

FAO No.6829 of 2016 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.6829 of 2016 (O&M)
Date of Decision : 22.11.2018**

MEHAM SINGH AND OTHERS

....APPELLANTS

V/S

SHAMSHER SINGH AND OTHERS

....RESPONDENTS

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

Present: Mr. Chetan Kapoor, Advocate for the appellants.

None for the respondents.

B.S. WALIA, JUDGE (ORAL)

[1] Appeal has been filed for enhancement of compensation of ₹9,27,000/-, awarded on account of death of the wife (housewife) of appellant No.1 and mother of appellant Nos.2 & 3 in a motor vehicular accident on 01.12.2013.

[2] The learned Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as the 'Tribunal'), assessed the monthly contribution of the deceased house wife towards the family at ₹4500/-, thereafter by applying multiplier of '13' on account of the deceased being 45 years of age, assessed dependency at ₹4500x12x13 = 7,02,000/-. Thereafter by awarding a sum of ₹1,00,000/- on account of loss of love and affection, ₹1,00,000/- on account of loss of consortium and ₹25,000/- on account of transportation and funeral charges, awarded total compensation of ₹9,27,000/-.

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[3] None is present on behalf of the respondents, besides Mr. Pradeep Kumar, Advocate for respondent No.3, who had appeared earlier is also not present on behalf of respondent No.3, despite the case having been called out twice. In the circumstances, I am not inclined to adjourn the matter.

[4] Learned counsel for the appellants contended that the monthly contribution of the deceased house wife taken at ₹4500/- per month is on the lower side and ought to be at a minimum of ₹9000/- per month in view of the decision of a Co-ordinate Bench of this Court in 'United India Insurance Company Limited versus Sube Singh and others', in FAO No.218 of 2014, decided on 15.01.2014 in respect of an accident on 23.11.2012.

[5] Learned counsel further contends that multiplier of '13' had been wrongly applied. Learned counsel contends that in view of the deceased admittedly being 45 years of age, multiplier of '14' was applicable in accordance with paragraph No.21 of decision of Hon'ble the Supreme Court in 'Sarla Verma and others versus Delhi Transport Corporation and another, (2009) 6 SCC 121.

[6] Learned counsel further fairly conceded that a sum of ₹1,00,000/- awarded on account of loss of love and affection was no longer awardable in view of the decision of Hon'ble the Supreme Court in 'National Insurance Company Limited versus Pranay Sethi and others', 2017(4) RCR (Civil) 1009, likewise, a sum of ₹1,00,000/- awarded on account of loss of consortium was liable to be reduced to ₹40,000/- *qua* appellant No.1 but appellant Nos.2 & 3 were also entitled to be awarded a sum of ₹40,000/- each, on account of loss of parental consortium in accordance with the decision in 'Magma General Insurance Co. Ltd. versus Nanu Ram Alias Chuhru Ram and others', decided on 18.09.2018 in Civil Appeal No.9518 of 2018, besides

compensation on account of transportation and funeral expenses was also liable

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to be reduced to ₹15,000/- only on account of funeral expenses. He however contended that ₹15000/- was payable on account of loss of estate.

[7] I have considered the submission of learned counsel for the appellants and am of the view that the submission merits acceptance.

[8] Admittedly, the deceased was 45 years of age on the basis of postmortem report (Ex. P-7) as mentioned in paragraph No.34 of the award. Accordingly, in view of paragraph No.21 of the decision in Sarla Verma's case (*supra*), multiplier of '14' is applicable where the deceased was 45 years of age. Accordingly, multiplier is applied @ '14' as against '13' applied by the learned Motor Accidents Claims Tribunal.

[9] As regards, the claim for enhancement of the monthly contribution of the deceased house wife towards the family, a co-ordinate Bench of this Court in respect of an accident of 23.11.2012 upheld the fixation of the notional income of the deceased housewife at ₹ 9,000/- per month and further ordered that no deduction be made.

Relevant extract of the decision in *Sube Singh's case* (*supra*) is reproduced as under:-

“Learned counsel for the appellant has argued that even while noticing that the income of a skilled worker in 2012 was approximately ₹ 8000/- the Tribunal has wrongly assessed the income of the deceased as ₹9000/-. As per him once the notional income had been taken a deduction had to be made for personal expenses. This argument is flawed. In **Lata Wadhwa and others v. State of Bihar and others** reported as 2001(4) RCR(Civil) 673 (where the accident had taken place in 1981) the Hon'ble Supreme Court evaluated the contribution of a house wife at ₹ 3000/- per month. The accident in the present case took place after 23 years. In my

considered opinion to tag a house wife as a 'skilled worker' alone does not do complete justice to her multifarious role as a home manager. Keeping in view the lapse of 23 years between the accident in the case of Lata Wadhwa and the present accident and my conclusion that a house wife is something more than a mere skilled worker it would not be unreasonable to estimate the contribution of the deceased in the present case at a higher figure. On the whole I see no reason for reducing the quantum.”

[10] Accordingly, the monthly contribution of the deceased housewife is taken at ₹9000/- as against ₹4500/- taken by the ‘Tribunal’ since the accident in the instant case is of the year 2013.

[11] Likewise, in accordance with paragraph No.8.7 of the decision of Hon’ble the Supreme Court in ‘Magma General Insurance’ case supra, appellant Nos.2 & 3 shall also be held entitled to award of loss of parental consortium @ ₹ 40,000/- each.

Accordingly, in the light of position as noted above, the appellant shall be held entitled to award of compensation as under:-

Particulars	Assessed by the Tribunal (in ₹)	Re-assessed (in ₹)
Monthly contribution towards family	4500	9000
Future Prospects	NIL	NIL
Multiplier	13	14
	4500x12x13=7,02,000	9000x12x14=15,12,000
Deduction	NIL	NIL
Compensation on account of love and affection	1,00,000	NIL

Compensation of account of loss of consortium	1,00,000	40,000 to husband
Loss of parental consortium	NIL	40,000 each to both the children
Transportation and funeral expenses	25,000	15000 on account of funeral expenses only
Loss of estate	NIL	15,000
	9,27,000	16,62,000

[12] Accordingly, the appellants are held entitled to compensation of ₹ 16,62,000/- as against compensation of ₹ 9,27,000/- awarded by the learned Tribunal alongwith interest @ 8% per annum with effect from date of claim petition, till date of payment, less payment, if any already made.

[13] The appellants are held entitled to the enhanced compensation in accordance with the apportionment ordered by the learned Tribunal. Accordingly, the appeal is allowed and award is modified to the extent as noted above.

[14] Needless to mention, the amount of ₹ 40,000/- each shall be paid to the appellant/claimants before apportionment of aforementioned compensation.

(B.S. WALIA)
JUDGE

November 22, 2018
‘rajneesh’

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