IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1485 of 2013 (O&M) &
Cross Objection No. 200-CII of 2015

DATE OF DECISION : 19.01.2018

Reliance General Insurance Company Limited

.... APPELLANT

Versus

Jassan and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. R.M. Suri, Advocate, for the appellant.

Mr. Vinod K. Kanwal, Advocate, for
Mr. Ashit Malik, Advocate, for respondents No.1 and 2.

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AVNEESH JHINGAN, J. (Oral)

The award dated 08.01.2013 passed by the Motor Accident Claims Tribunal, Kurukshetra (for short, `the Tribunal') in MACT Petition No. 28 of 2011 is under challenge by way of filing of the appeal by the Insurance Company and Cross Objection by the claimants.

On 13.02.2011, there was a motor vehicular accident involving motor cycle bearing registration No. HR-07J-5141. The said motor cycle was being driven by Salinder Kumar, aged 30 years. His wife Sonia, aged 23 years, was the pillion rider. The motor cycle was struck by a rashly and negligently driven truck bearing registration No. HR-55-2522 (for short, `the offending vehicle'). As a result of the accident, Salinder Kumar and

Sonia lost their lives. Sonia succumbed to her injuries at the spot and Salinder Kumar died on way to CHC Shahabd. FIR No. 36 dated 13.02.2011 was registered at Police Station Shahabad.

The unfortunate minor son and his grand-parents filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, `the Act').

The Tribunal awarded a sum of ₹ 19,80,600/- along with interest at the rate of 6% per annum.

I have heard learned counsel for the parties and perused the paper-book and the record.

There is no dispute raised by the parties with regard to involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased and the multiplier applied.

The issues raised in the appeal filed by the Insurance Company are that the Tribunal has taken monthly earning of a house wife at ₹ 7,000/- and further awarded 30% future prospects. The grievance of the claimants in the cross objection is that no amount has been awarded for loss of estate.

The deceased was a young house-wife. While awarding compensation, it is to be considered that even though father-in-law and mother-in-law of the deceased may not be entitled to any compensation. But be that as it may, the fact remains that she was survived by a two years minor kid, who was unfortunate to have lost both his parents in the said accident. The claimants have not been able to prove the earning of the deceased. The only reliance was that she was Matriculate.

The Hon'ble Apex Court in ***Jitendra Khimshankar Trivedi and others Versus Kasam Daud Kumbhar and others, 2015 (4) SCC 237***, has held that it is hard to monetize the domestic work done by a house-mother. The services of the mother/wife are available 24 hours and her duties are never fixed. The contribution made by a house-wife/home maker to the house is unvaluable and it cannot be computed in terms of money. A house-wife/home-maker does not work by the clock.

There is no dispute by the parties that the deceased was a house-wife and a mother. The suffering and loss of care, love and affection of the kid cannot be compensated in terms of amount. Still it is duty of the court to arrive at a just and equitable compensation.

Where the income assessed is notional, no deduction for self expenses should be made. This view is supported by a Division Bench decision of this Court in ***Paramjit Singh and another Vs. Dilbagh Singh alias Bagga and others, 2014 (4) RCR (Civil) 895.***

Keeping in view the facts and circumstances of the case, it would be appropriate if the notional income of the deceased is assessed as ₹ 5,000/- per month. Without making any deduction for self expenses, the compensation is re-calculated as under :-

Annual dependency	5,000 X 12	₹ 60,000/-	
By applying multiplier of 18			₹ 10,80,000/-
Funeral expenses and transportation			₹ 15,000/-
Loss of estate			₹ 15,000/-
Total			₹ 11,10,000/-

The award dated 08.01.2013 passed in MACT No. 28 of 2011 is modified to the extent that the compensation of ₹ 19,80,600/- awarded by the Tribunal is reduced to ₹ 11,10,000/-.

The appeal and cross objection are partly allowed in the aforesaid terms.

January 19, 2018 **(AVNEESH JHINGAN)**
ndj **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No