

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO-364-2005 (O&M)
Date of Decision: 14.08.2018

Jyoti Devi minor & others

--Appellants

Versus

Sudershan Kumar & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Aakash Dalal, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for respondent no.4.

Mr. R.N. Singhal, Advocate for respondent no.8.

TEJINDER SINGH DHINDSA.J (Oral)

This is claimants' appeal seeking enhancement of compensation.

The M.A.C.T vide award dated 10.8.2004 has awarded a compensation amount of Rs.3,07,000/- in favour of the claimants/appellants on account of death of Raj Kumari in a motor vehicle accident that took place on 13.9.2001.

Briefly, it may be noticed that Raj Kumari was a passenger in a bus which was involved in a collision with a Canter truck stated to be driven in a rash and negligent manner.

Claimants were the minor daughter, minor son and husband of the deceased.

Since the only issue raised in the instant appeal is with regard to quantum, this Court would advert to the findings recorded by the Tribunal as regards computing the compensation amount.

Suffice it to observe that deceased Raj Kumari was a house wife and the Tribunal has assessed the notional income of the deceased as

Rs.2400/- per month. A multiplier of 16 has been applied and thereby the total compensation amount has been computed to Rs.3,07,000/-. No amount has been awarded under the conventional heads i.e. loss of consortium, loss of estate and funeral expenses.

Counsel for the claimants/appellants as also for contesting respondents no.4 and 8 have been heard.

In the considered view of this Court, the compensation awarded by the Tribunal to the appellant is on the lower side.

The Hon'ble Apex Court in ***Jitendra Khimshankar Trivedi and others Vs. Kasan Daud Kumbhar and others, (2015) 4 SCC, 237*** while dealing with the aspect of assessing income of a house wife observed as under:-

“It is hard to monetize the domestic work done by mother. The service of the mother/wife is available 24 hours and her duties are never fixed. Courts have recognized the contribution made by wife to the house as invaluable and that it cannot be computed in terms of money”

Even in case of ***Lata Wadhwa and others Vs. State of Bihar and others (2001) 8 SCC, 197*** the monthly income of a house wife has been assessed as Rs.3,000/- per month in relation to an accident that took place in the year 1981. The accident in the present case has taken place in the year 2001 i.e. after a period of about 20 years. Keeping in view the time period lapse of 20 years between the accident in ***Lata Wadhwa's*** case (supra) and the accident in the present case and coupled with the settled position that contribution of a house wife cannot be estimated and it being not possible to calculate her contribution to the family in monetary terms, it would be a fit

case to take the monthly income of the deceased as Rs.6,000/- per month.

As per Post Mortem Report adduced on record age of the deceased was taken as 25 years. Keeping in view the parameters laid down by the Apex court in *Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) R.C.R (Civil), 77*, the multiplier that the Tribunal ought to have applied was 18 as opposed to 16. It is so directed.

Furthermore, as per dictum laid down by the Apex Court in *National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) R.C.R (Civil), 1009*, an amount of Rs.70,000/- is awarded under the conventional heads i.e. loss of estate, loss of consortium and funeral expenses.

In view of the discussion made above, the compensation awarded to the appellants is reassessed as under:-

Sr. No.	Head	Calculation
1.	Income	6,000/- per month
2.	Compensation after applying multiplier of 18	6,000x12=72,000 72,000x18=12,96,000/-
3.	Conventional heads (loss of consortium, loss of estate, funeral expenses etc.)	70,000/-
4.	Total	12,96,000=70,000=13,66,000/-

The aforesaid enhanced compensation would be apportioned equally amongst the appellants and would be paid to them along with interest @ 6% from the date of filing of the claim petition and till actual realization.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

14.08.2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No