IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

207 **FAO-3901-2013**

Date of Decision:02.05.2018

Bhoop Singh **.....Appellant**

Versus

Radhey Shyam and another **.....Respondents**

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

Present: Mr. Devender Nirban (Rao), Advocate, for the appellant.

Mr. M.B. Jain, Advocate and
Mr. Puneet Jain, Advocate,
for respondent No.2-Insurance Company.

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<u>HARI PAL VERMA, J.(Oral)</u>

Appellant-Bhoop Singh has filed the present appeal seeking enhancement of compensation over and above the amount awarded by learned Motor Accident Claims Tribunal, Narnaul, (for short “the Tribunal”) vide award dated 08.04.2013.

As per the claim-petition on 23.12.2010, Manbhawati along with her son Ram Bhagat was going on a motorcycle from Narnaul to their village Sihma. Rambhagat was driving the motorcycle at a moderate speed. When they reached within the area of Rewari road, in the meantime, the offending vehicle bearing registration No.HR-66-3899 being driven by its driver in a rash and negligent manner, at a very high speed, came from the opposite side and hit the motorcycle of Rambhagat. As a result of this accident, Rambhagat and his mother fell down from the motorcycle and both sustained serious and grievous injuries. Budh Ram along with Devender were also coming on their separate motorcycle to village Sihma, who stopped on seeing a crowd near the pool and came to know that a boy of their own village had met with an accident. Manbhawati became unconscious whereas Rambhagat was in a conscious state. They asked from Rambhagat about the accident. Thereafter, Budh Ram informed the family members of Rambhagat about the accident. Manbhawati and Rambhagat were rushed to Civil Hospital, Narnaul, where the doctor declared Manbhawati dead.

In a claim-petition filed by the appellant under Section 166 of the Motor Vehicles Act, 1988, on account of death of Manbhawati, in the accident, which took place on 23.12.2010, the Tribunal awarded a total compensation of ₹3,88,000/- Considering the contribution of the deceased and her services towards the family in household activities and agriculture work, the Tribunal has assessed the income of the deceased as ₹5,500/- per month and by making 50% deductions has assessed the dependency of ₹2,750/- per month. The annual dependency was accordingly assessed as ₹33,000/-. The deceased being 55 years of age, the Tribunal applied multiplier 11 and an amount of ₹3,63,000/- was awarded to the claimant. Apart from the above, an amount of ₹25,000/- was also awarded on account of transportation, last rites, loss of estate and loss of consortium. Thus, the Tribunal awarded a total compensation of ₹3,88,000/- to the claimant for the death of Manbhawati, who had died in the accident.

Not satisfied with the aforesaid award, the claimant has filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellant has argued that the contribution of Manbhawati though could not be assessed in terms of money as the role of a household lady is altogether different. Though, the Tribunal has assessed the notional income of the deceased as ₹5,500/- per month, but it has wrongly applied 50% deductions as a housewife never spent this much of amount on herself. So far as the applicability of multiplier 11 is concerned, he has not disputed this fact. He further argued that the Tribunal has not awarded the amount under the conventional heads and thus, a consolidated amount of ₹25,000/- was awarded on account of transportation, last rites, loss of estate and loss of consortium, whereas this amount should have been increased to ₹70,000/-.

On the other hand, learned counsel for respondent No.2-Insurance Company has argued that the claimant has not been able to adduce any evidence which may establish that the notional income of the deceased was ₹5,500/- per month. The income of the deceased as housewife has been assessed on higher side.

I have heard the learned counsel for the parties.

The role of a housewife is altogether different and cannot be equated with a person who is a employed. This Court has considered the 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 wager 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."*

The contribution cannot be assessed in terms of money. The deceased was 55 years of age at the time of her death. Since no appeal has been filed by the Insurance Company, therefore, so far as assessment made by the Tribunal is concerned, this Court finds that the Tribunal has rightly assessed the income of the deceased as ₹5,500/-.

As held in the case of **Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others, 2014(4) R.C.R. (Civil) 895,** in the event of death of a housewife in the motor accident, this Court finds that while calculating the notional income of the housewife, her entire income should be taken as dependency of the legal heirs without applying any cut. Therefore, this Court finds that 50% deduction as suggested by the Tribunal runs contrary to the judgment passed by this Court in **Paramjit Singh's case (supra).** The relevant extract of the judgment reads as under:-

> *"After the decision in **Lata Wadhwa's case (supra),** the notional income of the housewife is estimated according to their age. The notional income of the housewife was taken to be ₹3,000/- per month if she had been between the age group of 34 to 59 at the time of accident. The only riddle which is to be solved by us is as to whether 1/3rd cut should be applied on the notional income or not? The answer to this question is couched in the aforesaid*

extracted paragraph of the judgment of ***Lata Wadhwa's case (supra)****, as in that case, the Supreme Court was searching for a modest notional income of the housewife who was not earning an income but rendering multifarious services while managing all the chores of the family. Since it is a case where the Courts are confronted with the notional income of the housewife on account of her multifarious services which not only includes rearing the children but also performing all matrimonial obligations, in our considered view, the deduction of 1/3rd out of her notional income is not warranted.*

We may hasten to add that in all those cases, referred to above, in which 1/3rd cut has been applied, no reasoning has been given by the learned Single Judge rather in the cases, referred to above, in which 1/3rd cut has not been applied, the learned Single Judge had observed that ₹3,000/- per month is assessed as monthly value of her services and not her monthly income and, therefore, the concept of deduction cannot be applied. In view of the aforesaid discussion, we are of the considered view that while calculating the notional income of the housewife, the entire income should be taken as dependency of the legal heirs without applying any cut much-less 1/3rd, as has been done in certain cases."

The consolidated amount of ₹25,000/- awarded under the conventional heads also needs to be enhanced to ₹70,000/- as held by the Hon'ble Apex Court in **<u>National Insurance Company Limited Versus Pranay Sethi and others</u>, 2017 (4) R.C.R (Civil) 1009.**

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

Monthly income	:	₹5,500/-
Annual income	:	₹66,000/-
Total loss of dependency	:	₹7,26,000/-

(₹66,000 x 11)		
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-
Total amount of compensation	:	₹7,96,000
Amount already awarded	:	₹3,88,000/-
Enhanced amount	:	₹4,08,000/-

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.

May 02, 2018
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(HARI PAL VERMA)
JUDGE

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