affection	1,00,000/-	Nil
9	Loss of estate	Nil	16,500/-
10	Interest	7.5% per annum	7.5% per annum
11	Total	Rs.9,27,000/-	Rs.10,86,500/-

5. Accordingly, as against the compensation of Rs.9,27,000/- awarded by the Tribunal, the appellants are held entitled to award of compensation of Rs.10,86,500/- along with interest @ 7.5% per annum (less amount if any already paid)w.e.f. the date of filing of the claim petition till date of payment, as per ratio determined by the Tribunal. The Insurance

Company shall make payment of compensation to the appellants and

proforma respondent No. 4after making deduction of the tax liability, qua
future prospects, in accordance with the decision of Hon’ble the Supreme
Court in Pranay Sethi’s case (supra).

7. Appeal is accordingly allowed and award dated 16.12.2015,
passed by the learned Tribunal is modified to the extent as noted above.

12.01.2023
rajesh

(B.S.Walia)
Judge

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No