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

FAO-976-2017 (O&M)

Date of decision:14.02.2017

IFFCO TOKIO GENERAL INS CO LTD ... Appellant

versus

NARINDER SINGH AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ravinder Arora, Advocate,
for the appellant.

HARI PAL VERMA, J.

The appellant-Insurance Company has filed the present appeal against the award dated 27.10.2016 passed by MACT, SAS Nagar, Mohali, whereby the claim petition filed by the claimants (respondents No.1 and 2 herein), was allowed and they were held entitled to compensation of ₹9,97,000/-.

Briefly stated, respondents No.1 and 2/claimants (i.e. sons of the deceased) have filed claim petition under Section 166 of Motor Vehicles Act on account of death of their mother, namely, Joginder Kaur wife of Jarnail Singh, in a road side accident that took place on 16.11.2014. On the said date, Joginder Kaur along with her husband Jarnail Singh was going from her village to Gurudwara Singh Shaheedan, Sohana on a motorcycle which was being driven by her

husband Jarnail Singh and she was pillion rider. Narinder Singh was following them on his separate motorcycle. When they reached on T-point Landran, they halted their motorcycles and were waiting to take a turn towards Sohana, meanwhile, a trola bearing registration No.RJ31-GA-3574 came at fast speed from their behind and struck against the motorcycle of her husband Jarnail Singh and ran over them. The said trola was being driven by Gurdeep Singh (respondent No.3 herein). As a result of the accident, both Joginder Kaur and her husband Jarnail Singh received serious injuries and died at the spot.

The Tribunal held that Joginder Kaur had died in a motor vehicular accident which occurred on account of rash and negligent driving of a trola bearing registration No.RJ31-GA-3574 being driven by Gurdeep Singh (respondent No.3 herein). The Tribunal awarded compensation of ₹9,97,000/- in the following manner:-

<u>Date of Accident</u>		<u>16.11.2014</u>
<u>Age of the deceased</u>		<u>58 years</u>
<u>Claimants Narinder Singh and another</u>		
<u>Sr. No.</u>	Heads of Claim	Amount
1.	Monthly income	Rs.9000/-
2.	Annual income	Rs.9000/- X 12=Rs.1,08,000/-
3.	Multiplier	9
4.	Amount of compensation	Rs.1,08,000/- X 9=Rs.9,72,200/-
5.	Funeral expenses	Rs.25,000/-
6.	Grand Total	Rs.9,97,000/-

The aforesaid compensation was awarded after considering the fact that the deceased was a housewife and was rendering domestic services. In fact a housewife takes care of all the requirements of her husband and children including cooking of food, washing of clothes

etc. All these chores could be performed by a maidservant, but she can never be a substitute for a wife/mother who renders selfless service to her husband and children. Thus, on account of gratuitous services rendered by the deceased-Joginder Kaur, the claimants were awarded compensation. The income of the deceased-Joginder Kaur was assessed at ₹9,000/- and the annual dependency/income of the deceased was calculated at ₹1,08,000/-.

Learned counsel for the appellant-Insurance Company has argued that the deceased-Joginder Kaur was about 58 years of age and was a housewife, but the Tribunal has assessed her income as ₹9,000/- per month and applied a multiplier of 9 in the case. He further argued that the Tribunal has not taken into consideration the fact that the claimants are major sons of the deceased and were not at all dependent upon the deceased. He states that rather the deceased was dependent upon the children. The claimants have not placed on record any evidence as to what the deceased was doing. She was merely a housewife and assessment of ₹9,000/- as notional income, is totally unjustifiable. In this manner excessive compensation has been awarded under the conventional heads.

I have heard learned counsel for the appellant.

The death of Joginder Kaur has been proved in the case. The income of the deceased has been assessed as ₹9,000/- per month. She was 58 years of age at the time of accident and in this manner, multiplier of 9 has been applied. The Insurance Company has tried to

negate the claim on one ground or the other including the validity of driving licence of Gurdeep Singh-driver (respondent No.3 herein), but have failed to prove that the driver was not holding a valid driving licence. The accident had taken place on 16.11.2014, whereas as per Ex.R1, which is the driving licence of respondent No.3-Gurdeep Singh, the same was valid upto 09.01.2016.

So far as the contention of the learned counsel for the appellant-Insurance Company that the calculated monthly income of the deceased is on the higher side and is even more than a daily wage is concerned, it cannot be accepted. We cannot equate a housewife with a domestic servant. What a housewife can perform, such services can never be performed by a domestic servant. She not only takes care of all the requirements of her husband, children and other family members by preparing food, washing clothes etc. but she is a person who is available for 24 hours to all the family members. In this manner, a domestic servant/maidservant cannot be a substitute for a wife or a mother to render selfless services to her husband and children.

In view of above, this Court does not find any illegality in the award passed by the Tribunal. Accordingly, the appeal filed by the Insurance Company stands dismissed.

(HARI PAL VERMA)
JUDGE

14.02.2017
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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No