

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

205

FAO-1227-2011

Date of Decision:14.03.2018

Gurbaksh Singh and others

.....Appellants

Versus

Surinder Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. R.K. Upadhyay, Advocate for
Mr. Abhimanyu Kalsy, Advocate,
for the appellants.**

**Mr. A.S. Pahwa, Advocate,
for respondent No.2.**

**Mr. R.C. Kapoor, Advocate,
for respondent No.3.**

HARI PAL VERMA, J.(Oral)

Appellants-claimants have filed the present appeal seeking enhancement of compensation over and above the amount awarded by the Motor Accident Claims Tribunal, Ludhiana (for short “the Tribunal”) vide award dated 03.09.2010.

As per claim-petition on 06.02.2007, Anju Bala @ Kamlesh (since deceased) was going from Ludhiana to Sangrur on a scooter bearing registration No.PB-10AF-7802 along with her husband Gurbaksh Singh. When they have reached near village Sareen on Ludhaina-Malerkotla road, in the meantime, the offending truck bearing registration No.PCL-9991 came from the opposite side being driven by respondent No.1 in a rash and negligent manner. The truck struck against the scooter of the deceased. As

a result of this accident, Gurbaksh Singh fell down on the road and the truck ran over deceased Anju Bala @ Kamlesh, who died at the spot.

In a claim-petition filed by the claimants under Section 166 of the Motor Vehicles Act, 1988, on account of death of Anju Bala @ Kamlesh aged 56 years, the Tribunal awarded a total compensation of ₹1,17,500/-.

Not satisfied with the aforesaid award, the claimants have filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that deceased Anju Bala @ Kamlesh was about 56 years of age at the time of accident. She was doing stitching work and was earning a substantial amount, but still the Tribunal has assessed the notional income of the deceased as ₹2,000/- per month which is on much lower side and after deductions dependency was assessed as ₹1,500/- per month. The services which were being rendered by the deceased as a housewife qua her husband and as a mother to other claimants have been under-evaluated. The Tribunal has ignored the evidence that the deceased was doing stitching work and was earning ₹3,000/- per month. The respondent No.3-Insurance Company has not been able to controvert the aforesaid evidence. Similarly, the amount awarded under the conventional heads is also required to be enhanced.

On the other hand, learned counsel for respondent No.3-Insurance Company has argued that since the deceased was about 56 years of age and when the claimants themselves have failed to adduce any evidence that she was doing any work, the Tribunal has rightly assessed the income of the deceased and awarded compensation accordingly. There is no further scope for enhancement.

I have heard the learned counsel for the parties.

There is no dispute that deceased Anju Bala @ Kamlesh was aged about 56 years and multiplier 6 was applied by the Tribunal, whereas considering the age of the deceased, multiplier 9 was required to be applied, as held by the Hon'ble Apex Court in case **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another**, 2009(6) SCC 121. Furthermore, the role of a housewife is altogether different and cannot be equated with a person who is employed. The Tribunal has assessed the notional income of the deceased as ₹2,000/- per month and after deduction dependency has been assessed as ₹1,500/- per month. This is a cruel joke with a housewife who has unfortunately died in the accident. In fact the role of a housewife cannot generally be assessed viz-a-viz money. This Court finds that the Tribunal fell in an error in assessing the contribution of the deceased towards the whole family, while assessing her notional income as ₹2,000/- per month and thereafter further deductions ₹1,500/- per month. This Court has considered the role and contribution of a housewife in **FAO No.976-2017 (IFFCO TOKIO General Insurance Company Limited Versus Narinder Singh and others)**, decided on 14.02.2017 and observed as under:-

“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.”

Accordingly, this Court finds that income assessed by the Tribunal needs to be enhanced. Accordingly, it is held that the deceased being a housewife, her income is assessed as ₹4,500/- per month. As the income has been assessed as notional income, neither future prospects are to be granted nor deductions are to be applied.

Accordingly, the compensation, to which the claimants are entitled is re-assessed in the following manner:-

Monthly income	:	₹4,500/-
Annual income	:	₹54,000/-
Total loss of dependency (₹54,000 x 9)	:	₹4,86,000/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-

Total amount of compensation :		₹5,56,000/-
Amount already awarded :		₹1,17,500/-

Enhanced amount :		₹4,38,500/-

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

March 14, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No