IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-9450-2014

Date of decision: 14.05.2018

Vijay Kumar Gupta and others

..... Appellants

Versus

Sunil Virani and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Nonish Kumar, Advocate for
Mr. VK Gupta, Advocate for the appellant.

Ms. Shakshi Saini, Advocate for
Mr. HPS Ishar, Advocate for respondents No. 1 and 2.

Mr. MR Sharma, Advocate for
Mr. DR Bansal, Advocate for respondent No. 3-Insurance Co.

RAMENDRA JAIN, J. (ORAL)

1. Through this appeal the claimants have sought enhancement of compensation, modifying the impugned Award dated 14.11.2013 of the Motor Accident Claims Tribunal, Jagadhri (for short-'the Tribunal').

2. In nutshell, Rama Devi, mother of the appellant-claimants and proforma respondents No. 4 to 6, aged around 68 years succumbed to her injuries suffered in a motor vehicular accident on 04.11.2011, caused by respondent No. 1-Sunil Virani, while driving car bearing registration No. DL-4C-AF-1100, owned by respondent No. 2-Rashmi Khatwani and insured by respondent No. 3-Insurance Company.

3. In a claim petition under Section 166 of the Motor Vehicles Act, 1988, filed by major sons and daughters of the deceased, the learned Tribunal, after holding trial awarded a sum of ₹ 1,46,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till its

realization.

4. Learned counsel for the appellant-claimants contends that the deceased, even in her old age was providing gratuitous services to her children and grand children round the clock, throughout the year. She was also fulfilling her social obligations towards her other family members and relatives. On account of her death, her children, grand-children and other family members have been deprived of her blessings and good advice, in the need of the hour. The learned Tribunal has erred in not granting any compensation towards loss of estate to the appellant-claimants and proforma respondents No. 4 to 6. The amount of ₹ 5000/- towards funeral expenses is also liable to be increased in view of latest judgment of Hon'ble the Supreme Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi and others, 2017(4) RCR(Civil) 1009.*** In lieu of gratuitous services rendered by deceased-Rama Devi, her monthly income ought to have been assessed at least at ₹ 5000/- per month i.e. ₹ 60,000/- per annum and keeping in view the age of the deceased, multiplier of 5 ought to have been applied for granting just compensation to the appellant-claimants and proforma respondents No. 4 to 6.

5. On the other hand, learned counsel for respondent No.3-Insurance Company, vehemently opposing the above submissions of learned counsel for the appellant-claimants contends that husband of Rama Devi, had pre-deceased her and all her children i.e. appellant-claimants and proforma respondents No. 4 to 6 are major and married, thus, they are not entitled to any compensation on account of death of their 68 years old mother.

6. Having given considerable thoughts to the rival submissions

made by both the sides, this Court finds that appellant-claimants and proforma respondents No. 4 to 6 are entitled to enhanced compensation, over and above the amount of ₹ 1,46,000/- already awarded by the learned Tribunal, inasmuch, as gratuitous services rendered by a woman to her children and family round the clock are always more valuable than a man or in other words, her husband. A woman works for the family for the whole day without showing any restlessness or physical incapacity. Therefore, gratuitous services of a woman, though cannot be compensated or calculated in terms of money, but at the same time, cannot be taken less than ₹ 5000/- per month, in view of the fact that even a maid servant in the year 2011 in which the deceased-Rama Devi died must be charging in between ₹ 3000-4000/-. So taking into account, the gratuitous services of deceased at ₹ 5000/- per month the annual dependency comes to ₹ 60,000/-.

7. Keeping in view of the age of the deceased, 50% is deducted from the same towards her personal expenses and applying the multiplier of 5, the dependency of the appellants upon deceased-Rama Devi on her gratuitous services comes to ₹ 1,50,000/-. That apart funeral expenses of ₹ 5000/- is enhanced to ₹ 15,000/-, ₹ 15,000/- is further awarded towards loss of estate. Keeping in view the above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased	₹5000/- per month
(ii)	Deduction of 50% towards personal expenses of the deceased	(5000-2500)=₹2500/-
(iii)	Compensation after multiplier of 5 is applied	(2500x12x5)=₹1,50,000/-
(iv)	Compensation under head funeral expenses	₹15,000/-

(v)	Compensation under head loss of estate	₹15,000/-
(vi)	Medical expenses	₹91,000- already awarded by the learned Tribunal.
	Total	1,50,000+15,000+15,000+91,000= ₹ 2,71,000/-

8. ₹50,000/- under the head of loss of love and affection, in view of ***Pranay Sethi's case (supra),*** is liable to be deducted, inasmuch, as the above cited judgment does not permit any compensation under the above head.

9. Therefore, the appellants and proforma respondents No. 4 to 6, are entitled to the enhanced compensation of ₹ 1,80,000/- (₹2,71,000-₹91,000= ₹1,80,000/- Rupees One Lakh Eighty Thousand). Accordingly, respondent No. 3-Insurance Company, through its counsel, is directed to deposit the enhanced compensation of ₹1,80,000/- before the learned Tribunal within two months from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellants and proforma respondents No. 4 to 6, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

10. Non-deposit of above enhanced compensation within the stipulated period would entail interest @ 12% per annum with quarterly rests, after two months.

11. The instant appeal disposed of, accordingly.

May 14, 2018 **(RAMENDRA JAIN)**
rishu **JUDGE**

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**