

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

1. FAO No.229 of 2015 (O&M)
Date of Decision: 20.07.2017

Dilbag Singh and others . . . Appellants

Versus

Vinod Kumar and others . . . Respondents

2. FAO No.232 of 2015 (O&M)
Date of Decision: 20.07.2017

Kartar Singh and others . . . Appellants

Versus

Vinod Kumar and others . . . Respondents

3. FAO No.239 of 2015 (O&M)
Date of Decision: 20.07.2017

Balwinder Singh and another . . . Appellants

Versus

Vinod Kumar and others . . . Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mohan Singla, Advocate
for the appellants.

Mr. Varun Sharma, Advocate for
Mr. Ashwani Talwar. Advocate
for the respondent-Insurance Company.

Anil Kshetarpal, J. (Oral)

By this common order, I shall dispose of FAO Nos.229, 232
and 239 of 2015, as all these three appeals arising out of common

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judgment dated 02.08.2013, passed by the Motor Accident Claims Tribunal (for short 'the Tribunal'), Fatehabad.

In all three claim petitions, filed under Section 166 of the Motor Vehicle Act, 1988, claimants claim for compensation on account of death of late Smt. Gurwinder Kaur, Smt. Gurmeet Kaur and late Smt. Jasbir Kaur. It was pleaded that all the three unfortunate ladies had died in an accident on 25th May, 2010. The Tribunal found respondent Nos.1 and 2 to be the guilty of rash and negligent driving. Thus, the Tribunal awarded a sum of Rs.2,40,000/- as compensation to the claimants on account of death of Jasbir Kaur, who was 60 years old, whereas in the case arising out of death of late Smt. Gurvinder Kaur, who was 45 years old at the time of death, the Tribunal awarded compensation of Rs.3,36,000/-. Similarly, with respect to the case arising out of death of Gurmeet Kaur, who was also found 60 years old at the time of her death, the Court had awarded compensation of Rs.3,28,000/-. The compensation was directed to be paid along with interest @ 9% per annum from the date of filing of claim petition till the date of realization.

Learned counsel for the appellant in all the three appeals has submitted that the Tribunal has assessed the monetary compensation of the house hold services @ Rs, 3000/- per month. According to the learned counsel, the amount assessed is on the lower side.

Learned counsel for the appellant has submitted that since the accident took place in the year 2010, therefore, the Court should have assessed the monetary value to be Rs.5000/-. In support of the aforesaid argument, learned counsel has relied upon the judgment reported as 'Arun

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Kumar Agrawal and another Vs. National Insurance Company and others titled as **2010 AIR (SC) 3426**'.

On the other hand, learned counsel for the respondent has pointed out that the claimants in their claim petition had assessed and claimed the contribution in the domestic household work by the aforesaid three deceased ladies to be not less than Rs.3300/- per month. Therefore, the argument of learned counsel for the appellant has no force.

I have considered the arguments of learned counsel for the parties. I have also examined the judgment passed by the Hon'ble Supreme Court in **Arun Kumar Agrawal's case (supra)**. In my considered opinion there cannot be any straight check formula for assessing the contribution of a house wife. It all depends upon the status of the family to which deceased belongs and other circumstances. Anyhow, since the claimants themselves had pleaded and assessed the contribution of the deceased in the monetary terms not less than Rs.3000/- therefore, I would prefer to take their contribution to be Rs.3300/- per month.

Learned counsel for the respondent has further submitted that since the monetary contribution for house hold work is only deemed income, therefore, cut and impose by the Tribunal was not proper.

Learned Counsel for the appellant has relied upon a judgment reported as **'2014 ACJ 554** titled as **Oriental Insurance Company Limited Vs. Gurnam Singh and others**'.

On the other hand, learned counsel for the respondent has relied upon the judgment reported as **'2015 (2) SCC (Civil) 581** titled as

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Jitendra Khimshankar Trivedi and others Vs. Kasam Daud Khumbhar

and others' to contend that even with respect to household lady, deduction with respect to personal expenses are to be deducted.

I have considered the submissions made by both the learned counsel.

In my opinion, no doubt some deduction on account of personal expenses is to be made, however, that all would depend upon the status of the family and other circumstances. In the present case, the ladies who had died in an unfortunate accident do not appear to be belonging to a higher stative society. Therefore, in my considered opinion on account of personal expenses, the deduction can safely be made to the extent of Rs.800/-.

In the case learned counsel for the appellant has further submitted that consortium has been assessed at the rate of Rs.10,000/- which should be of Rs.1 lac. Similarly, learned counsel for the appellant has submitted that on account of love and affection, the Court should have awarded another sum of Rs.1 lac. It has further been submitted that on account of funeral expenses and transportation charges the Tribunal has awarded only a sum of Rs. 14,000/- whereas it should be Rs.35,000/- (Rs.25,000/- as funeral and Rs.10,000/- as transportation charges). Learned counsel for the appellant has further submitted that loss of estate has not been granted.

Learned counsel for the respondent has very fairly stated that the compensation on account of loss of the consortium is less and as per the judgments passed by the Court, it is normally at Rs. 1 lac. Similarly,

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learned counsel for the respondent has also fairly stated that on account of love and affection another sum of Rs. 1 lac is to be awarded. Learned counsel for the respondent has further fairly stated that on account of funeral expenses and transportation charges, the claimants are awarded Rs.14,000/- which is on lower side and Rs. 25,000/- as funeral charges and Rs.10,000/- as transportation charges are to be awarded.

As far as submissions of learned counsel for the appellant that under the head of loss of estate, no compensation has been awarded, in my considered opinion since the earning family members of the family are alive and it is a case of death of ladies, who were in the household work, therefore, no compensation is required to be awarded under this head.

Learned counsel for the appellant has further submitted that in the case of Gurwinder Kaur, her age has been found to be 45 years at the time of death, therefore, multiplier 14 should be applied.

Learned counsel for the respondent does not seriously dispute this fact.

In view of the above circumstances, the revised compensation payable to the appellant(s) is being re-assessed as under:-

IN THE CASE OF GURMEET KAUR

PARTICULARS	AMOUNT (in Rs.)
Monthly Income	3,300/-
Annual Income (Rs.3000 x 12)	39,600/-
Less: on account of personal expenses to the extent of Rs.800/-	9,600/-

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p.m. (800 x 12)	
Total	30,000/-
Multiplier of 9 (30000 x 9)	2,70,000/-
Loss of consortium (+)	1,00,000/-
Loss of love and affection (+)	1,00,000/-
Funeral expenses	25,000/-
Transportation charges	10,000/-
Total compensation	5,05,000/-
Less: Compensation already awarded	3,28,000/-
Total enhanced compensation	1,77,000/-

IN THE CASE OF GURWINDER KAUR

PARTICULARS	AMOUNT (in Rs.)
Monthly Income	3,300/-
Annual Income (Rs.3000 x 12)	39,600/-
Less: on account of personal expenses to the extent of Rs.800/- p.m. (800 x 12)	9,600/-
Total	30,000/-
Multiplier of 14 (30,000 x 14)	4,20,000/-
Loss of consortium	1,00,000/-
Loss of love and affection	1,00,000/-
Funeral expenses	25,000/-
Transportation charges	10,000/-
Total compensation	6,55,000/-

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Less: Compensation already awarded	3,36,000/-
Total enhanced compensation	3,19,600/-

IN THE CASE OF JASBIR KAUR

PARTICULARS	AMOUNT (in Rs.)
Monthly Income	3,300/-
Annual Income (Rs.3000 x 12)	39,600/-
Less: on account of personal expenses to the extent of Rs.800/- p.m. (800 x 12)	9,600/-
Total	30,000/-
Multiplier of 9 (30000 x 9)	2,70,000/-
Loss of consortium (+)	1,00,000/-
Loss of love and affection (+)	1,00,000/-
Funeral expenses	25,000/-
Transportation charges	10,000/-
Total compensation	5,05,000/-
Less: Compensation already awarded	2,40,000/-
Total enhanced compensation	2,65,000/-

Resultantly, the aforementioned three appeals accepted partly.

Disposed of accordingly.

[ANIL KSHETARPAL]
JUDGE

20.07.2017
Sachin/sahil

Whether Speaking/reasoned : Yes
Whether Reportable : Yes