

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

418

Date of Decision : 06.07.2018

1.

FAO No.2158 of 1996 (O&M)

Rakesh Swarup Saxena

..... Appellant

Versus

Sh.Vinod Kumar and others

..... Respondents

2.

FAO No.2157 of 1996 (O&M)

Rakesh Swarup Saxena and others

..... Appellants

Versus

Sh.Vinod Kumar and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Y.M.Bhagirath, Advocate
for the appellant/s.

Ms. Priya Deep, Advocate for
Mr. Ashwani Talwar, Advocate
for the respondent-Insurance Company.

AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned two appeals.

These two appeals have been filed against the award dated

16.04.1996 passed by the Motor Accident Claims Tribunal, Kurukshetra.

The brief facts of the case are that on 08.10.1994 appellant-Rakesh Swarup Saxena along with his wife and two children was going in Maruti Car No.MK0-1137 for Hoshiarpur and when they reached near Thanesar Matador bearing No.MP-11(T) B-2654 being driven rashly and negligently by the respondent No.1 hit them. As a result of this accident the wife of the appellant died and he and his children sustained injuries. Four claim petitions were filed and as regards the claim petitions for the injuries which were received by the children the same have been finalized. The present appeals relate to enhancement of compensation awarded for the death of the wife and injuries which the appellant suffered. Since liability is not disputed further detailed reference to facts would not be required.

Coming first to the case of the deceased it was admitted that she was 38 years old and working as teacher in Delhi Public School, Delhi and earning Rs.3,514/- per month. The Tribunal has awarded Rs.1.00 lakh as lumpsum compensation.

Learned counsel has argued that award of lumpsum compensation is ex-facie illegal. This fact has been accepted by the learned counsel for the respondent-insurance company who states that as per the judgment of *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 1/3rd deduction had to be made and 40% future prospects had to be granted and multiplier of 15 had to be applied.

Counsel for the appellant/s states that in the case of a working woman who is also a mother and a wife her contribution towards that head has also to be calculated. He has further argued that even if the deceased had been a house wife her contribution to the family would have to be

others, (2001) 8 SCC 197. As per him in the case of *Lata Wadhwa's case (supra)* the accident had place in the year 1993 and in that case the income of a house wife was taken as Rs.3,000/-. In the present case the accident took place in the year 1994, therefore, her contribution should not be less than Rs.4,000/- per month and this amount has to be added to the monthly income before making deduction.

In my opinion, this is too extreme position but some amount has to be added for her role as a house-wife, in addition to her salary. Consequently, I deem it appropriate to take the entire salary which was being received by the deceased as dependency along with an addition of 40% as future prospects with a multiplier of 15. Ordered accordingly.

In view of the judgment of the Supreme Court in *Pranay Sethi's case (supra)* an amount of Rs.70,000/- would be payable under the conventional heads.

The second appeal relates to compensation for the injury charges. The appellant No.1-Rakesh Swarup Saxena suffered 36% disability. He was awarded a sum of Rs.2.00 lakhs which included Rs.30,000/- as compensation for pain and suffering, Rs.20,000/- for future treatment and Rs.1,50,000/- as expenses incurred on medical salary loss, appointment of domestic help and driver etc.

It is not disputed that the appellant No.1 was working as a Manager in Bank of Maharashtra, Hoshiarpur. Learned counsel has argued that he lost his chance of future promotion, however, there is no evidence of the same. The only head under which some increase can be made under the head of pain and suffering. I grant a sum of Rs.20,000/- more on that

Learned counsel for the appellant/s further points out that no interest was awarded.

I deem it appropriate to award 8% interest on the compensation from the date of the claim petition till the date of payment/s. As regards the apportionment, with regard to the compensation which was payable for the death of the wife of the appellant the Tribunal had directed that entire compensation be given to minor children. As on date almost a quarter century has passed. The children must be adults and well settled. Consequently, the entire enhanced amount will fall to the share of the appellant No.1-Rakesh Swarup Saxena.

Both the appeals are allowed in the above terms.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

06.07.2018

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No