[104-2] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6326 of 2015
Date of Decision :23.01.2023

Vishnu and others …Appellants

versus

BLR Private Limited and others ….Respondents

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

Present : Mr. Vishal Garg, Advocate for the appellants.
None for respondent Nos.1 & 2.
Mr. Punit Jain, Advocate for respondent No.3.
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B.S. Walia, J. (Oral)

[1] Prayer in the instant appeal is for modification of Award dated 20.11.2014 passed by the learned Motor Accidents Claim Tribunal, Barnala and enhancement of compensation awarded as also the interest payable.

[2] Learned counsel contends that the deceased was a housewife, 52 years of age and left behind two sons and one daughter.

[3] Learned Tribunal by treating the deceased as housewife and taking notional income of Rs.3000/- per month, applied multiplier of 11 and thereby assessed compensation of Rs.3,96,000/-,awarded Rs.10,000/- towards funeral expenses and total compensation of Rs.4,06,000/- along with interest @ 9 % per annum.

[4] Learned counsel contends that the notional income of the deceased is required to be taken at Rs.7000/- per month in view of the decision of this Hon'ble Court in '***Sher Singh and others****versus****Buta Singh and others***', *Law Finder Doc Id # 1582501*.

[5] *Per contra*, learned counsel for the respondent-Insurance

Company has referred to the decision of Hon'ble the Supreme Court in '***Rajendra Singh and others***versus***National Insurance Company Limited and others***' *2020(7) SCC 256*, to contend that the income of the deceased housewife (therein) aged 30 years was assessed at Rs.5000/- per month in respect of death inquestion of the housewife therein in an accident on 25.12.2012. Relevant extract of the same is reproduced as under:-

> *"The notional income of the first deceased is therefore held to be Rs.5000/ per month at the time of death. The compensation on that basis with a deduction of 1/4th i.e. Rs.15,000/ towards personal expenses with a multiplier of 17 is assessed at Rs.7,65,000/. If the deceased had survived, in view of observations in Lata Wadhwa (supra), her skills as a matured and skilled housewife in contributing to the welfare and care of the family and in the upbringing of the children would have only been enhanced by time and for which reason we hold that the appellants shall be entitled to future prospects at the rate of 40% in addition to the loss of consortium and future expenses already granted. We therefore assess the total compensation payable to the appellants in the first appeal at Rs.11,96,000/-.*

[6] Faced with the aforementioned decision, learned counsel for the appellants contends that in view of the decision in '***Rajendra Singh's*** case (supra), the notional income of the deceased be taken at Rs.5000/- per month and in view of the deceased being 52 years of age, 10% of the notional income be counted for working out the future prospects payable in terms of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009 and in view of there being three dependents, deduction of 1/3rd of the income be made for working out dependency in view of the

decision in ***Pranay Sethi's case*** (supra) and ***Sarla Verma*** *versus* ***Delhi Transport Corporation',*** *2009(6) SCC 121.*

[7] Learned counsel further contends that no amount has been awarded on account of loss of parental consortium. Accordingly, three appellants-claimants are entitled to Rs.44,000/- each i.e. Rs.1,32,000/- on account of loss of parental consortium in accordance with the decision in '***Magma General Insurance Co. Ltd***. *versus****Nanu Ram Alias Chuhru Ram'***, *2018 (4) RCR (Civil) 333* and '***United India Insurance Company Ltd***.*versus* '***Satinder Kaur alias Satwinder Kaur and others'***,*2021 (11) SCC 80.*

[8] Learned counsel further contends that as against NIL amount awarded on account of loss of estate, Rs.16,500/- is liable to be awarded, besides as against Rs. 10,000/- awarded on account of funeral expenses, Rs.16,500/- is liable to be awarded.

[9] The claim for treating the notional income of the deceased, rate of deduction towards personal expenses of deceased, claim for consortium, future prospects, compensation towards loss of estate and funeral expenses is not disputed by learned counsel for respondent No.3.

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

[12] Admittedly, the income of the deceased was taken as Rs.36,000/- per annum whereas as per the decision in '***Rajendra Singh's case*** (supra), the same is liable to be taken as Rs.60,000/- per annum. Although, no deduction was made on account of personal expenses of deceased yet as per paragraph No.11 of the decision in '***Rajendra Singh's case*** (supra), deduction towards personal expenses has to be made which as per the decision in ***Pranay Sethi's case***(supra) and***Sarla Verma's case***(supra) in the case of three dependants works out to 1/3rd. Further as

per the decision in '***Magma General Insurance Co. Ltd.'s*** case (supra) and '***Satinder Kaur alias Satwinder Kaur and others'*** case (supra), the children of the deceased are entitled to parental consortium @ Rs.44,000/- each, total Rs.1,32,000/- while as per the decision in ***Pranay Sethi's*** case (supra), the amount on account of loss of estate is to be paid @ Rs.16,500/- per month likewise in the case of funeral expenses. Accordingly, as per the discussion above, the details of various heads of compensation awarded by the MACT, Barnala, as well as amount assessed by this Court, as well as the total compensation payable works out as under:-

Sr. No.	**Head**	**Amount assessed by Tribunal in** Rupees	**Amount assessed by this Court in** Rupees
1	Income	36000 per annum	60000 per annum
2	Future prospects	Nil	10% of 60,000/– + 6000/- = 66000/-
3	Deduction towards personal expenses of deceased	NIL	1/3rd 66000 – 22000 = 44000/-
4	Multiplier applied	11	11
5	Total amount awarded	3,96,000/-	4,84,000/- towards dependency plus future prospects
6	Loss of estate	NIL	16,500/-
7	Loss of parental consortium	NIL	1,32,000/-
8	Love and affection	NIL	NIL
9	Funeral expenses	10,000/-	16,500/-
10	Interest	9% per annum	9% per annum
11	Total	Rs.4,06,000/-	Rs.6,49,000/-

[13] Accordingly, in the light of the position noted above, Award dated 20.11.2014 passed by the learned MACT, Barnala, awarding compensation of Rs.4,06,000/- is modified and compensation payable is

enhanced to Rs.6,49,000/-. Accordingly, compensation be paid after deducting the compensation already paid as also by making requisite deduction on account of income tax in accordance with law.

[14] Appeal *disposed of* in the aforesaid terms.

(B.S. Walia)
Judge

23.01.2023
'Rajneesh'

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