

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

FAO No. 4163 of 2012(O&M)

Date of Decision: October 26 , 2018.

Chatru Ram and another

..... APPELLANT (s)

Versus

Ram Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Namit Sharma, Advocate
for the appellants.

Mr. B.S.Sudan, Advocate
for respondent No.2.

Ms. Vandana Malhotra, Advocate
for respondent No.3 – Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Karnal (for short, the 'Tribunal') vide impugned award dated 11.11.2011 on account of death of Smt. Rajni in a motor vehicle accident. Appellant No.1 is the husband and appellant No.2 is the son of the deceased.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of death of Smt. Rajni, who lost her

life in a motor vehicle accident which took place on 13.02.2010. FIR No.41 dated 13.02.2010, under Sections 279/304A IPC was registered at Police Station Kunjpura against respondent No.1-Ram Singh. The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of truck bearing registration No. HR-67-8597 by respondent No.1 – Ram Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹3,61,912/- as compensation to the appellants vide impugned award dated 11.11.2011. The deceased was 55 years old at the time of the accident. Income of the deceased was assessed as ₹4,000/- per month. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 11 was applied. ₹10,000/- on account of transportation and funeral expenses was awarded.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as ₹4,000/- per month only. Moreover, even if notional income of a house-wife is calculated, ₹4,000/- per month is very less. It is further submitted that increase income on account of future prospects be afforded in view the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680.** Meagre amount has been afforded under the conventional heads as well. It is thus prayed that compensation awarded to the appellants be enhanced.

Learned counsel for respondent No.3 – Insurance Company on the other hand prays for upholding the impugned award and submits that no ground is made out for further enhancement of the compensation.

I have heard learned counsel for the parties and have gone through the available record.

Liability of the Insurance Company is not in dispute and neither is there a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 – Ram Singh. There is no documentary evidence on record to prove that the deceased was earning any income from agriculture work etc. However, even if the deceased was taken to be a house-wife, services rendered by a house-wife cannot be equated with that of a daily wager. This Court in FAO No.3395 of 2015 has assessed the income of a housewife to be ₹7,000/- per month in respect to an accident which took place in the year 2011. In the present facts and circumstances, it is considered appropriate to assess the notional income of the deceased to be ₹7,000/- per month.

In view of the Division Bench judgment of this Court in **Paramjit Singh and another v. Dilbagh Singh @ Bagga and others, 2014(4) RCR (Civil) 895**, no deduction is to be effected in the compensation to be awarded in the case of death of a house-wife. Increase in income at the rate of 10% on account of future prospects has to be afforded as well. Age of the deceased was 55 years at the time of the accident. Therefore, multiplier of 11 is to be applied as per the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77**. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**, the appellants are entitled to ₹40,000/- each on account of loss of consortium. ₹15,000/- each is awarded

towards funeral expenses and loss of estate instead of ₹10,000/- on account of transportation and funeral expenses.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	7,000 p.m. i.e. ₹84,000/- per annum
2.	Increase in income at the rate of 10%	84,000 x (84,000 x 10%) = 92,400
3.	Total dependancy after applying a multiplier of 11	(92,400 x 11) = 10,16,400
4.	Loss of spousal consortium to appellant No.1	40,000
5.	Loss of parental consortium to appellant No.2	40,000
6.	Loss of estate	15,000
7.	Funeral expenses	15,000
Grand Total		₹11,26,400/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the entire amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment amongst the claimants as well as manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

October 26 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No