IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3395 of 2015(O&M)

Date of Decision: October 08 , 2018.

Ved Parkash and others ...... APPELLANT (s)

Versus

Ram Sarup and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Kamal Chaudhary, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3 – Insurance Company.

*****

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, Panchkula (for short, the 'Tribunal') vide impugned award dated 17.01.2014 on account of death of Smt. Kanta in a motor vehicle accident.

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. Kanta, who lost her life in a motor vehicle accident which took place on 11.05.2011. FIR No.85 dated 03.05.2011 (Ex.C4), was lodged against respondent No.1-Ram Sarup. 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 Swift car bearing registration No. DL6CL-3095 by respondent No.1 – Ram Sarup. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹7,18,303/- as compensation to the appellants vide impugned award dated 17.01.2014. The deceased was 48 years old at the time of the accident. Income of the deceased was assessed as ₹6,000/- per month. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 13 was applied. ₹49,303/- on account of medical expenses, ₹25,000/- towards loss of consortium, ₹1,00,000/- towards loss of love and affection, ₹15,000/- towards funeral expenses and ₹5,000/- on account of loss of estate were awarded.

Learned counsel for the appellants argues that income of the deceased who was a well educated lady has been wrongly assessed as ₹6,000/- per month only. It is submitted that the deceased was earning by taking tuitions. Moreover, even if notional income of a house-wife is calculated, ₹6,000/- per month is very less. Learned counsel for the appellants relies upon decision dated 30.08.2018 of this Court in FAO No.9557 of 2014 (The New India Assurance Company Ltd. v. Satpal and others) to submit that at least a sum of ₹9,000/- per month should be assessed as income of the deceased. 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 that the impugned award does not call for any enhancement of the compensation. He relies upon the decision of this Court in Shakuntla Devi and another v. Avinash Sharma and others, *2018(1) Law Herald 881* to submit that sum of ₹6,000/- per month has been rightly assessed.

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 Sarup. Age of the deceased was 48 years at the time of the accident. There is no documentary evidence on record to prove that the deceased was earning any income from taking tuitions, though it is not in dispute that she had cleared her matriculation as well as Prabhakar examinations. However, even if taken to be a house-wife, services rendered by a house-wife cannot be equated with that of a daily wager. Decision of this Court in Shakuntla Devi's case (supra) dealt with a case where the deceased was 80 years old. 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. 25% increase on account of future prospects has to be afforded as well. Multiplier of 13 has been correctly applied by the learned Tribunal. 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**, appellant No.1 is entitled to ₹40,000/- on account of loss of spousal consortium and appellants No.2 to 4 are entitled to ₹40,000/- each on account of loss of parental consortium instead of ₹1,25,000/-. ₹15,000/- each is awarded towards funeral expenses and loss of estate instead of ₹20,000/-. Medical expenses of ₹49,303/- as ordered by the learned Tribunal are maintained.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	7,000 p.m. i.e. ₹84,000/- per annum
2.	Increase in income at the rate of 25%	(84,000 **x** 25%) = 1,0,5000
3.	Total dependancy after applying a multiplier of 13	(1,0,5000 **x** 13) = 13,65,000
4.	Loss of spousal consortium	40,000
5.	Loss of parental consortium	1,20,000 (40,000 **x** 3)
6.	Loss of estate	15,000
7.	Funeral expenses	15,000
8.	Medical expenses	49,303
	Grand Total	₹16,04,303/-

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 enhanced 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.

(LISA GILL)
JUDGE

October 08 , 2018.
'om'

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No