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

Date of decision : November 15, 2018

1. FAO No.103 of 2018 (O&M)

   National Insurance Co. Ltd vs Bhupender & others

2. FAO No.3445 of 2018 (O&M)

   Bhupender and others vs Sunil alias Sonu and others

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**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

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Present : Mr. V Ram Swaroop, Advocate
for the appellant in FAO No.103 of 2018 and
for respondent No.3 in FAO No.3445 of 2018.

Mr. Balraj Gujjar, Advocate
for the appellants in FAO No.3445 of 2018 and
for respondents No.1 to 4 in FAO No.103 of 2018.

Mr. SS Mor, Advocate
for respondents No.5 & 6 in FAO No.103 of 2018.

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**Ajay Tewari, J (Oral)**

C.M No.12293 CII of 2018 in
FAO No.3445 of 2018

This is an application for condonation of delay of 74 days in filing the appeal. For the reasons recorded, this application is allowed and delay is condoned. It is, however, clarified that the appellants would not be entitled to interest for the said period, in case the compensation is enhanced.

FAO Nos.103 & 3445 of 2018

This order shall dispose of both the appeals since they arise from the same Award. FAO No.103 of 2018 has been filed by the Insurance Company against the Award of the MACT, Bhiwani vide which a sum of

₹8,54,000/- has been awarded on account of death of Rajbala on 10.6.2016 in a road vehicular accident, while FAO No.3445 of 2018 has been filed by the claimants for enhancement of compensation. Since the main issue is for quantum, further reference to the detailed facts would not be necessary.

Counsel for the claimants/appellants in FAO No.3445 of 2018 has argued that the Tribunal erred in taking the income of the deceased at ₹ 3,000/- per month as a house wife without adding any amount for her contribution as a house wife. I find this argument to be correct. In FAO No.218 of 2014, United India Insurance Co. Ltd v. Sube Singh and others, decided on 15.01.2014, this Court held as follows :-

> " 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 ₹ 9,000/-. 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."

In view of the above, I take the monthly income of the deceased as ₹ 9,000/-.

I further find that future prospects have been awarded by the Tribunal but the same cannot be awarded and deduction can also not be made, in view of the Division Bench decision of this Court in Paramjit

Singh and another v. Dilbagh Singh alias Bagga and others, 2013(4) RCR (Civil) 895.

Counsel for the appellants has further argued that only a sum of ₹ 1.25 lakh has been awarded under conventional heads, whereas in view of the decision of the Supreme Court in Civil Appeal No.9581 of 2018, Magma General Insurance Company Ltd vs Nanu Ram @ Chuhru Ram and others, decided on 18.9.2018, there had to be awarded ₹ 40,000/- each to the husband and the two minor children, and a sum of ₹ 30,000/- for funeral expenses and loss of estate. I find merit in this argument and consequently, award ₹ 25,000/- more.

Counsel for the appellants has further argued that the Tribunal has erred in awarding two rates of interest i.e 7% and 9%. I find it to be correct and direct that the rate of interest in the present case would be 12% pa from the date of application till the date of payment. Out of the entire enhanced amount, 20% would be paid to appellant No.1 and the remaining amount will be shared equally between the two children and put in fixed deposits in any nationalized bank till they attain majority. The remaining Award shall remain unchanged. FAO No.3445 of 2018 stands disposed of, while FAO No.103 of 2018 stands dismissed.

Since the main cases have been decided, the pending C.Ms, if any, also stand disposed of.

**( AJAY TEWARI )**
**JUDGE**

**November 15, 2018**
**`kk'**

**Whether speaking/reasoned: Yes/No**
**Whether Reportable: Yes/No**

KISHAN KUMAR
2018.11.21 12:45
I agree to specified
portions of this document