277 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-3514-CII-2023 IN/AND
FAO-4553-2016
Date of Decision : 05.05.2023

Ram Bati …Appellant

versus

Dinesh Kumar and others ….Respondents

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

Present : Mr.Jashan Singh Sekhon, Advocate for the appellant.

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B.S. Walia, J. (Oral)

CM No.3514-CII of 2023

Application has been moved for restoration of the appeal.

Learned counsel for the respondents fairly concedes that he does not oppose the plea for restoration in view of the averments as made in the application.

For the reasons as are mentioned in the application as well as the statement of learned counsel for the respondents, the application is allowed. Order dated 07.02.2023 is recalled and the main case restored to its original number and in view of request of learned counsel for the appellant and no objection to the same by learned counsel for the respondents, the same is taken up for hearing today itself.

Main Case

[1] Prayer in the appeal is for the modification of award and enhancement of compensation of Rs. 13,50,000/- awarded by the learned Tribunal by taking into account 40% of the income of the deceased towards

future prospects, besides, by applying multiplier of 17 as per the age of the deceased instead of multiplier of 9 as per the age of the claimant/mother, besides, by awarding Rs.44,000/- on account of loss of filial consortium and Rs.16,500/- on each count of funeral expenses as well as on account of loss of estate along with interest @ 9% per annum in view of decision of Hon'ble the Supreme Court in **Kirti and another etc. vs. Oriental Insurance Company Ltd., Law Finder Doc ID #1795020** on account of death of 27 years old Sanjeet @ Sandeep unmarried son of the appellant in a motor vehicular accident on 09.07.2014.

[2] Learned counsel for the appellant contends that the learned Tribunal by taking into account the income of the deceased at Rs.25,000/- per month imposed deduction of 50% on account of the deceased being unmarried, wrongly applied multiplier of 9 as per the age of the mother whereas it should have been 17 as per the age of the deceased and further without awarding any amount on account of loss of filial consortium or on account of funeral expenses or loss of estate, awarded total compensation of Rs.13,50,000/- along with interest @ 7.5 % per annum whereas in view of the deceased being 27 years of age, multiplier of 17 was to be applied in view of the decision of Hon'ble the Supreme Court in **Sarla Verma and others versus Delhi Transport Corporation and another 2009(6) SCC 121** and in view of paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009,** since, the deceased was 27 years and was self-employed, 40% of the income of the deceased was to be taken into account for the purpose of working out future prospects, besides, in view of paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case as followed in **Magma General Insurance Co. Ltd.**

versus Nanu Ram alias Chuhru Ram & others, 2018(18) SCC 130, a sum of Rs.44,000/- was liable to be awarded on account of loss of filial consortium, besides, a sum of Rs.16,500/- each was liable to be awarded on account of funeral expenses and loss of estate,moreover, in view of the decision of Hon'ble the Supreme Court in **Kirti's** case (Supra) which pertains to an accident of the year 2014, interest was awarded @ 9% per annum.

[3] Learned counsel for respondent does not dispute the income assessed or the deduction made or the application of multiplier of 17 in view of the deceased being 27 years of age or taking into account 40% of the income of the deceased towards future prospects, besides, to the award of Rs.44,000/- on account of loss of filial consortium and Rs.16,500/- each on account of funeral expenses and loss of estate respectively. He, however, contends that the interest awarded @7.5 % was correctly awarded, therefore, does not warrant any interference.

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

[5] Admittedly, the deceased was 27 years old, unmarried and as per the income tax return was earning Rs.25,000/- per monthand in view of the decision of Hon'ble the Supreme Court in **Sarla Verma's** case (Supra), mother alone was treated as dependent. Accordingly, 50% of the income of the deceased was deducted towards personal expenses but multiplier of 9 applied was wrong on account of the same having been applied as per the age of the mother whereas as per law, multiplier was to be applied as per the age of the deceased. Further, as per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (Supra), in view of the deceased being less than 40 years of age and being self-employed, 40% of the income of the deceased was to be taken into account for the purpose of

working out future prospects. Further as per Para No.61 (viii) of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (Supra) followed in **Magma's** case (Supra), Rs.16,500/- is liable to be awarded on account of loss of estate and like amount on account of funeral expenses. Further in view of the decision of Hon'ble the Supreme Court in **Kirti's** case (Supra) i.e. in respect of death due to a motor vehicular accident in the year 2014 in which interest was awarded on the compensation payable @ 9% per annum and since the death of the deceased in the instant case is also of the year 2014, therefore, the interest payable is enhanced to @9% per annum in view of the decision of Hon'ble the Supreme Court in **Kirti's** case (Supra).

[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 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.25,000/- per month	Rs.25,000/- per month
2.	Future prospects	Nil	40% of Rs.25,000/- = Rs.10,000/- (Total 25,000+10,000 = Rs.35,000/-)
3.	Deduction	50% of Rs. 25,000/-= Rs.12,500/-	50% of Rs. 35,000/- = Rs.17,500/-
4.	Dependency	Rs.25,000 – Rs.12,500 = Rs.12,500/-	Rs.35,000 – Rs.17,500= Rs.17,500/-
5.	Multiplier applied	9	17
6.	Compensation awarded	12,500 x 12 x 9 = Rs.13,50,000/-	17,500 x 12 x 17 = Rs.35,70,000/-
7.	Loss of filial consortium	Nil	Rs.44,000/-
8.	Funeral Expenses	Nil	Rs.16,500/-

9.	Loss of Estate	Nil	Rs.16,500/-
10.	Interest	7.5% per annum	9% per annum
Total		**Rs.13,50,000/-**	**Rs.36,47,000/-**

7. Accordingly, in the light of the position noted above, the appeal is allowed, award is modified and as against compensation of Rs.13,50,000/- awarded by the learned Tribunal, the appellant/claimant is held entitled to award of compensation of Rs.36,47,000/-along with interest at the rate of 9% per annum with effect from the date of the claim petition till date of payment, less payment if any already made.

(B.S. Walia)
Judge

05.05.2023
ps

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