

102 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2199-2018 (O&M)
Date of Decision : 29.04.2023

Nisha and others ...Appellants

versus

Tara Chand and anotherRespondents

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

Present : Mr. Sandeep Kumar Yadav, Advocate for
Mr. Ram Darshan Yadav, Advocate for the appellants.

Mr. S.S. Sidhu, Advocate for respondent No.2.

B.S. Walia, J. (Oral)

CM-8326-CII-2018

1. For the reasons as are mentioned in the application, the same is allowed. Delay of 40 days in late filing of the appeal is condoned.

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2. Prayer in the appeal is for enhancement of compensation of Rs.14,21,000/-awarded by the learned Motor Accident Claims Tribunal, Rewari (hereinafter referred to as ('the Tribunal'), to the appellants / claimantsi.e. widow, two minor children and parents of the deceased, Kanwaljeet, who died on 09.11.2015, at the age of 25 years.

3. Learned counsel contends that the Tribunal erred in not taking into account 40% of the income of the deceased for the purpose of working out future prospects as also in not awarding Rs.15,000/- on account of loss of estate, in terms of paragraph No.61 (iv) and61 (viii) respectively of the decision of Hon'ble the Supreme Court in **National**

Insurance Company Ltd. Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009. Learned counsel further contents that in view of the deceased being 25 years of age, multiplier of '18' would be applicable instead of '12' in view of the decision of Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77.**

4. Learned counsel for respondent No.2 does not dispute the aforementioned claims of the appellants but states that income of the deceased was wrongly assessed by the Tribunal @ Rs.9000/- per month since the deceased was uneducated and was treated as a labourer, therefore, it is the minimum wages for the relevant period in the State of Haryana, which is to be made basis for assessment of income of the deceased, which in the instant case was Rs.7600/- per month, as per the notification issued by the Government of Haryana, which is already on the record. Learned counsel further contends Rs.1 Lakh awarded on account of loss of consortium is liable to be scaled down to Rs.40,000/- in lump sum in view of the decision of Hon'ble the Supreme Court in **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** Vs. **Jai Singh and others**', restricting compensation on account of loss of consortium to Rs.40,000/-. Learned counsel further contends that Rs.25,000/- awarded on account of funeral expenses is also liable to be scaled down to Rs.15,000/- in view of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra). Learned counsel further contends that since the deceased left behind widow, two minor children and parents and no

evidence having been led of the father being dependent upon the deceased, it is only the widow, two minor children and his mother, who are to be treated as dependents of the deceased, therefore, in view of the decision of Hon’ble the Supreme Court in SarlaVerma’a case (supra), there being four dependents of the deceased, deduction on account of personal expenses has to be made @ 1/4th income of the deceased.

5. Learned counsel for the appellants does not oppose the aforementioned submissions by learned counsel for the respondent Insurance Company.

8. Accordingly, in the light of the position noted above, details of compensation awarded by the learned Tribunal and the compensation as 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.9000/- per month	Rs.7600/- per month
2.	Future prospects	Nil	40% of Rs.7600/- = 3040 (Total 7600 + 3040 = Rs.10,640/-)
3.	Deduction	Nil	1/4 th of Rs.10,640/- = Rs.2660/-
4.	Dependency	Rs.9000/-	10640-2660 = 7980
5.	Multiplier applied	12	18
6.	Compensation awarded	9000x12x12= 12,96,000/-	7980x12x18 = 17,23,680/-
7.	Loss of love and affection.	Rs.1,00,000/-	Nil
8.	Loss of Consortium	Nil	Rs.40,000/- in lump sum.
9.	Funeral Expenses	Rs.25,000/-	Rs.15,000/-
10.	Loss of Estate	Nil	Rs.15,000/-
11	Interest	7.5% per annum	7.5% per annum
Total		Rs.14,21,000/-	Rs.17,93,680/-

9. Accordingly, in the light of the position noted above, the appeal is allowed, award is modified and as against compensation of Rs.14,21,000/- awarded by the learned Tribunal along with interest @ 7.5% per annum, compensation payable to the appellants is enhanced to Rs.17,93,680/- along with interest @ 7.5% per annum, in the proportion as ordered by the learned Tribunal with effect from the date of the claim petition till date of payment, less payment if any already made.

(B.S. Walia)
Judge

29.04.2023
rajesh

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