

2023:PHHC:141696

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5666-2015 (O&M)
Date of Decision: November 06, 2023

Satpal Singh and others

...Appellants

VERSUS

Mann Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ashit Malik, Advocate
for the appellants.

Mr.Abhishek Sharma, Advocate for
Mr.Vishal Gupta, Advocates
for respondents No.1 and 2.

Mr.Vinod Gupta, Advocate
for respondent No.3.

ARCHANA PURI, J.

The above captioned appeal has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation, granted by learned Motor Accident Claims Tribunal, on account of death of Mukesh Rani, in a motor vehicular accident, which took place on 11.09.2014.

On appraisal of the evidence, brought on record, learned Tribunal, vide impugned Award dated 27.05.2015, had granted compensation to the extent of Rs.4,85,000/- to the appellants-claimants.

So far as the fact of accident and manner of its taking place, as

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well as liability fastened upon the driver, owner and insurer of the offending vehicle, to be joint and several are concerned, it is pertinent to mention that no appeal has been filed by the persons, so made liable to challenge the Award and thus, this issue does not warrant any further scrutiny.

It is the claim of the appellants-claimants, who are husband, daughter and son of the deceased that Mukesh Rani was 34 years old, at the time of accident and she was working as Cashier in Patanjali Chikitsalya and also indulged in tailoring and stitching work. She was earning Rs.15,000/- p.m. from her job and another Rs.5,000/- from the tailoring and stitching work. However, learned Tribunal, on the basis of the evidence, brought on record, had discarded the plea of indulgence of the deceased in tailoring and stitching work as well as the job and thus, considering the deceased to be homemaker, the value of her services has been taken as Rs.2000/-.

Even though, PW-2 Satpal Singh, husband of deceased Mukesh Rani, in his affidavit Ex.PW2/A, has deposed in consonance with the pleaded case, but however, it is pertinent to mention that PW-3 Rajiv Kumar, Member in Patanjali Chikitsalya, New Delhi, has been examined, who deposed about the deceased to be their employee and earning Rs.15,000/- per month. The salary certificate has been produced on record as Mark 'A'. The attendance record of the deceased has come on record as Ex.P12 and Ex.P13.

Very rightly, learned Tribunal has discarded the aforesaid documents. It is pertinent to mention that even though, PW-3 Rajeev Kumar has deposed about avocation followed by the deceased, but however, it should be noted that he had not brought the record of the employment. No appointment

letter of the deceased, as such, has come on record. Even, the photocopy of the salary certificate has come on record as Mark 'A', which is on a simple page. It does not mention about any registration number or TIN number of the firm. Even though, in the cross-examination PW-3 Rajeev Kumar has deposed about Patanjali Chikitsalya to be filing income tax return, but the same has not been produced. Rather, PW-3 Rajeev Kumar feigned ignorance regarding the person, who had written Mark 'A' and 'B'. In the given circumstances, the avocation, so followed by the deceased, does not stand established.

But anyhow, from the material brought on record, it stands established that the deceased was a graduate. Her matriculation certificate has been proved as Ex.P8, detail mark sheet is Ex.P9 and her graduation certificate is Ex.P10. Thus, it stands established that the deceased was well educated person. Considering her education qualification, definitely, she must be in a position to look after her house in a better manner.

In view of the aforesaid, the earnings of the deceased, as assessed is definitely on a lower side, which calls for re-appraisal, besides addition on various other counts.

It is pertinent to mention that an attempt ought to be made by the Courts to award compensation, which should just and reasonable. There are two categories of situations, which the Court, usually encounter to make assessment of the compensation, to be granted, to the victims of the motor vehicular accident cases. One such category is of the non-earning victims, that the Courts are called upon to calculate the compensation for the homemakers. The grant of compensation for homemakers, on pecuniary

basis, has been considered by the Courts, time and again.

In *Lata Wadhwa vs. State of Bihar, 2001(8) SCC 197*, following observation has been made:-

“10. So far as the deceased housewives are concerned, in the absence of any data and as the housewives were not earning any income, attempt has been made to determine the compensation on the basis of services rendered by them to the house. On the basis of the age group of the housewives, appropriate multiplier has been applied, but the estimation of the value of services rendered to the house by the housewives, which has been arrived at Rs 12,000 per annum in cases of some and Rs 10,000 for others, appears to us to be grossly low. It is true that the claimants, who ought to have given data for determination of compensation, did not assist in any manner by providing the data for estimating the value of services rendered by such housewives. But even in the absence of such data and taking into consideration the multifarious services rendered by the housewives for managing the entire family, even on a modest estimation, should be Rs 3000 per month and Rs 36,000 per annum...”

In *Arun Kumar Aggarwal vs. National Insurance Company Ltd., 2010(9) SCC 218*, while considering the case of grant of compensation, on account of death of a housewife, due to the motor vehicle accident, it was observed, as herein given:-

“26. In India the courts have recognised that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by the wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of the husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean, etc., but she can never be a

substitute for a wife/mother who renders selfless service to her husband and children.

27. It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. the husband and children. However, for the purpose of award of compensation to the dependents, some pecuniary estimate has to be made of the services of the housewife/mother. In that context, the term “services” is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. The amount payable to the dependents cannot be diminished on the ground that some close relation like a grandmother may volunteer to render some of the services to the family which the deceased was giving earlier.”

In *Kirti and another v/s Oriental Insurance Company Ltd.*, **2021(2) SCC 166**, the Hon'ble Supreme Court, while considering the case of death of a homemaker, has observed, as herein given:-

*“26. The sheer amount of time and effort that is dedicated to household work by individuals, who are more likely to be women than men, is not surprising when one considers the plethora of activities a housemaker undertakes. A housemaker often prepares food for the entire family, manages the procurement of groceries and other household shopping needs, cleans and manages the house and its surroundings, undertakes decoration, repairs and maintenance work, looks after the needs of the children and any aged member of the household, manages budgets and so much more. In rural households, they often also assist in the sowing, harvesting and transplanting activities in the field, apart from tending cattle [See Arun Kumar Agrawal (supra); **National Insurance Co. Ltd. v. Minor Deepika rep. by her guardian and next friend, Ranganathan, 2009 SCC OnLine Mad 828**]. However, despite all the above, the conception that housemakers do not “work” or that they do not add economic value to the household is a problematic idea that has persisted for many years and must be overcome.*

Therein, it was further held as under:-

32. Returning to the question of how such notional income of a homemaker is to be calculated, there can be no fixed approach.

It is to be understood that in such cases the attempt by the Court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and circumstances.

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35. However, it must be remembered that all the above methods are merely suggestions. There can be no exact calculation or formula that can magically ascertain the true value provided by an individual gratuitously for those that they are near and dear to. The attempt of the Court in such matters should therefore be towards determining, in the best manner possible, the truest approximation of the value added by a homemaker for the purpose of granting monetary compensation.

36. Whichever method a Court ultimately chooses to value the activities of a homemaker, would ultimately depend on the facts and circumstances of the case. The Court needs to keep in mind its duty to award just compensation, neither assessing the same conservatively, nor so liberally as to make it a bounty to claimants [National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680; Kajal v. Jagdish Chand, (2020) 4 SCC 413].

Therein, it was also held that effects of inflation would equally be applied to the case of assessment of notional income of the homemaker and on this account, it was further held that the future prospects, also are required to be taken into consideration.

While concluding, general observations were made regarding the issue of calculation of notional income for homemakers and grant of future prospects, with respect to them, for the purposes of grant of compensation, which was summarized, as follows:-

“a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.

b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a

homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.

c. Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.

d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.”

Taking into consideration the multifarious duties performed by the homemaker, the earnings of the deceased, can very conveniently be taken as Rs.4,000/- per month. From the evidence on record, it stands established that the deceased was in the age group of 38-39 years and as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 40%, on the count of ‘future prospects’ has to be made and total amount of earnings comes to be Rs.4000+1600(40%)=Rs.5,600/- per month. Out of the same, keeping in view the number of dependents i.e. husband, daughter and son, 1/3rd is to be deducted on account of ‘personal expenses’, which is to the extent of Rs.1866/- and the residue amount works out to be Rs.3734/- per month and annual comes to be **Rs.44,808/-**.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate multiplier to be applied in the present case is ‘15’ and after, so applying this multiplier, the loss of dependency comes to be **Rs.44,808x15=Rs.6,72,120/-**.

Besides the same, the amounts are to be paid under the conventional heads, such like, loss of consortium, loss of estate and funeral expenses as held in *Pranay Sethi's case (supra)*. In *'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'*, the concept of consortium, has been dilated in detail and the dependents were entitled to compensation, on the count of 'parental', 'spousal' and 'filial' consortium, which view, has been further endorsed in *Harpreet Kaur and others vs. Mohinder Yadav and others, 2023(1) RCR (Civil) 327*, wherein, the Hon'ble Supreme Court, while relying upon *Magma's case (supra)*, had concluded about the children and mother of the deceased, all to be entitled to Rs.40,000/- each towards filial and parental consortium. Also, reference is made to *Janabai and others vs. M/s I.C.I.C.I. Lambord Insurance Company Ltd., 2022(4) RCR (Civil) 85*, wherein also, the Hon'ble Supreme Court had held the claimants of that case, each to be entitled to compensation, on the count of 'spousal consortium' for wife and 'parental consortium' for two children.

In consonance with the observations made in *Pranay Sethi's case (supra)*, after making addition of 10% for the first three years from the passing of the judgment, which has since passed by, till 31.10.2023, the amount payable was taken to be Rs.44,000/- for each of the claimant. Another addition of 10% ought to be made after the expiry of three years' thereafter and thus, after 31.10.2023, addition has to be made to the extent of 10%, on the amount of Rs.44,000/-, which now works out to be Rs.48,400/- for each of the claimant and similarly, revised amount has to be granted on the count of 'loss of estate' as well as 'funeral expenses', which comes to be

Rs.18,150/-, on each count.

Considering the same, the compensation payable to dependents, on account of death of Gurpreet Singh, is re-computed, as herein given:-

Loss of dependency	:	Rs.6,72,120/-
Loss of consortium	:	Rs.1,45,200/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.8,53,620/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.8,53,620-4,85,000=Rs.3,68,620/-**. On the enhanced amount of the compensation i.e. **Rs.3,68,620/-**, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation.

Out of the enhanced compensation, as now awarded, appellant-claimant No.1-Satpal Singh is held entitled to Rs.1,68,620/- and appellants-claimants No.2 and 3 are held entitled to Rs.1,00,000/- each.

The impugned Award dated 27.05.2015 stands modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.

With the above observations, the present appeal stands allowed.

November 06, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No