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

FAO No.3207 of 1999 (O&M)

Date of Decision: 13.11.2017

Amar Nath and others ... Appellants

Versus

General Manager, Haryana
Roadways, Bhiwani and others ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. K.S. Dhanora, Advocate,
for the appellants.

Mr. Ripu Daman, AAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. This appeal is coming up for final hearing after 20 years of the fatal accident. The deceased was a housewife. The MACT, Hisar has assessed monthly income at ₹1500/- per month in its award dated September 07, 1999. The fatal accident that led to premature death took place on September 29, 1997. The offending vehicle was a Haryana Roadways bus and, therefore, State is liable to pay compensation. The petition had been filed both under Section 166 and 163-A of the Motor Vehicles Act, 1988. In the matter of assessment of income of a home maker, the law to be followed is stated in Lata Wadhwa and others v. State of Bihar and others, (2001) 8 SCC 197 and accordingly the income deserves to be substantially increased from ₹1500/- per month. The law is equally well settled in the aforesaid

case that there can be no deduction from the assessed income of a house wife dying in a motor accident.

2. Learned counsel for the appellant relies on orders in FAO No.218 of 2014, *United India Insurance Co. Ltd. v. Sube Singh and others* decided on January 15, 2014 & FAO No.2772 of 2015, *Tarsem Singh and others v. M/s New India Assurance Co. Ltd. and others*, decided on August 22, 2017 to contend that the income should be increased to ₹9000/- per month. The two coordinate Benches have maintained the income at ₹9000/- per month. In FAO No.218 of 2014 Brother Ajay Tewari, J. while noticing *Lata Wadhwa's* case (Supra) observed as follows:-

> *"Learned counsel for the appellant has argued that even while noticing that the income of a skilled worker in 2012 was approximately ₹8000/- the Tribunal has wrongly assessed the income of the deceased as ₹9000/-. As per him once the notional income had been taken a deduction had to be made for personal expenses. This argument is flawed. In* ***Lata Wadhwa and others v. State of Bihar and others*** *reported as 2001(4) RCR(Civil) 673 (where the accident had taken place in 1981) the Hon'ble Supreme Court evaluated the contribution of a house wife at ₹3000/-per month. The accident in the present case took place after 23 years. In my considered opinion to tag a house wife as a 'skilled worker' alone does not do complete justice to her multifarious role as a home manager. Keeping in view the lapse of 23 years between the accident in the case of Lata Wadhwa and the present accident and my conclusion that a house wife is something*

> *more than a mere skilled worker it would not be unreasonable to estimate the contribution of the deceased in the present case at a higher figure. On the whole I see no reason for reducing the quantum."*

3. I have every reason to follow this judgment of which I am told that the SLP against the orders in FAO No.218 of 2014 has been dismissed so also the SLP in the other case cited by the appellants which has suffered the same fate in the Supreme Court and, therefore, the orders have attained finality. Income is accordingly assessed at ₹9000/- per month without deduction.

4. Late Smt. Laxmi died in the accident when she was 35 years of age. The multiplier of 16 has been applied by the Tribunal which is appropriate. However, the award is of only ₹1,95,000/- to the three claimants-dependents i.e. husband and minor children with interest @12% per annum from February 17, 1998, the date of filing of the petition till realization. The counsel fee was assessed at ₹550/-.

5. Accordingly, future prospects are assessed as follows:

Assessed monthly salary	=	9000
Future Prospectus @ 40%	=	3600
Monthly salary (9000 + 3600)	=	12600
Deduction towards personal expenses (12600x1/3)	=	4200
Dependency (12600-4200)	=	8400
Loss of dependency (8400x12x16)	=	16,12800

6. Funeral expenses, loss of consortium and loss of estate is assessed as per ruling in Special Leave Petition (Civil) No.25590 of 2014,

National Insurance Company Limited v. Pranay Sethi and others to add up to ₹70,000/-.

7. In view of the above discussion, the appeal is partly allowed. The award is modified. Compensation is enhanced by keeping in view income @ ₹9000/- per month as against ₹1500/- per month awarded by the Tribunal. For the three conventional heads ₹70,000/- is awarded as per *Pranay Sethi*. Counsel fee is increased to ₹5500/- from ₹550/-.

8. Accordingly, the total compensation comes out to ₹16,88,300/- (₹1612800 + ₹70000 + ₹5500). If the amount awarded by the Tribunal is already paid, an amount of ₹14,93300/- is payable to the claimants.

9. The children were minor at the time of death of the mother. Eighty per cent of the compensation under this order will be divided between the two minor children and balance 20% would go to the claimant husband, if he is not remarried, this is in order to protect the interest of the children and to cater to their education and/or settle them in life. In case, husband is remarried then children will get 100% of the re-computed compensation.

10. Interest is maintained at the rate awarded by the Tribunal in its discretion. The amount calculated under this order will be deposited in the Executing Court/Tribunal within six weeks from the date of receipt of certified copy of this order and the same be disbursed to the claimants without delay. If the amount is in default of deposit, then the payable sum would carry interest @ 12% per annum till realisation.

11. Accordingly, the appeal stands allowed and the award of the Tribunal stands modified in the above terms.

13.11.2017 **(RAJIV NARAIN RAINA)**
manju/Vimal **JUDGE**

Whether speaking/reasoned *Yes*
Whether reportable *No*