IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3209-1999 (O&M)
Date of decision: 16.3.2016

Om Parkash and others

...Appellants

Versus

Phool Kumar and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Manmohan, Advocate for
Mr.Suman Jain, Advocate for the appellants

None for respondent No.1.

Mr.Ajit Bhardwaj, AAG, Haryana
for respondents No.2 and 3.

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SNEH PRASHAR, J.

By filing the present appeal, the appellants are seeking enhancement of the compensation awarded to them by learned Motor Accident Claims Tribunal, Hisar (for short 'the Tribunal') vide award dated 16.7.1999 on account of death of Nanhi, wife of appellant No.1 and mother appellants No.2 and 3, due to injuries sustained by her in a motor vehicular accident.

The submissions made by Mr.Manmohan, Advocate representing the appellants and Mr.Ajit Bhardwaj, Assistant Advocate General, Haryana for respondents No.2 and 3 have been heard and record perused.

It is submitted on behalf of the claimants-appellants that despite the fact that the deceased was earning Rs.4000/- per month, learned Tribunal assessed her income as Rs.500/- per month. Also nothing was awarded for loss of love, care and guidance to the minor children. The amount awarded under conventional heads i.e. funeral expenses and loss of consortium is also inadequate.

Learned counsel for respondents No.2 and 3 argued that the age of the deceased as recorded in the postmortem report was 40 years, whereas learned Tribunal taking her age as 26 years applied the multiplier of 18, which is in contravention to the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**.

Admittedly, Nanhi died due to the injuries sustained by her in a motor accident on 25.6.1998. Om Parkash, husband of deceased Nanhi appeared in the witnessed box as PW1. Besides stating his own age as 28 years, he deposed that he has to children namely Satpal and Sandip aged about three years and one year respectively. In view of the age of the husband and the minor children, the age of the deceased as 26 years has rightly been taken to calculate the dependency.

Regarding income of the deceased, no substantive and documentary evidence was produced by the claimants-appellants to prove that the deceased was earning Rs.4000/- per month.

The Hon'ble Supreme Court in **Arun Kumar Agrawal and**

<u>another vs. National Insurance Co. ltd and others 2010 ACJ 2161</u> has observed as under:-

> "22. In **Mehmet v. Perry (1977) 2 All ER 52**, the pecuniary value of a wife's services were assessed and granted under the following heads:-
>
> (a) Loss to the family of the wife's housekeeping services.
> (b) Loss suffered by the children of the personal attention of their mother, apart from housekeeping services rendered by her.
> (c) Loss of the wife's personal care and attention, which the husband had suffered, in addition to the loss of her housekeeping services.
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> 23. 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 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 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."

Reverting to the instant case, the age of the deceased was 26 years. She was a household lady and had two minor children. Apart from dedicatedly serving the husband and the children, she was also an invaluable constant source of guidance to the children for their future life. Indeed, the contribution of a lady towards her family cannot be assessed in terms of money but for determining loss of dependency the valud of the services has to be assessed and that cannot be less than what a normal person can earn by doing manual work. As such, the income of the deceased is assessed as Rs.3000/- per month. Since, there were three claimants, the deduction towards living and personal expenses of the deceased has to be 1/3rd of his income.

As the deceased was in the age group of 26-30 years, in view of law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, the multiplier of 17 is applicable.

Claimant -respondent No.1 is the husband, whereas respondents No.2 and 3 are the minor sons. In view of the law laid down in **Rajesh and others vs. Rajbir and others 2013 (9) SCC 54,** a sum of Rs.5,000/- awarded on account of loss of consortium is enhanced to Rs.One lac and the amount under the head of funeral and transportation charges is enhanced to Rs.25,000/-. Further a sum of Rs. one lac is allowed to both the children in equal shares on account of loss of love, care and guidance.

Accordingly, the total compensation comes to Rs.6,33,000/- (3000 (monthly income) -1/3rd (deduction towards personal and living expenses of the deceased) x 12 x 17 (multiplier) + 2,25,000 (under the conventional heads including the amount already awarded). The enhanced amount of Rs.5,18,000/- (6,33,000-1,15,000) shall be paid to the claimants-appellants within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of filing of the appeal, till its realisation.

The present appeal is partly allowed and the impugned award is modified to the above extent.

16.3.2016 **(SNEH PRASHAR)**
gsv **JUDGE**