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

**FAO No.8837 of 2014
Date of Decision: 22.07.2016**

Mangal and others

......Appellants

Vs

Narender and others

.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Bikram Chaudhary, Advocate
for the appellants.

None for respondent No.1.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goel, Advocate
for respondent No.2.

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

<u>RAJ MOHAN SINGH, J.</u>

[1]. The present appeal has been filed by the claimants/appellants for enhancement of compensation on account of death of Smt. Rajo in a motor vehicular accident.

[2]. Brief facts as gathered from the record are that initially two claim petitions were filed in respect of same occurrence in

which deceased Rajo had succumbed to the injuries suffered by her and Mahipal sustained minor injuries. Both the claim petitions were dismissed by the Motor Accident Claims Tribunal, Kaithal (hereinafter to be referred as 'the Tribunal') against which FAO Nos.4058 and 4059 of 2011 were filed before this Court. Both the appeals were accepted and the cases were remanded back to the Tribunal with direction to decide afresh.

[3]. In the petition filed by Mahipal i.e. MACT No.74 of 2009, the Tribunal granted lump sum amount of compensation of ₹9,000/- as there was no sufficient evidence available on record to show that the claimant-Mahipal had sustained injuries due to rash and negligent driving of respondent No.1.

[4]. In the second bearing MACT No.75 of 2009, it was held that deceased Rajo was a housewife, who received fatal injury. Though there was no evidence of income of the deceased, but considering her to be a housewife, her monthly income was fixed to be ₹3,600/- per month, deduction to the tune of 1/3rd was applied towards her personal expenses and remaining 2/3rd of the income i.e. ₹2,400/- was treated to be family dependency. The Tribunal came to the conclusion that the yearly family dependency was ₹28,800/- (₹2,400 x 12). Thereafter Tribunal applied multiplier of 15 to the entitlement of the deceased and calculated an amount of ₹4,32,000/-

(₹28,800 x 15). An amount of ₹5,000/- towards last rites and ₹5,000/- towards consortium were also awarded, thereby making the total amount of compensation to be ₹4,42,000/- (₹4,32,000 + ₹5,000 + ₹5000). The amount of compensation so awarded to the appellants was also to carry interest @ 7.5% per annum from the date of filing of claim petition till realisation of the amount.

[5]. I have heard learned counsel for the parties.

[6]. In case of housewife the criteria specified in clause(6) of Second Schedule referred to Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act') has to be looked into. The contribution made by the wife to the family is invaluable and cannot be computed in terms of money. In evaluating notional income of deceased housewife, 1/3rd deduction towards personal expenses while computing dependency of the family is not to be made in view of ***Paramjit Singh vs. Dilbag Singh @ Bagga, 2014(4) RCR (Civil) 895 (DB)***.

[7]. In all fairness, the income of the deceased as ₹3600/- per month assessed by the Tribunal is just and appropriate, however by applying the clause (6) of Second Schedule of the Act, the compensation has to be awarded without making any deduction. Since monthly income of the deceased was

assessed to be ₹3,600/-, but deduction towards personal expenses were not to be made in case of housewife in view of law laid down by the Hon'ble Supreme Court in ***Lata Wadhwa vs. State of Bihar, 2001(4) RCR (Civil) 673***. Therefore, the annual income of the deceased has to be taken as ₹3600 x 12 = ₹43,200/-. Since the deceased was of 35 years of age, therefore, multiplier of 17 would be just and appropriate in view of ratio held in ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***. If the annual income of the deceased i.e. ₹43,200 is multiplied by 17, the amount comes to be ₹43,200 x 17 = ₹7,34,400/-. As per ratio laid down in ***Rajesh and others vs. Rajbir Singh and others, (2013) 9 SCC 54*** an amount of ₹1,00,000/- towards loss of consortium and ₹1,00,000 towards loss of love and affection to the children and ₹25,000/- towards funeral expenses have to be awarded under the conventional head. In this way total compensation comes out to be ₹9,59,400/- (₹7,34,400 + ₹1,00,000 + ₹1,00,000 + ₹25,000). So, in this manner an amount of ₹5,17,400/- (₹9,59,400 – ₹4,42,000/-) stands enhanced in addition to the amount of compensation already awarded by the Tribunal.

[8]. The claimants are held entitled to receive the aforesaid amount of compensation in equal shares. The aforesaid amount

shall carry interest @ 7.5% per annum from the date of filing of claim petition till final realisation of the amount.

[9]. With the aforesaid modification, the appeal is accepted.

July 22, 2016 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes / No