

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

[1] FAO-1281-2017 (O&M)
Date of Decision : 27.04.2023

Bhajan Kaur and others ...Appellants

versus

Jagjit Singh and othersRespondents

[2] FAO-1760-2017

The New India Assurance Company Limited ...Appellants

versus

Bhajan Kaur and othersRespondents

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

Present : Mr. Vinod Pundir, Advocate for the appellants
in FAO-1281-2017 and for respondent Nos.1 to 4
in FAO-1760-2017.

Mr. Vinod Gupta, Advocate for the appellant
in FAO-1760-2017.

None for respondent No.3/Ins. Co.
in FAO-1281-2017.

B.S. Walia, J. (Oral)

[1] This order shall decide FAO-1281-2017 & FAO-1760-2017
filed by the claimants as well as by the New India Assurance Company
Limited respectively, claiming enhancement/reduction of compensation
awarded respectively.

[2] Learned counsel for the Insurance Company contends that
date of birth of the deceased was 01.03.1960, therefore, as on date of
accident and death i.e. 27.11.2015, the deceased had completed 55 years

FAO-1281-2017 (O&M)

and was running on the 56th year, 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, multiplier of 9 was applicable and not 11, therefore, the learned Tribunal erred in applying multiplier of 9.

[3] Learned counsel further contends that Rs.1 lac was granted on account of loss of spousal consortium to appellant-claimant widow, while Rs.1 lac was awarded on account of loss of love and affection to appellant-claimant Nos.2 to 4 i.e. children of the deceased besides, Rs.25,000/- was awarded on account of funeral expenses which is *in derogation* of the law laid down by Hon'ble the Supreme Court in '**National Insurance Company Limited versus Pranay Sethi and others**', 2017(4) RCR (Civil) 1009, '**Satinder Kaur @ Satwinder Kaur and others versus United Inida Insurance Compnay Limited**', Law Finder Doc Id # 1729112, as well as '**Shri Ram General Insurance Co. Limited versus Bhagat Singh Rawat and others**', Civil Appeal Nos.2410-2412/2023 [*@ SLP [c] Nos.11669-11671/2020*] 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**'.

[4] Learned counsel contends that in view of the aforementioned decisions, the lump sum amount payable on account of loss of consortium is Rs.40,000/-, no amount is payable on account of loss of love and affection besides, only Rs.15,000/- is payable on account of funeral expenses.

[5] *Per contra*, learned counsel for the appellants-claimants contends that no amount has been awarded on account of loss of estate,

whereas, in terms of decision of Hon'ble the Supreme Court in '**Pranay**

Sethi and others' case (supra), the appellants-claimants are entitled to award of Rs.15,000/- besides, 15% of the assessed income of the deceased is liable to be taken into account towards future prospects in view of paragraph No.61(iii) of the decision in **Pranay Sethi and others**' case (supra). Moreover, interest payable is liable to be enhanced from 6% to 7.5% in view of the decision in '**Sarup Singh versus HDFC Ergo General Insurance Company Limited and others**', Law Finder Doc Id # 2049854, on account of death having taken place on 27.11.2015.

[6] No other point has been argued.

[7] I have considered the submission of learned counsel.

[8] Admittedly, the deceased had completed 55 years of age and was running on the 56th year. As per paragraph No.21 of the decision of Hon'ble the Supreme Court in '**Sarla Verma and others's**' case (supra), multiplier of 11 is applicable in the age group of 51 to 55, while for the age group of 56 to 60, multiplier of 9 is applicable. Since the deceased had completed 55 years and was running on the 56th year, therefore, it is the multiplier of 9 which would be applicable and not 11. Further as per paragraph No.61(iv) of the decision of Hon'ble the Supreme Court in **Pranay Sethi and others**' case (supra), since the deceased was less than 60 years of age, 15% of the assessed income of the deceased would be taken into account for the purpose of working out future prospects for award of compensation. Likewise, in view of the decision of Hon'ble the Supreme Court in **Pranay Sethi and others**' case (supra) and subsequent decision in Civil Appeal No.2410-2412 of 2023 '**Shri Ram General Insurance Company Limited versus Bhagat Singh Rawat and others**', as followed by a Co-ordinate Bench of this Court, *FAO No.3590 of 2015*

Rs.40,000/- is payable on account of loss of consortium. Accordingly, as against Rs.1 lac awarded on account of loss of spousal consortium, the appellants-claimants are held entitled to award of Rs.40,000/- in entirety on account of loss of consortium besides, as against Rs.25,000/- awarded on account of funeral expenses, the appellants-claimants are held entitled to award of Rs.15,000/- on account of funeral expenses. No amount was awarded on account of loss of estate but the appellants-claimants are entitled to Rs.15,000/- on said count in view of the decision in **Pranay Sethi and others**’ case. Accordingly, the appellants-claimants are held entitled to award of Rs.15,000/- on account of loss of estate. Further in view of the decision of Hon’ble the Supreme Court in **‘Sarup Singh’s** case (*supra*), since the accident is of the year November, 2015, interest payable is liable to be enhanced from 6% to 7.5%.

[9] Accordingly, in view of the position noted above, details of 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 assessed	27150 per month	27150 per month
2.	Future prospects	Nil	15% of 27150=4072
3.	Total income assessed	27150	27150+4072=31222
4.	Multiplier	11	9
5.	Dependency	1/4 th of 27150=6787.50 27150-6787.50=20362.50	1/4 th of 31222=7806 31222 - 7805.50= 23416.50 (rounded of to Rs.23417)

FAO-1281-2017 (O&M)

6.	Total income assessed	20362.50 x 12x11=26,87,850/-	23417x12x9=25,29,036/-
7.	Loss of consortium	1,00,000/-	40,000/-
8.	Loss of love and affection	1,00,000/-	Nil
9.	Funeral Expenses	25000	15000
10.	Loss of Estate	Nil	15000
11.	Cost	3000	3000
12.	Interest	6%	7.5%
	Total	29,15,850/-	26,02,036/-

[10] No other point has been argued.

[11] Accordingly, in view of the position noted above, both the appeals are partly *allowed*. Award passed by the learned, MACT dated 03.11.2016 is *modified*. As against compensation of Rs.29,15,850/- awarded by the learned Tribunal, the appellants-claimants are held entitled to Rs.26,02,036/- on account of compensation along with interest @ 7.5% per annum with effect from the date of claim petition, till date of payment less payment if any, already awarded. In case, payment has not been made, requisite payment be made to the appellants-claimants in accordance with the proportion as ordered by the learned Tribunal within four weeks from today.

(B.S. Walia)
Judge

27.04.2023
'Rajneesh'

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