IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 304 of 2016
Date of decision:-11.05.2018

Roshan Lal and others

---Appellants.

Versus

Somit Kumar and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Ganesh Kumar Sharma, Advocate,
for the appellants.

Mr. Pankaj Mehta, Advocate,
for respondent No.3-Insurance Company.

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 31.08.2015 passed by Motor Accident Claims Tribunal, Bhiwani (for short 'the Tribunal').

On 05.09.2013, a motor vehicular accident took place. Smt. Sunita alongwith her son was going on a motorcycle bearing registration No.HR-16L-7349. At about 6.30 p.m., near Auto Market, the motorcycle was struck by a Canter bearing registration No.HR-45-8172 (for short 'the offending vehicle'). As a result of the impact, both mother and son fell on the road; head of Smt. Sunita was crushed under the canter and she died at the spot. FIR No. 681 dated 05.09.2014 was registered at Police Station Sadar, Bhiwani.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short ' the Act') was filed by husband, two major sons and one major daughter of the deceased.

The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle and awarded compensation of ₹5,29,000/- along with interest at the rate of 6% per annum.

The present appeal has been filed for enhancement of compensation.

In the claim petition, it was pleaded that deceased was rearing cattle and doing other household work and her earning was claimed to be ₹10,000/- per month. There was no evidence adduced in support of the earning. Be that as it may, it is not disputed that she was a house maker, proud mother of two sons and a daughter. In no case, her contribution towards family can be underestimated. The services of the housewife are 24X7 and her duties are never fixed, it is her affection and sincerity towards her family which keeps her going. Her services towards her family cannot be substituted or even cannot be monetized. Reliance in this regard is placed on the decision of Supreme Court in ***Jitendra Khimshankar Trivedi and others versus Kasam Daud Kumbhar and others, 2015 (4) SCC 237,*** wherein it has been held as under:-

> "Even assuming Jayvantiben Jitendra Trivedi was not self- employed doing embroidery and tailoring work, the fact remains that she was a housewife and a home maker. It is hard to monetize the domestic work done by a house-mother. The services of the mother/wife is available 24 hours and her duties are never fixed. Courts have recognized the contribution made by the wife to the house is invaluable and that it cannot be computed in terms of money. A house-wife/home-maker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the home maker has to be necessarily kept in view while calculating the loss of dependency."

The contention of the learned counsel for the appellants is that

Tribunal erred in assessing the notional income of deceased as ₹3,000/- per month.

Learned counsel for the insurer of the offending vehicle contended that husband of deceased was in Government service and children were major, therefore, no case for enhancement is made out.

The contention raised by learned counsel for the insurer cannot be accepted.

In Indian families the duty of mother never ends on children attaining majority, rather it is other way around the duty of a housewife increases after she becomes a grandmother. She not only looks after her own children but she also takes care of her grand children.

Keeping in view the facts and circumstances of the case, it is deemed appropriate that the notional monthly income of the deceased is assessed as ₹6,000/-. Since it is a notional income being assessed, there would be no deduction for self expenses. Reliance in this regard is placed on the decision of Division Bench of this Court in case of ***Paramjit Singh and another versus Dilbagh Singh @ Bagga and others,*** 2014(4) RCR (Civil) 895, wherein it has been held that since the income of the housewife is notional income, the deduction for self expenses is not warranted.

The age of the deceased is not disputed. She was 44 years old at the time of accident, therefore, multiplier of 14 has rightly been applied by the Tribunal.

Having due regard to the decision of the Supreme Court in case of ***National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157*** the appellants are entitled to ₹15,000/- for loss of estate, ₹15,000/- for funeral expenses and ₹40,000/- towards loss of consortium.

For the reasons mentioned above, the compensation is recalculated as under:

Sr. No.	*Heads*	*Calculations*
(i)	Salary	₹6,000/- per month
(ii)	Multiplier of 14 applied	₹6,000X12X14= 10,08,000/-
(iii)	Loss of estate	₹15,000/-
(iv)	Funeral expenses	₹15,000/-
(v)	Loss of consortium	₹ 40,000/-
	Total Compensation Awarded	**₹10,78,000/-**

The award dated 31.08.2015 is modified to the extent that the amount awarded of ₹5,29,000/- is enhanced to ₹10,78,000/-.

The appellants/claimants would be entitled to interest at the rate of 6% per annum on the enhanced amount from the date of filing of the claim petition till realization of the amount.

Accordingly, the present appeal is partly allowed to the above extent.

11.05.2018 **(AVNEESH JHINGAN)**
Riya Grover **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*