IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 8340 of 2015 (O&M)
Date of Decision : 24.04.2018

Wali Mohd. and others ....Appellants

Versus

Alim and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arjun Attri, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Mewat (later referred to as 'the Tribunal') for death of Shakila (later referred to as 'the deceased'), in a motor vehicle accident on 11.10.2013 with vehicle bearing registration no. HR-38-S-3824 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal is enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal vide award dated 18.04.2015 awarded compensation of ₹8,45,400/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Shakila
(ii)	Age of the deceased	32 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹5350 per month
(iv)	Compensation for annual loss of dependency	(₹5350X12) = ₹64200 per annum
(v)	1/4th of (iv) above deducted towards personal expenses	(₹64200- ₹16050) = ₹48150 per annum

(vi)	Compensation after applying the multiplier of 16 as per age of the deceased	(₹48150X16) = ₹770400
(vii)	Compensation for loss of consortium	₹10000
(viii)	Compensation for loss of love and affection	₹50000
(ix)	Compensation for transportation and last rites	₹25000
Total		**₹845400**

4. Learned counsel for appellants has argued that the Tribunal has assessed value of services rendered by deceased-Shakila in her capacity as housewife to her husband and children as ₹5350/-. However, wile computing amount of compensation 1/4th of value of services was deducted towards her personal expenses, which is not permissible.

5. Learned counsel for respondent no. 3-Insurance Company has argued that though the Tribunal has taken value of services rendered by deceased as ₹5350/-, which was deemed to be her income from which deduction of 1/4th towards her personal expenses was rightly made. She has further argued that amount of compensation under conventional heads should be restricted to ₹70,000/- as per law settled by Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***, while the Tribunal has allowed ₹85,000/- on this score.

6. The only question which arises for consideration in this appeal is as to whether the Tribunal has rightly made deduction of 1/4th from value of services rendered by the deceased to her family. The Tribunal in para 19 of the award has discussed about status of the deceased, which is reproduced as follows:-

> *"19. However, the fact remains that deceased was a house hold lady having a husband and four children. The deceased*

> *was a housewife and being housewife, she was taking care of all the requirements of her husband and children including cooking of food, washing and clothes etc. Therefore, the petitioners being dependants are entitled to gratuitous services rendered by the deceased. Though, the services rendered by housewife cannot be ascertained in money terms but for the sake of determining the value of services of housewife she can be treated as unskilled labourer."*

7. The Tribunal took the value of services of deceased equivalent to wages of an unskilled labourer but in fact the amount so computed was not income of the deceased but the value of services which the deceased was rendering to claimants. From the amount, which was computed towards value of services rendered by the deceased, no deduction towards personal expenses could be made. The Tribunal has made deduction of $1/4^{th}$ from above amount considering the same to be income of the deceased. In case the deceased had been working or self employed, the Tribunal could rightly make deduction from her income towards personal expenses but in this case the deceased was not earning any money and was providing services to her family. I agree with submission of learned counsel for respondent no. 3-Insurance Company that amount of compensation under the conventional heads should be restricted to ₹70,000/- as per law settled in case of ***Pranay Sethi (supra)***, which the Tribunal has allowed as ₹85,000/-.

8. Keeping in view above facts, I am of the opinion that entire amount of value of services of the deceased as assessed by the Tribunal is to be considered while computing amount of compensation. The arguments advanced by learned counsel for appellants have merits and the same are

accepted.

9. In view of my above discussion compensation, to which claimants-appellants are entitled, is computed as follows:-

(i)	Monthly income of the deceased as assessed by the Tribunal	₹5350 per month
(ii)	Compensation calculated after applying the multiplier of 16	(₹5350X12X16)= ₹1027200 per annum
(iii)	Compensation towards loss of consortium	₹40000
(iv)	Compensation towards loss of estate	₹15000
(v)	Compensation towards funeral expenses	₹15000
Total		**₹1097200**

10**.** As a sequel of my discussion above, the instant appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Shakila is enhanced from ₹8,45,400/- to ₹10,97,200/-. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of instant appeal till actual realization. Claimants will equally share the enhanced amount of compensation.

11. Respondent on. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimant-appellant no. 1 in his bank account or pay the same through demand draft. The share of claimants-appellants no. No. 2 to 5, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their name after the date of their attaining majority. The above

direction has been issued to save claimants from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after minor claimant has attained age of majority. Claimant no. 1-Sh. Wali Mohd, being father and natural guardian of minor claimants shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up.

12. In the event of demise of any of the claimants before or after disposal of this appeal, compensation of his/her share shall be paid to surviving claimants.

April 24, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

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