IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.8332 of 2014
Date of Decision : 18.09.2018

Ashok Kumar & ors. ....Appellants

VERSUS

Manjit Singh & ors. ...Respondents

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. S.K.Biriwal, Advocate for the appellants.

Mr. Saurabh Kaushik, Advocate for respondent No.2.

Mr. Vinod Gupta, Advocate for respondent No.3-Insurance Company.

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B.S. WALIA, JUDGE (ORAL)

1. Appeal has been filed seeking enhancement of compensation of ₹5,26,440/- awarded by the learned Motor Accidents Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') on account of death of wife of the appellant in a motor vehicular accident on 19.6.2011.

2. The learned Tribunal by taking into account that the deceased aged 25 years was a housewife, by treating her contribution to the family at ₹3,000/- per month and by imposing a cut of 1/3rd of the said amount towards her personal expenses assessed net contribution to the family at ₹2,000/-. Thereafter, by applying multiplier of 18, dependency of ₹4,32,000/- was worked out. Thereafter, by awarding ₹25,000/- towards cremation and last rites, ₹14,640/- on account of medical expenses, ₹5,000/- on account of loss of work and attendant charges and ₹50,000/- on account of loss of love and affection awarded total compensation of

₹5,26,440/-.

3. Learned counsel for the appellant contended that in view of the decision of this Court in FAO No.3310 of 2012 (**Paramjit Singh and another versus Dilbagh Singh alias Bagga others**) decided on 16.05.2013, no deduction is to be made out of the notional monthly value of service of the deceased's wife. Relevant extract of the aforesaid decision is reproduced as under:

> *"We may hasten to add that in all those cases, referred to above, in which 1/3 rd cut has been applied, no reasoning has been given by the learned Single Judge rather in the cases, referred to above, in which 1/3 rd 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 1/3 rd, as has been done in certain cases."*

4. In the circumstances, the monthly value of service of the deceased towards her family has to be taken at ₹3,000/- for working out the dependency. However, as regards award of ₹25,000/- on account of cremation and last rites, the appellants are only entitled to ₹15,000/- in view of decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009.**

5. Likewise sum of ₹50,000/- awarded on account of loss of love and affection is not maintainable, instead appellant No.1 is entitled to ₹40,000/- on account of loss of consortium besides the appellants are entitled to ₹15,000/- on account of loss of estate. Since the deceased remained admitted in hospital from 19.6.2011 to 25.6.2011, a sum of ₹5,000/- was awarded on account of loss of work and attendant charges. The same is enhanced to ₹10,000/-. A sum of Rs.14,640/- was awarded to the appellants on account of the medical expenses incurred for providing treatment to the appellant's wife during the time she remained in hospital. The same does not warrant interference.

6. Likewise, in view of the decision in **Sube Singh and another vs. Shyam Singh (dead) and others 2018 (2) RCR (Civil) 131,** as against award of interest @ 7.5% per annum, the appellants are held entitled to interest @ 9% per annum.

7. Accordingly, in the light of the position as noted above, the award is modified and compensation enhanced as under:

Sr. No.	**Head**	**Amount assessed by Tribunal in ₹**	**Amount assessed by this Court in ₹**
1	Income	3000/-	3000/-
2	Future prospects	NIL	NIL
3	Deduction towards personal expenses of deceased.	1/3rd of total income =1000/-	NIL
4	Dependency arrived at	2000/-	3000/-
5	Multiplier applied	18	18
6	Compensation awarded	2000x12x18 = 4,32,000/-	3000x12x18 = 6,48,000/-
7	Medical expenses	14640/-	14640/-
8	Loss of work and attendant charges	5,000/-	10,000/-
9	Loss of love and affection	50,000/-	NIL
10	Loss of consortium	NIL	40,000/-
11	Loss of estate	NIL	15,000/-
12.	Cremation/last rites	25,000/-	15,000/-
13.	Interest	7.5%	9%
14.	Total	**5,26,640/-**	**7,42,640/-**

8. Accordingly, in the light of the position as noted above, the appellants are held entitled to compensation of ₹7,42,640/- along with interest @

9% per annum with effect from the date of claim petition till date of payment less amount, if any, already paid.

9. Needless to mention, the appellants would be entitled to the award of compensation in the manner as indicated in paragraph No.15 of the award of the learned Tribunal, Ludhiana after first making payment of ₹40,000/- towards loss of consortium to appellant No.1, husband of the deceased.

10. Accordingly, appeal is allowed. Award dated 30.05.2014 passed by the learned MACT, Ludhiana is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

September 18, 2018
ps

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