

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

FAO No.3030 of 1996

Date of Decision.12.07.2017

Satnam Kaur

.....Appellant

Vs

Union of India and another

.....Respondents

Present: Mr. Amandeep Singh Meho, Advocate
for the appellant.

None for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The mother-in-law is the appellant before this Court seeking enhancement of compensation for death of daughter-in-law, who died in a road accident that took place on 01.05.1994. The deceased was travelling in a scooter bearing No.CHO-01-6416 along with her husband and two others from village Billa to Mansa Devi Mandir. When they crossed village Jai Singhpora, a military convoy came from the opposite direction. One military truck bearing No.91-D-88650-M-271-10 was tow-chaining another military truck. The driver of the said truck suddenly took a right turn and applied brakes, due to which the driver of the tow-chained truck could not control the truck and both the truck collided. Due to the impact, both the trucks turned their faces towards the side from which the deceased persons were coming. In the collision, all the four occupants of the scooter were crushed to death under the truck bearing No.91-D-88650-M-271-10.

The deceased-Sunita was stated to be working with a lawyer as Typist-cum-Clerk and was earning ₹2500/- per month. The Tribunal while assessing the compensation only awarded a lump sum amount of ₹50,000/-.

Learned counsel for the appellant contends that on 15.09.2004, a proposed settlement was arrived at ₹1,28,600/- over and above the amount already awarded by the Tribunal along with interest @12% per annum from the date of filing of the claim petition till payment in the Lok Adalat. Three months' time was allowed to the respondents to give concurrence and pay the proposed amount otherwise the appeal will be decided on merits but till date neither the concurrence was given nor the amount had been paid.

This Court vide order dated 04.03.2015 raised a query whether mother-in-law would be entitled to claim for compensation for death of daughter-in-law in terms of Section 166(i)(c) of the Motor Vehicles Act, 1988. In response to the same, learned counsel appearing for the appellant relies upon Section sub-section 1 of Section 15 of the Hindu Succession Act, 1956 to contend that the property of a female Hindu dying intestate shall devolve according to the rules set out in Section 16 viz; firstly upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband and secondly, upon the heirs of the husband. In the present case, the husband of the deceased also died in the same accident and there was no child, thus, the mother-in-law being the heir of husband is entitled to claim compensation. In support of his contention, he also relies upon the judgments of this Court rendered in *Smt. Santosh Jain and another Vs. State of Haryana and others 2014 AAC 1420* and *United India Insurance Company Limited Vs. Parlad Rai and others 2010(4) RCR (Civil) 153.*

On merits, learned counsel for the appellant submits that the deceased was earning ₹2500/- per month and the Tribunal has grossly erred in providing a lump sum amount of ₹50,000/-. There is definite scope of

enhancement in view of the ratio decidendi culled out by Hon'ble Supreme Court in **Sarla Verma Vs. DTC 2009(6) SCC 121** and other subsequent judgments.

I have heard learned counsel for the appellant and appraised the paper book. The formula prescribed in the ratio decidendi culled out by Hon'ble Supreme Court in **Sarla Verma's case** (supra) is required to be applied while assessing the compensation, according to which, I will take the income of the deceased as ₹2500/- per month, apply a deduction of 1/3rd for personal expenses and adopt a multiplier of 18 suitable to the age of the deceased, who was 21 years old at the time of accident. I will further add a sum of ₹50,000/- towards loss of love and affection, ₹5000/- for loss to estate and ₹25,000/- for funeral expenses.

However, as regards the increase in income as future prospects, the Hon'ble Supreme Court in the ratio decidendi culled out in the judgment rendered in **Chikkamma and another Vs. Parvathama and another** passed in Civil Appeal No.3409 of 2017 decided on 28.02.2017 has refused to grant claim for future prospects with regard to self employed person, owing to the fact that the issue with regard to award of future prospects of a self-employed person is pending before a larger Bench of Hon'ble Supreme Court. The relevant paragraph 9 of the same reads as under:-

“9. Taking into account the fact that the deceased was a self employed person and also as the question with regard to award of future prospects of a self employed person is presently pending before a larger Bench of this Court and as some enhancement of compensation ha already been made by us, we are of the view that in the facts of the present case, the claim for future prospects ought not to be gone into by us. The said claim, therefore, is refused.

In view of the ratio decidendi culled out by Hon'ble Supreme Court in **Chikkama's case** (supra), I will constrain myself to award any amount for future prospects at this stage, for, the aforementioned issue is pending adjudication before the larger Bench of Hon'ble Supreme Court. The other heads of claim are tabulated as under:-

FATAL ACCIDENT			
Age	21 years		
Occupation	Typist-cum-Clerk		
Claimants	Mother-in-law		
	Heads of claim	Tribunal	High Court
Sl. No.		Amount (Rs)	Amount (Rs.)
1	Income		2500
2	Add, % of increase		--
3	Less, Deduction		1666.66
4	Multiplicand (annualized by multiplying 12)		20,000
5	Multiplier		18
6	Loss of dependence		3,60,000
7	Medical Expenses & Transportation		
8	Loss of Consortium		
9	Loss of love and affection		50,000
10	Loss to estate		5000
11	Funeral expenses		25000
	Total	50,000	4,40,000

The amount of compensation payable shall be ₹4,40,000/-. The amount in excess over what has already been provided by the Tribunal shall attract interest @6% from the date of filing of the appeal till realization. The liability shall remain same as fixed by the Tribunal.

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

(AMIT RAWAL)

JUDGE

July 12, 2017

Pankaj*