

CM-26440-CII-2014 in/and

FAO-9542-2014

Date of Decision :21.03.2023

Sunita Rani and others

...Appellants

versus

Balkar Singh and others

....Respondents

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

Present : Mr. Amardeep Singh Gill, Advocate for the appellants.

Mr. Ramesh Kumar Sharma, Advocate
for respondent Nos.1 and 2.

Mr. Raj Kumar Bashamboo, Advocate for respondent No.3.

B.S. Walia, J. (Oral)**CM-26440-CII-2014**

For the reasons as are mentioned in the application, the same is allowed. Delay of 504 days in late filing of the appeal is condoned.

FAO-9542-2014

1. Challenge in the appeal is to award dated 01.11.2012, passed by the learned Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal'), with a prayer for enhancement of compensation of Rs.18,70,000/- along with interest @ 7% per annum from the date of claim petition till date of actual payment, by taking multiplier of '13' as against '11' applied by the Tribunal, by taking 30% of the income of the deceased towards future prospects in view of paragraph No.61 (iii) of the decision of Hon'ble the Supreme Court in

National Insurance Company Ltd. Vs. Pranay Sethi and others 2017

(4) RCR (Civil) 1009, besides by awarding Rs.40,000/- to each of the three claimants/appellants on account of loss of spousal/parental consortium as against a sum of Rs.10,000/- awarded besides by awarding a sum of Rs.16,500/- each on account of loss of estate and funeral expenses as against a sum of Rs.10,000/- awarded by the tribunal, in view of the decision of Hon'ble the Supreme Court in the case of Pranay Sethi's case (supra) and **Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram, 2018 (4) RCR (Civil) 333.**

2. Per contra, learned counsel for respondent Nos.1 and 2 (owner and driver) as well as respondent No.3 (Insurance Company) do not dispute the claim as made in the appeal. However, learned counsel for the respondent/Insurance Company contends that interest be not awarded on the amount payable under the conventional heads. No other point has been argued.

3. I have considered the submissions of learned counsel.

4. Admittedly, the husband and father of appellant No.1 and respondent Nos.2 and 3 respectively was less than 49 years of age and was working as Drawing Teacher with Public Senior Secondary School, Shahkot (Government School) and was drawing salary of Rs.21,000/- per month. The learned Tribunal by taking into account the income of the deceased @ Rs.21,000/- per month, applying multiplier of '11' and by awarding a sum of Rs.10,000/- on account of loss of estate and funeral expenses and Rs.10,000/- towards loss of consortium, awarded total compensation of Rs.18,70,000/- along with interest @ 7% per annum.

5. As per paragraph No.21 of the decision in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77**, multiplier of '13' was to be applied besides as per paragraph

No.61 (iii) of the decision in Pranay Sethi’s case (supra) 30% of the actual salary of the deceased was to be added to the income of the deceased towards future prospects as deceased was working on a permanent job and was between the age group of 40 to 50 years. Likewise, as per the decision of Hon’ble the Supreme Court in Pranay Sethi’s case (supra) and Magma’s case (supra), Rs.40,000/- is to be awarded to each of the claimants/appellants on account of loss of spousal/parental consortium besides Rs.15000/- each is to be awarded on account of loss of estate and funeral expenses.

6. As regards contention of learned counsel for respondent No.3/Insurance Company that no interest is payable under the conventional heads, learned counsel for respondent No.3/Insurance Company has failed to refer to any case law in support thereof. The purpose of awarding interest is to compensate the person on account of payment to which he was entitled to as on a particular date but which was wrongfully withheld despite lawful entitlement. Accordingly, the plea raised on behalf of respondent No.3/Insurance Company is not acceptable and is therefore declined.

7. 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.	Income of the deceased	Rs.21,000/- per month	Rs.21,000/- per month
2.	Future prospects	Nil	30% of Rs.21,000/- = 6300 (Total 21000 + 6300= Rs.27,300/-)
3.	Deduction	1/3 rd of Rs.21,000/-	1/3 rd of Rs.27,300/- =

		= Rs.7,000/-	Rs.9100/-
4.	Dependency	21000-7000= 14000	27300-9100 = 18200/-
5.	Multiplier applied	11	13
6.	Compensation awarded	14000x11x12 = 18,48,000/-	18200x13x12 = 28,39,200
7.	Funeral Expensesand loss of estate	Rs.10,000/- (lump sum)	Rs.15000/- (funeral expenses) Rs.15000/- (loss of estate)
8.	Loss of consortium	Rs.10,000/-	Rs.40,000/- each to three of the claimants/appellants .e. Rs.40,000 x 3 = Rs.1,20,000/-.
9.	Interest	7% per annum	7% per annum
Total		Rs.18,70,000/-	Rs.29,89,200/-

8. Accordingly, in the light of the position noted above, the appeal is allowed and award is modified to the extent noted above and as against compensation of Rs.18,70,000/- awarded by the learned Tribunal along with interest at the rate of 7% per annum, compensation payable to the appellants/claimants is enhanced to Rs.29,89,200/- along with interest at the rate of 7% 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

21.03.2023
rajesh

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