IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

253 **FAO-1492-2018 (O&M)**
Date of Decision : 29.8.2018

Ram Mehar and others **....Appellants**

vs.

Bhupinder and others **....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Balvinder Singh Saneta, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate
for respondent No.3-insurance company.

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AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 7.10.2015 passed under Motor Accident Claims Tribunal, Panipat awarding compensation of Rs. 9,44,344/- alongwith interest at the rate of 7.5% per annum on account of death of Pinki @ Krishna Devi in an accident.

Learned counsel for the appellants has argued that in the present case deceased was a house wife and it was claimed that apart from being housewife she was also an agricultural labourer. However, the Tribunal fixed her income as per the provisions of the Minimum Wages Act for unskilled worker i.e. Rs. 5,342/-without adding any amount for her contribution as a house wife. Further, as per him in a judgment of this Court in ***Amar Nath and others vs. General Manager, Haryana Roadways, Bhiwani*** and others passed in FAO No. 3207-1999 decided on

13.11.2017, this Court has upheld the computation of the contribution of a housewife at Rs. 9,000/- per month. As per learned counsel, looked at from this angle income of the deceased should be Rs. 14,342/-.

Counsel for the insurance company, however, points out that the contribution of Rs.9,000/- p.m. can only be assessed for that woman who is purely a home maker but if a woman is earning money outside it would impact her duty as a home maker and therefore, the appellants cannot claim the full benefit of Rs. 9,000/- p.m.. I find some merit in this argument and consequently, hold that contribution of the deceased would be taken as Rs. 4,500/- p.m..

Counsel for the appellants have further pointed out that in the judgment of Amar Nath (supra) this Court has then also awarded future prospects and prays that future prospects should be awarded in the present case also on the entire income taken.

Counsel for the insurance company, however, prays that if future prospects have to be awarded then deduction must also be made.

In ***Paramjit Singh and another vs. Dilbagh Singh alias Bagga and others 201 (4) RCR (Civil) 895,*** a Division Bench of this Court has held that where the income is taken on notional basis no deduction can be made (for the simple reason that the income is notional). Once that is so, the same would apply to future prospects also and therefore it has to be held in view of the judgment Paramjit Singh (supra) that there can neither be addition of future prospects in a case of notional income nor can there be deduction. However, both these principles would have to apply for the real income i.e. Rs. 5342/-. It is directed that contribution of Rs. 4500/- as a homemaker would not be subject either to future prospects or deduction but in the income Rs. 5,342/- there would be addition of 40% as future prospects as per the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009.*** Ordered accordingly. On this amount the deduction of ¼ would remain unchanged.

Counsel for the insurance company further points out that under the conventional heads an amount of Rs. 1,75,000/- has been awarded and as per the judgment of Pranay Sethi (supra) only an mount of Rs. 70,000/- can be awarded.

Counsel for appellants is not in a position to deny this fact and therefore Rs. 1,05,000/- is deducted under the conventional heads.

The entire enhanced amount would fall to the share of the appellants No. 2 to 5 and management of that amount would be as per the directions of the Tribunal. The interest rate would remain unchanged.

The appeal stands disposed of with the aforesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

29.8.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No