104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4541-2018 (O&M) &
CM No.2034-CII of 2019 in/and
XOBJC-15-2019

Date of Decision :27.01.2023

CHOLAMANDLAM MS GENERAL
INSURANCE COMPANY LTD …Appellant.

versus

ANJANA PRABHAKAR AND ORS ….Respondents

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

Present : Mr. Punit Jain, Advocate for the appellant.

Mr. HPS Ghuman, Advocate for respondent No.1 in FAO No.4541 of 2018 and for the cross-objectors.

Mr. Dheeraj Kumar, Advocate for Mr. HPS Ishar, Advocate for respondent Nos.2 and 3.

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B.S. Walia, J. (Oral)

CM No.2034-CII of 2019

For the reasons as are mentioned in the application the same is allowed. Delay of 83 days in late filing of the cross-objections is condoned.

FAO-4541-2018 (O&M) and
XOBJC-15-2019

[1] This order shall decide FAO No.4541 of 2018 and cross-objection No.15 of 2019 filed by the respondent cross objector. While the Insurance Company has appealed on the ground that in view of the deceased being 67 years of age, no future prospects could have been awarded as also that the multiplier applicable is 5 instead of 7, cross-objections have been filed against deduction of 50% of the income of the

deceased towards personal expenses,no amount having been awarded on account of loss of estate besides appropriate amount not having been awarded towards funeral expenses and loss of consortium.

[2] Brief facts of the case are that the deceased was a retired Havaldar from the Indian Army aged 67 years and was drawing pension of Rs.19,000/- per month. The learned Tribunal by taking into account the income of the deceased at Rs.19,000/- per month took 50% of the said income into account for the purpose of working out future prospects and further while taking into account multiplier of 7and awardingRs.15,000/- on account of funeral expenses and Rs.40,000/- on account of loss of spousal consortium, awarded total compensation of Rs.16,51,000/- along with interest @ 9% per annum.

[3] Learned counsel for the cross-objector contends that as against deduction of 50% of the income of the deceased towards personal expenses, at best the deduction could have been 1/3rd for working out the dependency as the deceased was married and had left behind a widow.

(4) Learned counsel for the respondent / cross objector however, concedes that no future prospects could have been awarded in view of the deceased being 67 years of age, multiplier of 7 applied was also incorrectly applied, instead multiplier of 5 ought to have been applied but respondent No.1/cross-objector is entitled to Rs.16,500/- on account of funeral expenses, like amount on account of loss of estate and Rs.44,000/- on account of spousal consortium in terms of the decisions in ***Magma General Insurance Co. Ltd. vs. Nanu Ram Alias Chuhru Ram, 2018 (4)***

RCR (Civil) 333.

[5] Learned counsel for the appellant/Insurance Company states that he does not oppose the plea of respondent No. 1 cross objector for deduction of personal expenses of deceased for working out dependency @ 1/3rd of the income of the deceased.

[6] I have considered the submissions of learned counsel. Although as per the decision of Hon'ble the Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (16) SCC 680***while taking into account the decisions in***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77,Reshma Kumari and others vs. Madan Mohan and another, 2013 (2) RCR (Civil) 660, Rajesh and others vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170* and*Munna Lal Jain vs. Vipin Kumar Sharma, 2015 (3) RCR (Civil) 447,***Hon'ble the Supreme Court has held (especially *in case of Sarla Verma's case*)that in case of deceased who was married, where the number of dependent family members is 2 to 3, deduction towards personal and living expenses of the deceased should be 1/3rdwhereas in the instant case only respondent No.1/cross-objector was dependent on her husband i.e. the deceased, but in view of the statement of learned counsel for the appellant Insurance Company, deduction is modified from 50 % of the income of the deceased to 1/3rd . Accordingly, in view of the position noted above, as well as statement of learned counsel for the parties, the appeal is allowed, while cross-objection are partially accepted by holding that respondent No.1/cross-objector isnot

entitled to any future prospects in view of the decision in Pranay Sethi's case (Supra). Likewise in view of decision in SarlaVerms's case (Supra), Magma's case (Supra) and Pranay Sethi's case (Supra), in view of deceased admittedly being 67 years of age multiplier of 5 isheld applicable as against multiplier of 7 applied. Further in view of the decision in the aforementioned cases i.e. Pranay Sethi's case (Supra) following Sarla Verma's case (Supra) as well as the statement of learned counsel for the appellant/Insurance Company, respondent No.1/cross-objector is held entitled to award of compensation by taking into account the deduction on account of personal expenses of the deceased @ 1/3rd instead @ of 50%, besides, she is held entitled to award of Rs.16,500 on account of funeral expenses and Rs.44,000/- on account of loss of spousal consortium as against Rs. 15,000/- &Rs.40,000/- respectively awarded by the learned Tribunal, besides, Rs.16,500/- on account of loss of estate which was not awarded by the learned Tribunal.

[7] Accordingly, in the light of the position noted above, details of compensation awarded by the 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 as pension	Rs.19,000/- per month	Rs.19,000/- per month
2.	Deduction in r/o personal living expenses	Rs.9500/- per month (50% of Rs.19,000/-)	Rs.6,333/- (1/3rd of Rs.19,000/-)

3.	Net Income (Sr. No. 1 - 2)	Rs.9500/- (Rs.19,000 – Rs.9500)	Rs.12667/- (Rs.19,000 – Rs.6,333)
4	Income after addition of future prospects (Sr. No.3-4)	@ 50% (Rs.9500/- + 4750/-) = Rs.14,250/-	Nil
5.	Compensation after applying multiplier of 7.	Rs.19,000 (Instead of Rs.14,250/-x 12 x 7 = Rs.15,96,000/-	Rs.12667 x 12 x 5 = Rs.7,60,020/-
6.	Funeral Expenses	Rs.15,000/-	Rs.16500/-
7.	Loss of spousal consortium	Rs.40,000/-	Rs.44,000/-
8.	Loss of estate	Nil	Rs.16,500/-
9.	Interest	9% per annum	9% per annum
Total		**Rs.16,51,000/-**	**Rs.8,37,020/-**

[8] Accordingly, in the light of the position noted above, the appeal is allowed while cross objections are also partially allowed. Accordingly, in end result, the award is modified and compensation payable is reduced from Rs. 16,51,000/- to Rs. 8,37,000/- along with interest @ 9 per annum. Amount of Rs.25,000/- deposited by the appellant is ordered to be refunded.

(B.S. Walia)
Judge

27.01.2023
'Amit'

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