IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7466 of 2014 (O&M)
Date of decision:24.09.2018.

Raja Ram @ Rajender Singh and others

...Appellants

Versus

Iqbal Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Dheeraj Narula, Advocate for the appellants.

Mr. Gaurav Aggarwal, Advocate for respondents No.1 and 2.

Mr. Harsh Aggarwal, Advocate for respondent No.3.

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by Motor Accident Claims Tribunal, Sirsa (`Tribunal' for short) vide award dated 08.01.2014 on account of death of Smt. Santosh in a motor vehicle accident.

The claimants, who are the husband and children of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Smt. Santosh in a motor vehicle accident which took place on 17.10.2012. FIR No.188 dated 17.10.2012 under Sections 279 and 304-A IPC was registered against respondent No.1. It was averred that the deceased at the time of her death was a house wife, running a milk dairy as well. Compensation was thus prayed for.

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 the offending vehicle by respondent No.1. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality. The learned Tribunal assessed the income of the deceased as Rs.3000/- per month. Deduction of 1/3rd was effected towards personal expenses. After applying a multiplier of 14, total dependency was assessed at Rs.3,36,000/-. A sum of Rs.10000/- each was awarded for the loss of consortium and love and affection. Another sum of Rs.5000/- was also awarded towards funeral expenses and last rites. Thus, claimants were held entitled for total compensation of Rs.3,61,000/- along with interest @ 6% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants vehemently argues that the income of the housewife was assessed as Rs.9000/- by this Court in FAO No.218 of 2014 decided on 15.01.2014 in respect to an accident which took place on 23.11.2012. The aforesaid decision was upheld by the Hon'ble Supreme Court vide order dated 08.09.2014. It is further contended that meagre compensation has been awarded by the learned Tribunal which is required to be enhanced.

Learned counsel for respondents No.1 and 2/driver and owner of the offending vehicle prays for upholding the award passed by Motor Accident Claims Tribunal, Sirsa while submitting that reasonable and proper compensation has been afforded which calls for no enhancement.

Learned counsel for the Insurance Company argues that assessment of Rs.9000/- as the income of the housewife in a particular case cannot be taken to be the formula to be applied in all cases across the board.

Minimum wages in the State of Haryana at the relevant time were only about Rs.5000/- per month. Therefore, there is no scope for any further enhancement.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a settled position that a housewife cannot be tagged as a `skilled worker' alone as the same does not do complete justice to her multifarious role as a home manager. In the facts and circumstances of the present case, it is deemed appropriate to assess the income of the deceased as Rs.7000/- per month. In view of the judgments of the Hon'ble Supreme Court in Hem Raj Vs. Oriental Insurance Company Ltd. and others, 2018 ACJ 5 and National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, future prospects are required to be afforded @ 25% as the deceased was forty one (41) years old at the time of the accident. It has been held by a Division Bench of this Court in Paramjit Singh and another Vs. Dilbagh Singh alias Bagga and others, 2014(4) RCR (Civil) 895, that no deduction for personal expenses should be effected in case of a housewife. Accordingly, no deduction in the present case is required to be made. Multiplier of 14 has been rightly applied by the learned Tribunal. Claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.5,000/- towards funeral expenses and Rs.10,000/- towards loss of love and affection, besides Rs.40,000/- instead of Rs.10,000/- to claimant No.1 for loss of consortium.

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

Sr.No.	***Heads of Claim***	
1.	Income	7000/- p.m. i.e., 84,000/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	84000+21000 (84000x25%) = 1,05,000/-
3.	Total dependency after applying a multiplier of 14	(1,05,000 **x**14) =14,70,000/-
5.	Loss of estate	15,000/-
6.	Loss of consortium to husband	40,000/-
7.	Loss of funeral	15,000/-
Grand Total		15,40,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the award dated 08.01.2014, present appeal is disposed of.

(LISA GILL)
JUDGE

September 24, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No