

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

**FAO No.4457 of 2016 (O&M).
Date of Decision: 24.01.2017.**

Shriram General Insurance Company LimitedAppellant.

VERSUS

Mahabir Singh and othersRespondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. M.B. Jain, Advocate for the appellant.

SNEH PRASHAR, J.

CM-15363-CII-2016

Allowed, as prayed for.

CM-15364-65-CII-2016

Delay of 116 days in filing and 26 days in refiling the appeal is
condoned and the applications stand disposed of.

FAO-4457-2016 (O&M)

Challenge in this appeal is to the award dated 29.10.2015
passed by Motor Accident Claims Tribunal, Jind (for short, "the tribunal")
for awarding compensation to the tune of Rs.10,10,000/- to respondents-
claimants being legal representatives of deceased Smt. Santra, who lost her
life due to the injuries sustained by her during the accident that took place
on 04.08.2013.

Precisely, the facts are that on 04.08.2013 Smt. Santra (since

Jeep bearing registration No.HR-07F-1766 (hereinafter referred to as “the jeep”) and at about 2.00 p.m. when the jeep was in the area of Police Station Roopangarh i.e. on highway Tiraha and was being driven by Sonu Kumar (Respondent No.1) in a rash and negligent manner, suddenly after speedily over taking a truck going ahead of the jeep despite heavy vehicles coming from the opposite side, was brought to the left side but the jeep got imbalanced and as its tyre burst it turned turtle. All the occupants of the jeep including Smt. Santra suffered multiple injuries. Later, Smt. Santra died due to the injuries suffered by her during the accident.

Claimants-legal representatives of Smt. Santra filed a petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation from the driver, owner and insurer of the jeep.

Learned tribunal found that deceased was 48 years old and was a house wife/ mother of three children. The notional income of the deceased was assessed as Rs.7,000/- per month. 1/4th of the earning was deducted towards personal expenses and applying the multiplier of 13 an amount of Rs.8,90,000/- was awarded on account of loss of dependency. Further, an amount of Rs.1,00,000/- was awarded for loss of love and affection and Rs.20,000/- towards expenditure on last rites.

The appellant-insurer being dissatisfied with the award had filed the present appeal.

The submissions made by Mr. M.B. Jain, learned counsel representing the appellant have been considered.

Learned counsel for the appellant argued that there was no postmortem report of the deceased to prove the cause to her death. Also,

month whereas no substantive evidence was led to prove her occupation/ income and the tribunal noticed that she was a house wife. Submitting that the income of the deceased has been assessed on the higher side and relying upon **Jitendra Khimshankar Trivedi and Ors. vs. Kasam Daud Kumbhar and Ors., MANU/SC/0093/2015,** learned counsel contended that the compensation deserves to be reduced.

There is no merit in the argument of learned counsel for the appellant. Smt. Santra died due to the injuries suffered by her in the accident in which as many as seven other persons, who were traveling in the same jeep, had also suffered injuries. The injured also filed petitions for claiming compensation and to support their claim stepped into witness box and testified that the accident occurred solely due to rash and negligent driving of the jeep by respondent No.1 (Sonu Kumar). There being overwhelming evidence consisting of statement of the eye witnesses who deposed the manner in which the accident had taken place, learned tribunal concluded and rightly so that the accident was result of rash and negligent driving of the jeep by its driver-respondent No.1. All the witnesses stated about death of Smt. Santra due to the injuries sustained in the accident. Therefore, absence of the postmortem report of the deceased has no adverse bearing on the petition.

As regards, the argument of learned counsel for the appellant that the deceased was a house wife/ mother and being non earning member of the family, income assessed of the deceased taken was higher, it has been held by Hon'ble Apex Court in **Arun Kumar Agrawal and another vs. National Insurance Company and others, 2010 (3) The Punjab Law**

house is invaluable and cannot be computed in terms of money. It is not possible to quantified any amount in lieu of the multifarious services rendered by the wife/ mother to the family i.e. husband and children. However, for the purpose of awarding compensation to the dependants, some pecuniary estimate has to be made of the services of house wife/ mother. In that context, the term 'services' is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in view of the loss of gratuitous services rendered by the deceased. The gratuitous services rendered by wife/ mother to the husband and children cannot be equated with the services of an employee.

The deceased is survived by three children and husband. The gratuitous services rendered by her to the family were alongwith the love and care she bestowed on them were invaluable. However, to determine the pecuniary loss some assessment had to be made and considering the status of the family and age of the dependants the value assessed as Rs.7000/- per month is not at all on the higher side.

In view of the matter, there appears no ground for intervention in the finding of learned Tribunal and the appeal being devoid on merit is dismissed.

(SNEH PRASHAR)
JUDGE

24.01.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**