**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**F.A.O.No.3470 of 2007 (O&M)
Date of Decision: 09th July, 2015**

Giri Raj @ Girraj & Ors.

...Appellants

Versus

Vinod Kumar & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Shiv Kumar, Advocate,
for the appellants.

Mr.Yash Dev Kaushik, Advocate,
for respondent Nos.1 & 2.

Mr.Lalit Garg, Advocate,
for respondent No.3.

1. Whether Reporters of Local papers may be allowed to see the judgment? yes
2. To be referred to the Reporters or not? yes
3. Whether the judgment should be reported in the Digest? yes

Naresh Kumar Sanghi, J.(Oral)

The present first appeal against the order has been filed by Giri Raj @ Girraj (husband), Master Parveen (minor son) Master Pardeep (minor son), Kumari Babita (minor daughter), Kumari Sarita (minor daughter) and Kumari Pooja (minor daughter) of late Smt. Savitri who died in a motor vehicular accident, challenging inadequacy of the award passed by the learned Motor Accidents Claims Tribunal (Fast Track Court) Faridabad (for brevity "learned Tribunal").

Learned counsel for the appellants submits that Smt.

Savitri (since deceased) at the time of her death was 30 years old housewife. She had left behind the husband and five minor children. The learned Tribunal had assessed her monthly notional income as ₹ 2,000/- (Rupees Two thousand only). 1/3rd of the monthly income was deducted for the personal expenses of Savitri (since deceased). A multiplier of 13 was applied and awarded ₹ 2,20,000/-(Rupees two lacs and twenty thousand only) along with interest at the rate of 7.5% per annum from the date of filing of the petition till full and final payment was made. He further submits that the notional monthly income of Smt. Savitri (since deceased) should have been taken as ₹ 5,000/- (Rupees Five thousand only) in view of her services being rendered to a large number of dependents. He further submits that the deduction of 1/3rd of monthly income of Smt.Savitri (since deceased) was uncalled for in view of the services rendered by her. It was also submitted that in view of her age and taking into consideration the judgment passed by Hon'ble the Supreme Court in the matter of **Sarla Verma and Others** vs. **Delhi Transport Corporation and Anr. 2009(3) RCR (Civil) 77,** the multiplier of 17 should have been applied. He further pointed out that there were five minor children of the deceased but adequate amount has not been awarded to them for the loss of love and affection of the mother. He further points out that the husband has not been awarded the amount under the head of consortium. He also submits that for funeral expenses, a meagre sum of ₹ 10,000/- (Rupees ten thousand only) has been awarded against the settled norms of ₹ 25,000/- (Rupees Twenty five thousand only).

Learned counsel for the respondents submit that the learned Tribunal has already taken a reasonable view while adjudging ₹ 2,000/-(Rupees two thousand only) monthly notional income of Smt. Savitri (since deceased). However, they fairly admitted that in view of the numerous pronouncements by Hon'ble the Supreme Court, the multiplier of 17 should be applied. They further fairly admitted that adequate compensation should be awarded to the minor children of the deceased for loss of love and affection. It was also fairly conceded that the husband of the deceased is also entitled to the adequate amount for consortium. They also did not dispute the fact that for funeral expenses Hon'ble the Supreme Court and this Court are awarding ₹ 25,000/-(Rupees Twenty five thousand only).

Learned counsel for the respondents have relied upon **Paramjit Singh and Anr** vs **Dilbagh Singh alias Bagga and others, 2014(4) RCR (Civil) 895** to support the view that in the cases of death of the housewife, the notional income is taken as ₹ 3,000/-(Rupees three thousand only) without there being any deduction for personal expenses. It was also pointed out that in case of death of the housewife the claimants are not awarded the future loss of income to the deceased.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Since the factum of accident and death of Smt.Savitri are not in dispute, therefore, this Court does not deem it appropriate to discuss the said issues. It is suffice to say that on 18.11.2003 at about 9:30 am Smt.Savitri along with other persons was travelling in four wheeler bearing registration No.HR-38G-2598 and due to rash or negligent driving of the said vehicle it turned turtle and all the occupants including Smt.Savitri (since deceased) sustained multiple injuries all over their bodies. Due to the injuries received Smt.Savitri died. The matter was reported to police vide FIR No.521 dated 20.11.2003, under Sections 279, 304-A and 337, IPC, at Police Station, Sadar Ballabhgarh. The autopsy on the corpus of Smt.Savitri was conducted in the All India Institute of Medical Sciences, New Delhi, vide P.M.R. No.1200/03 on 19.11.2003.

The dependent/appellants filed the claim petition seeking compensation on various grounds. Learned Tribunal awarded ₹ 2,20,000/- (Rupees Two lacs twenty thousand only) along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization.

There appears to be substance in the submissions made by learned counsel for the appellants when he submitted that the learned Tribunal has gone wrong in assessing the monthly notional income at the rate of ₹ 2,000/- (Rupees Two thousand only). However, this Court does not find weight in his submission that the notional income of Smt.Savitri should be assessed at the rate of ₹ 5,000/- (Rupees Five thousand only). In the matter of **Paramjit Singh and Anr's** case (supra) while discussing the various judgments, Hon'ble the Division Bench of this Court held that in case the deceased housewife is between the age group of 34 to 59 at the time of her death in the motor vehicular accident then her notional monthly income should be assumed as ₹ 3,000/- (Rupees three thousand only) and there should be no deduction for her personal expenses. It was also held by Hon'ble Division Bench of this Court that there should be no addition for future prospects as well.

In view of the material available on record and taking into consideration the ratio of the judgment delivered by Hon'ble Division Bench of this Court in the matter of **Paramjit Singh and Anr**'s case (supra), this Court deems fit to assess the monthly notional income of Smt.Savitri (since deceased) aged 30 years as ₹ 3,500/- (Rupees three thousand and five hundred only). If it is multiplied by 12 then her annual income would come to ₹ 42,000/- (Rupees forty two thousand only). In view of the age of the deceased, the appropriate multiplier would be of 17. If annual income is multiplied by 17 then the figure would arrive at ₹ 7,14,000/- (Rupees seven lacs and fourteen thousand only).

There appears to be substance in the submission of learned counsel for the appellants that the minor children and husband of the deceased are also entitled to adequate amount of compensation under the head 'love and affection' and 'consortium' respectively. Since there were five minor children at the time of death of Smt.Savitri (since deceased) therefore, each minor child is awarded ₹ 50,000/- (Rupees Fifty thousand only) for 'love and affection'. The total amount on account of love and affection would be ₹ 2,50,000/- (Rupees Two lacs and fifty thousand only). The husband is also entitled to a sum of ₹ 1,00,000/- (Rupees one lac only) for 'consortium'.

₹10,000/- (Rupees ten thousand only) awarded by learned Tribunal for funeral expenses is on lower side. In view of the latest judgments passed by Hon'ble the Supreme Court and this Court, ₹ 25,000/- (Rupees Twenty five thousand only) is awarded to the appellant/claimants under the head 'funeral expenses'. The total amount awarded under various heads would come to ₹ 10,89,000/- (Rupees ten lacs and eighty nine thousand only). The interest awarded to the claimants is also on lower side. This Court thinks it appropriate to award the interest at the rate of 9% per annum. Hon'ble the Supreme Court in the matters of **Neeta and others v. Divisional Manager, Maharashtra State Road Transport Corporation, 2015 ACJ 598,** and **Jitendra Khim Shankar Trivedi v. Kasam Daud Kumbhar, 2015 ACJ 708,** has awarded interest @ 9% per annum from the date of presentation of claim petition and till the time full and final payment is made.

Resultantly, the appellants would be entitled to the following amount as per the table given below:-

Sr.No. (A)	Heads (B)	Details of Calculations (C)	Amount in Rupees (D)
1.	Assessed monthly income of the deceased		3,500.00
2.	Annual dependency of the claimants	1(D) x 12	42,000.00
3.	Compensation after applying multiplier	2(D) x 17	7,14,000.00
4.	Loss of consortium, payable to husband of the deceased	1,00,000.00	1,00,000.00
5.	Love and affection payable to each minor children	50,000 x 5	2,50,000.00
6.	Funeral expenses	25,000/-	25,000.00
	Grand total	Sum of 3(D) to 6(D)	10,89,000.00

In view of the above, a total sum of ₹ 10,89,000/- (Rupees ten lacs and eighty nine thousand only) along with interest at the rate of 9% per annum from the date of filing of the petition till realization is awarded in favour of the appellants.

With the above modifications in the amount of compensation to the claimants, the present appeal is partly allowed.

In view of the findings by learned Tribunal, the amount awarded by this Court shall be paid by respondent No.3/ Insurance Company which can be recovered by it from the owner and driver of the offending vehicle.

July 09, 2015 **(Naresh Kumar Sanghi)**
seema **Judge**