In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.299 of 2014

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Date of decision:8.7.2015

Satpal and another

.....Appellants

v.

State of Haryana and others

.....Respondents

....

**Coram : Hon'ble Mr. Justice Inderjit Singh**

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Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Surender Singh, Assistant Advocate General, Haryana for respondent No.1.

Mr. R.C. Kapoor, Advocate for respondent No.3.

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**Inderjit Singh, J.**

This appeal has been filed by claimants-Satpal and Rajbeer Singh for enhancement of the compensation against State of Haryana-owner, Parveen Kumar-driver and the New India Assurance Company Limited-insurer of Bus No.HR-37C-5101 (hereinafter referred to as `the offending vehicle') challenging the award dated 25.10.2013 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as `the Tribunal'), vide which an amount of ₹1,36,000/- has been granted as compensation to the claimant No.1 only along with interest @7.5% per annum from the date of filing of the claim petition till realization of the amount.

The brief facts of the case are that petitioners-Satpal and Rajbeer Singh (appellants herein) filed claim petition under Section 166 of the Motor Vehicles Act. 1988 for grant of compensation of ₹30 Lacs on account of death of Smt. Surjit Kaur alias Sarito in a motor vehicular accident caused by Parveen Kumar-respondent No.2 on 28.3.2012 while driving the offending bus in rash and negligent manner owned by State of Haryana and insured with the Insurance Company. It is stated in the claim petition that Surjit Kaur alias Sarito (since deceased) was a housewife aged about 59 years and was rendering domestic services worth ₹10,000/- per month. Post-mortem examination on her dead body was conducted at P.G.I., Chandigarh. The FIR was also lodged.

The Tribunal after discussing the evidence on record vide the impugned award held that Satpal husband of Smt. Surjit Kaur only is entitled to compensation. As regards Rajbeer Singh, who was having independent family, and who is 40 years of age and is married person, is held to be not entitled to compensation. The Tribunal took the age of the deceased as more than 60 years and applied the multiplier of seven. Notional income of the deceased was taken as ₹2,250/- per month and after making deduction of 1/3rd out of this notional income, the compensation was computed as ₹1,26,000/-. ₹9,500/- were granted as loss of estate, loss of consortium and funeral expenses and total amount by rounding off was granted as ₹1,36,000/-. Aggrieved from this award, the appeal has been filed.

Notice of motion was issued in this appeal. Respondent No.1-State of Haryana was represented by Mr. Surender Singh, Assistant Advocate General, Haryana and the Insurance Company was represented by Mr. R.C. Kapoor, learned Advocate, who contested this appeal. The record of the Tribunal was also summoned.

At the time of arguments, learned counsel for the appellants argued that first of all as per post-mortem report and as also the age given in the claim petition, the age of the deceased was 60 years and even the Tribunal has not assessed the age as 61 years. Therefore, he has argued that multiplier of nine should have been applied. Learned counsel for the appellants further argued that if the notional income have been taken for the multifarious services being provided to the family, then there should not be any deduction. Learned counsel for the appellants further argued that the Tribunal should have given ₹25,000/- as funeral expenses and ₹1 Lac as loss of consortium. He also argued that the notional income assessed by the Tribunal is also very less.

On the other hand, learned counsel for the respondents mainly argued that the compensation has been correctly assessed by the Tribunal and there is no ground for enhancement of the same.

After going through the evidence on record and after hearing learned counsel for the parties, I find that first of all the income assessed by the tribunal @ ₹2,250/- per month is on lower side. Notional income at least should have been assessed as ₹3,000/- per month as the deceased was a lady and was not earning any annual income, then no deduction should have been made from the notional income as held in the case of Lata Wadhwa v. State of Bihar, 2001 (4) R.C.R.(Civil) 673. In this case taking into consideration the multifarious services rendered by the house wives for managing the entire family, the income had been taken as ₹3,000/- per month and dependency was calculated at ₹36,000/- per annum. Secondly, I find that when the claimants are alleged the age of the deceased as 59 years and in the post-mortem report it has been given as 60 years, therefore, the multiplier in this case is to be taken as nine as per the law laid down by the Hon'ble Supreme Court in Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77. There is neither any finding nor any evidence that she was 61years of age or more.

As per law laid down by the Hon'ble Supreme Court in Rajesh and others v. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170, in which it has been held that ₹1 Lac should be given as loss of consortium and ₹25,000/- for transportation and funeral expenses, therefore, from the above discussion, I find that the claimant/appellant No.1 being husband of the deceased is entitled to compensation as under:-

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|---|---|
| 1. Notional income of the deceased | :₹3,000/- per month |
| 2. The annual dependency comes to ₹36,000/- | |
| 3. By applying the multiplier of nine, the dependency comes to 36,000 x 9 | :₹3,24,000/- |
| 4. For loss of consortium | :₹1,00,000/- |
| 5. Funeral and transportation expenses | :₹ 25,000/- |
| Total | :₹4,49,000/- |

Keeping in view the above facts and circumstances, the total amount of compensation comes to ₹4,49,000/-. The amount is enhanced accordingly. The enhanced amount of compensation will be paid by the Insurance Company along with the interest as awarded by the Tribunal to claimant-appellant No.1. The interest on the amount will be paid from the date of filing of claim petition till actual payment. The Insurance Company is directed to pay the enhanced amount of compensation to appellant No.1 accordingly.

The appeal is disposed of accordingly.

July 8, 2015. **(Inderjit Singh)**
**Judge**

*hsp*