IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 460 of 2014

DATE OF DECISION : 06.12.2017

Parveen Kumar

.... APPELLANT

Versus

Gurpreet Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Akshay Jindal, Advocate,
for the appellant.

Mr. Puneet Jain and Mr. M.B. Jain, Advocates,
for respondent No.3 – Insurance Company.

* * *

AVNEESH JHINGAN, J. (Oral)

The present appeal raises an issue that in case of death of a house wife, where her income is notional, deduction for self expenses should be made or not. The second issue raised is that the amount awarded under the conventional heads should be increased.

On 03.01.2010, Meenu Devi, aged 20 years, was going along with her husband in a rickshaw, when a rashly and negligently driven car bearing registration No. DL-2C-AK-5620 (for short, `the offending vehicle') hit the rickshaw. As a result, Meenu Devi suffered injuries and ultimately succumbed to her injuries on 12.01.2010 in PGI, Chandigarh. FIR No. 10 dated 09.01.2010 was registered at Police Station Gharaunda, District Karnal.

Two claim petitions under Section 166 of the Motor Vehicles Act, 1988 were filed, one (Claim Petition No. 46 of 2010) by the husband and the other (Claim Petition No. 84 of 2011) by father of the deceased. The Motor Accident Claims Tribunal, Karnal (for short, `the Tribunal') awarded compensation for loss of dependency and loss of consortium to the husband, whereas the medical expenses and compensation for loss of love and affection were awarded to the father.

The husband of the deceased was awarded compensation of ₹ 4,37,000/- along with interest at the rate of 9% per annum. The said amount includes a sum of ₹ 5,000/- for loss of consortium. The father of the deceased was awarded ₹ 26,487/- as amount spent on treatment, funeral and last rites of the deceased, and ₹ 5,000/- for loss of love and affection.

Aggrieved of the award passed in Claim Petition No. 46 of 2010, the husband of the deceased filed the present appeal.

I have heard learned counsel for the parties and perused the paper-book and record.

The parties have not disputed the involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased and the multiplier applied.

Learned counsel for the appellant argued that the deceased was a house wife and it is only her notional income, which was assessed as ₹ 4,000/- per month. There should not have been any deduction for self expenses. The amount awarded for loss of consortium is on lower side and no amount has been awarded under the other conventional heads.

Learned counsel for respondent No.3 – Insurance Company argued that the deduction for self expenses has rightly been made. He defended the award and resisted any enhancement.

The issue raised by learned counsel for the appellant regarding deduction of self expenses has been dealt with by a Division Bench of this court in ***Paramjit Singh and another Vs. Dilbagh Singh alias Bagga and others, 2014 (4) RCR (Civil) 895.*** In the said decision, while relying upon a decision of Hon'ble the Apex Court in case of ***Arun Kumar Aggarwal and another Versus National Insurance Company and others 2010 (3) RCR (Civil) 827,*** it has been held as under :

> *"13. After the decision in Lata Wadhwa's case (supra), the notional income of the housewife is estimated according to their age. The notional income of the housewife was taken to be Rs.3,000/- per month if she had been between the age group of 34 to 59 at the time of accident. The only riddle which is to be solved by us is as to whether 1/3rd cut should be applied on the notional income or not? The answer to this question is couched in the aforesaid extracted paragraph of the judgment of Lata Wadhwa's case (supra), as in that case, the Supreme Court was searching for a modest notional income of the housewife who was not earning an income but rendering multifarious services while managing all the chores of the family. Since it is a case where the Courts are confronted with the notional income of the housewife on account of her multifarious services which not only includes rearing the children but also performing all matrimonial obligations, in our considered view,*

the deduction of 1/3rd out of her notional income is not warranted."

In the above decision, it has been held that in case of death of house-wife, since the notional income is to be taken into account, no deduction for self expenses is warranted. Hence, the compensation for loss of dependency on re-calculation as 48000 x 18 = ₹ 8,64,000/-.

The contention with regard to the conventional heads deserves acceptance. The Hon'ble Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others,*** Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017, has held that an amount of ₹ 70,000/- is to be awarded under the conventional heads, i.e. ₹ 15,000/- for loss of estate, ₹ 40,000/- for loss of consortium and ₹ 15,000/- for funeral expenses. In view of this decision, a sum of ₹ 70,000/- is awarded under the conventional heads.

In view of the above, the award dated 16.01.2013 is modified to the extent that the compensation of ₹ 4,37,000/- awarded by the Tribunal is enhanced to ₹ 9,34,000/-.

The appellant shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

December 06, 2017 **(AVNEESH JHINGAN)**
ndj **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable Yes