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

(1)

FAO No3101 of 2005 (O&M)
Date of Decision: March 22, 2018.

Birawa Bai and others
..........APPELLANT(s).

VERSUS

Jagdish Singh and others
........RESPONDENT(s).

(2)

FAO No3102 of 2005 (O&M)

Ram Lal @ Sham Lal and others
..........APPELLANT(s).

VERSUS

Jagdish Singh and others
........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sagar Aggarwal, Advocate
for the appellant (s).

None for the respondents.

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SURINDER GUPTA, J.

Both the aforementioned appeals have been taken up together as the same arise from common award dated 05.05.2005 passed by Motor Accident Claims Tribunal, Panipat relating to accident dated 04.07.2003 at about 5.00 p.m. in which Nihal Chand, Devi Bai and Sudesh Rani died and some other persons suffered injuries.

FAO No.3101-2005

This is appeal filed by claimants Birawa Bai and others seeking enhancement of compensation awarded by the tribunal for the death of Nihal Chand in the above mentioned accident caused by Canter TATA-407 bearing registration No.PB-10AE-9751 (later referred to as 'the offending vehicle'). The tribunal awarded compensation of ₹2 lakhs to the claimants, which was computed as follows:-

(i)	Name of the deceased	Nihal Chand
(ii)	Age of the deceased	55 years
(iii)	Income of the deceased	₹3000 p.m.
(iv)	Deduction towards personal expenses @ 1/3rd	₹3000-1000=₹2000 p.m. i.e. ₹24000 p.a.
(v)	Multiplier applied 8	₹24000X8 = ₹1,92,000/-
(vi)	Funeral expenses	₹3000
(vii)	Loss of consortium	₹5000
	Total	₹2,00,000/-

FAO No.3102-2005

This appeal has been preferred by Ram Lal @ Sham Lal and others seeking enhancement of compensation for the death of Devi Bai in the aforesaid accident. The tribunal has awarded a compensation of ₹1,75,000/- to the claimants, which was computed as follows:-

(i)	Name of the deceased	Devi Bai
(ii)	Age of the deceased	32 to 35 years
(iii)	Income of the deceased	₹10000 per annum (as housewife)
(iv)	Multiplier applied 8	₹10000X16 = ₹1,60,000/-
(v)	Funeral and transportation expenses	₹10000
(vi)	Loss of consortium	₹5000
	Total	₹1,75,000/-

As the only issue involved in these appeals relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

FAO-3101-2005

While seeking enhancement of compensation for the death of Nihal Chand, learned counsel for the appellants-claimants has argued that as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009,*** claimants are entitled to addition of 10% in the income of the deceased towards future prospects. The deceased left behind six dependants and he was 55 years of age at the time of accident. As per the law settled by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121,*** which was affirmed in case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** (supra), 1/4th deduction could be made towards personal expenses of the deceased instead of 1/3rd as made by the tribunal and while computing the amount of compensation for loss of dependency, the multiplier, which is to be attracted in this case is 11 whereas the tribunal has applied multiplier of 8. Under the conventional heads, the tribunal has allowed a compensation of ₹8000/- only, while as per the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** (supra), it should be ₹55000/- and even if it be believed that the accident in this case had taken place 14 and half years back, the amount of compensation under conventional heads may be suitably awarded.

Deceased Nihal Chand was 55 years of age. As per law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** (supra), claimants are entitled to addition of 10% in the income of the deceased towards future prospects. The multiplier attracted in this case as per age of the deceased is 11 and 1/4th deduction from the income of the deceased could be made as his personal expenses. Keeping in view the fact that accident had taken place in the year 2003 and price index prevailing at the relevant time, the claimants are allowed a lump sum amount of ₹40,000/- under the heads of loss of consortium, estate and funeral expenses.

As a sequel of my above discussion, the amount of compensation to which the claimants are entitled, is re-assessed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹3000 per month
(ii)	10% of above (i) to be added as future prospects	(₹3000+₹300)= ₹3300 per month
(iii)	Deduction of 1/4th towards personal expenses of the deceased	(₹3300-₹825)= ₹2475 per month
(iv)	Compensation after multiplier of 11 is applied	(₹2475X12X11)= ₹326700
(v)	Compensation under conventional heads (loss of consortium, estate and funeral expenses)	₹40000
Total		₹3,66,700/-

This appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹2,00,000/- to ₹3,66,700/- for death of Nihal Chand. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants in equal shares. Respondent No.3-insurance company will deposit the share of appellants-claimants, who are major, in his bank account or pay the same through demand draft. The share of minor appellants-claimants, if any, will be deposited in some nationalised bank as fixed deposits till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minors as required at the time of deposit of the amount and the minors shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in their names after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be apportioned equally amongst other surviving claimants.

FAO-3102-2015

Learned counsel for the appellants-claimants has argued that deceased in this case was Devi Bai. The tribunal has taken her as housewife and assessed the value of her services to the dependants as ₹10,000/- per annum. While relying on the observations of ***United India Insurance Company Limited vs. Sube Singh and others, FAO No.218 of 2014 (decided on 15.01.2014)***, learned counsel for the appellant has argued that a Co-ordinate Bench of this Court has observed that wife is more than a skilled worker, as she manages entire house and her notional income as assessed by the tribunal as ₹9000/- per month was upheld. He has further argued that the amount of compensation allowed towards loss of consortium and funeral expenses is also on lower side.

A Co-ordinate Bench of this Court in case of ***United India Insurance Company Limited vs. Sube Singh and others (supra)*** has observed that "*To take a house wife as a skilled labourer alone does not do complete justice to her multifarious role as a Home Manger*". It was observed that "*a house wife is something more than mere a skilled worker*" and "*it would not be unreasonable to estimate her contribution in that case at a higher figure than a skilled worker*". Agreeing with the observations of Co-ordinate Bench, I take value of contribution of deceased towards her family equivalent to skilled worker.

Though the learned counsel for the appellant has not been able to provide me chart of minimum wages assessed in the year 2003 but I find that the salary of skilled worker in the year 2004 was around ₹2,930/-. Keeping in view the above fact, I am of the opinion that value of the services rendered by the deceased to her family can be assessed as ₹2,500/- per month i.e. ₹30,000/- per annum. As per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** (supra) and keeping in view the fact that accident took place in the year 2003, claimants are entitled to a lump sum compensation of ₹40,000/- under the conventional heads i.e. loss of consortium and funeral expenses etc.

As a sequel of my above discussion, the amount of compensation to which the claimants are entitled, is re-assessed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹2500 per month i.e. ₹30,000/- p.a.
(ii)	Compensation after multiplier of 16 is applied	(₹30000X16)= ₹480000
(iii)	Compensation under conventional heads (loss of consortium, estate and funeral expenses)	₹40000
Total		₹5,20,000/-

This appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹1,75,000/- to ₹5,20,000/- for death of Devi Bai. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants in equal shares. Respondent No.3-insurance company will deposit the share of appellants-claimants, who are major, in his bank account or pay the same through demand draft. The share of minor appellants-claimants, if any, will be deposited in some nationalised bank as fixed deposits till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minors as required at the time of deposit of the amount and the minors shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in their names after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be apportioned equally amongst other surviving claimants.

(SURINDER GUPTA)
JUDGE

March 22, 2018.
Sachin M.

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