THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3682 of 2018 (O&M)
Date of decision:04.12.2018.

Shingara Singh

...Appellant

Versus

Sukhdev Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Anuj Balyan, Advocate for the appellant.

Mr. Kuldeep Singh Saini, Advocate for
Mr. R.K.S. Brar, Advocate for respondent No.1

Mr. Gurjinder Singh Thind, Advocate for respondent No.2.

Mr. Aseem Aggarwal, Advocate for
Mr. Harsh Aggarwal, Advocate for respondent No.3/Insurance Company.

Mr. Vikesh Mahsenpur, Advocate for respondent No.4.

LISA GILL, J.

CM No.12953-CII of 2018

For the reasons mentioned in the application and arguments addressed, delay of 46 days in filing of the appeal is condoned.

Application is disposed of.

FAO No.3682 of 2018

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to him by the learned Motor Accident Claims Tribunal, Patiala (`Tribunal' for short) vide award dated 20.02.2018 on account of death of his wife Daler Kaur in a motor vehicle accident on 04.12.2016.

The claimant, who is husband of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of his wife Daler Kaur due to injuries received in a motor vehicle accident which took place on 04.12.2016. FIR No.118 dated 04.12.2016 was registered under Sections 279, 304-A, 337 and 427 IPC at Police Station Lahori Gate, Patiala against respondent No.1. It was pleaded that the deceased was earning Rs.20,000/- per month by doing household work and stitching. Compensation was thus prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of the offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

Learned Tribunal further concluded the deceased to be 60 years old at the time of her death and assessed her income as Rs.3000/- per month being house wife. Deduction of 50% was effected towards personal expenses. Multiplier of 9 was applied keeping in view the age of the deceased. Thus, total dependency was assessed at Rs.1,62,000/- (1500x12x9). A sum of Rs.15,000/- each was awarded towards loss of estate and funeral expenses besides Rs.40,000/- towards loss of consortium. Thus, the claimant was held entitled to a total compensation of Rs.2,32,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellant submits that income of the deceased has been wrongly assessed as Rs.3000/- per month whereas she was earning Rs.20,000/- per month by doing household work. Moreover, deduction should not be effected on account of personal expenses. It is, thus, prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for respondent No.3/Insurance Company refutes the above said arguments while submitting that the impugned award has been passed correctly and no ground for any enhancement is made out.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not in dispute that deceased lost her life in a motor vehicle accident, which took place on 04.12.2016 due to the rash and negligent driving of the offending vehicle by respondent No.1. Liability of the Insurance Company is not in dispute. The learned Tribunal held that the deceased to be 60 years old at the time of accident which is not subject to challenge. Learned counsel for the appellant is unable to point out any evidence on record to indicate income of the deceased to be Rs.20,000/- per month. However, it is indeed unjustified to assess income of the deceased as Rs.3000/- being a house wife. This Court in Ved Parkash and others Vs. Ram Sarup and others, FAO No.3395 of 2015, decided on 08.10.2018, assessed notional income of a house wife as Rs.7000/- in relation to an accident which took place on 11.05.2011. In the present case, accident in question took place on 04.12.2016. It is a settled position that income of a house wife cannot be equated to that of a skilled worker keeping in view her multifarious role as a home manager. Keeping in view the facts and circumstances of this case, it is considered just and appropriate to assess notional income of the deceased as Rs.9000/- per month. In view of the Division Bench judgment of this Court in Paramjit Singh and another v. Dilbagh Singh @ Bagga and others, *2014(4) RCR (Civil) 895*, no deduction is to be effected in the compensation to be awarded in case of death of a house-wife. Multiplier of 9 has been correctly applied. Compensation awarded under conventional heads for loss of estate, funeral expenses and loss of consortium is maintained.

Appellant is, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Rupees***
1.	Income	9000 p.m. i.e., 1,08,000/- per annum
2.	Total dependency after applying a multiplier of 9	(1,08,000 **x**9) =9,72,000/-
3.	Loss of estate	15,000/-
4.	Funeral expenses	15,000/-
5.	Loss of consortium	40,000/-
Grand Total		10,42,000/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 20.02.2018, present appeal is disposed of.

(LISA GILL)
JUDGE

04.12.2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No