

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

FAO-355 of 2017 (O&M)
Date of decision: 14.11.2017

Manjit Singh and another

.... Appellants

Versus

Satish Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Puja Chopra, Advocate
for the appellants.

Mr. Goapl Mittal, Advocate
for the Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed by the legal heirs of Inderjit Kaur, who lost her life in a motor vehicular accident that occurred on 19.11.2014. She was the pillion rider on the motorcycle which was hit by a Canter Tata bearing registration No.PB07-AF-7099 (for short, 'the offending vehicle').

The claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed.

The Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter referred to as the 'Tribunal') vide its award dated 4.08.2016, awarded a sum of Rs.7,26,000/- along with interest @8% per annum.

The parties have not disputed the facts with regard to the involvement and rash and negligent driving of the offending vehicle.

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

Learned counsel for the appellant has argued that the Tribunal erred in making deduction for self expenses when the income of the deceased was being taken as Rs.9,000/-per month as a notional income.

Learned counsel for the Insurance Company argued that just and equitable compensation has been awarded by the Tribunal as the Tribunal has taken notional income as Rs.9,000/- per month which is on the higher side and moreover excess amount has been awarded under the conventional heads. He contended that in such circumstances just and equitable compensation has already been awarded and no interference is called for.

In the present case, no appeal has been filed by the Insurance Company yet. In order to arrive at just and equitable compensation, various factors will have to be considered. The position of law settled on the issue that in case of housewife where the notional income is taken, there can be no deduction for self expenses.

This Court 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) 159 PLR 428 (SC) in **Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others**, Vol.CLXXII (2013-4) 329, has held as under:

"15. 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 laid down that in case of death of house-wife, since it is the notional income which is to be taken into account as her services not only include rearing the children but also

perform all matrimonial obligations. In such circumstance, 1/3rd deduction is not warranted.

Before deciding the issue of loss of dependency, it would be relevant to take into consideration that amount of Rs.1,50,000/- has been awarded by the Tribunal under the conventional heads.

In the latest judgment of the Hon'ble Apex Court in **National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017** it has been held that the amount of Rs.70,000/-has to be awarded under the conventional heads. The result is that the amount of Rs.80,000/- is awarded in excess under the conventional heads.

Taking into consideration, that some excess amount has already been awarded and the fact that the income of the deceased was not proved on record, it would not be appropriate to strict to the notional income of Rs.9,000/- as assessed by the Tribunal.

Learned counsel for the appellant could not raise any serious objection if taking her notional income as Rs.6,000/- per month. By this method, even the amount awarded under the conventional heads is also taken care of. Loss of dependency is recalculated as under :-

Monthly income	Rs.6,000/-
Annual income	Rs.6,000x12=72,000/-
Applying multiplier of 16	Rs.72,000X16=Rs.11,52,000/-

The award dated 04.08.2016 is modified to the extent that the amount awarded by the Tribunal of Rs.7,26,000/- is enhanced to

Rs.13,02,000/-.

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

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

14.11.2017

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No