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

**FAO No.1959 of 1999 (O&M)
Date of Decision: 12.09.2019**

SATNAM SINGH & ORS.

.....Appellants

Vs

DASHRATH & ORS.

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sagar Aggarwal, Advocate
for the appellants.

Mr. Vishal Kashyap, A.A.G., Haryana
for respondents No.2 and 3.

RAJ MOHAN SINGH, J. (Oral)

[1]. Appellants have preferred this appeal for enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal').

[2]. The accident took place on 12.04.1995, when Balwinder Kaur (deceased) along with others boarded a tempo which was being driven by respondent No.4. The offending bus being driven by respondent No.1 in a rash and negligent manner came from behind and struck against the right side of the tempo, resulting in receipt of multiple injuries on the person

of Balwinder Kaur. She died on account of those injuries. As per case pleaded by the claimants, the deceased was hale and hearty. She was involved in agricultural pursuits along with running of dairy at her house.

[3]. The Tribunal found that the accident in question took place due to rash and negligent driving of bus by respondent No.1. Issue No.1 was accordingly decided. Under issue No.2, claimants were held entitled to the compensation on account of death of Balwinder Kaur, who was housewife. On the basis of evidence of PW-2 to PW-5, the Tribunal after assessing monthly income of Rs.1200/- per month, calculated total compensation to the tune of Rs.1,51,500/- payable to the claimants.

[4]. Learned counsel for the appellants submitted that income of the deceased has been inadequately assessed. The income of the housewife even on the strength of **Lata Wadhwa vs. State of Bihar, 2001(4) R.C.R. (Civil) 673** involving the accident of the year 1999 cannot be less than Rs.3,000/- per month. Para no.10 of the judgment reads as under:-

“10. So far as the deceased housewives are concerned, in the absence of any data and as the housewives were not earning any income, attempt has been made to determine the compensation, on the basis of services rendered by them to the house. On the basis of the age group of the housewives, appropriate multiplier has been applied, but the estimation of the value of services rendered to the house by the housewives, which has been arrived at Rs.12,000/- per annum in cases of

some and Rs.10,000/- for others, appears to us to be grossly low. It is true that the claimants, who ought to have given datas for determination of compensation, did not assist in any manner by providing the datas for estimating the value of services rendered by such housewives. But even in the absence of such datas and taking into consideration, the multifarious services rendered by the housewives for managing the entire family, even on a modest estimation, should be Rs.3000/- per month and Rs.36,000/- per annum. This would apply to all those housewives between the age group of 34 to 59 and as such who were active in life. The compensation awarded, therefore should be re-calculated, taking the value of services rendered per annum to be Rs.36,000/- and thereafter applying the multiplier, as has been applied already, and so far as the conventional amount is concerned, the same should be Rs.50,000/- instead of Rs.25,000/- given under the Report. So far as the elderly ladies are concerned, in the age group of 62 to 72, the value of services rendered has been taken at Rs.10,000/- per annum and multiplier applied is eight. Though, the multiplier applied is correct, but the values of services rendered at Rs.10,000/- per annum, cannot be held to be just and, we, therefore, enhance the same to Rs.20,000/- per annum. In their case, therefore, the total amount of compensation should be re-determined, taking the value of services rendered at Rs.20,000/- per annum and then after applying the multiplier, as already applied and thereafter adding Rs.50,000/- towards the conventional figure.”

[5]. I have considered the submissions made by learned counsel for the parties.

[6]. There is a gap of six years between the two accidents, still if the ratio of **Lata Wadhwa's** case (supra) is applied, the income of the deceased Balwinder Kaur cannot be less than Rs.3,000/- per month i.e. Rs.36,000/- per annum. The Tribunal

has applied deduction of 1/4th towards personal expenses of the deceased.

[7]. In case of housewife, the criteria specified in clause(6) of Second Schedule referred to Section 163-A of the Motor Vehicles Act, 1988 has to be appreciated. The contribution made by the housewife to the family is invaluable and cannot be computed in terms of money. In evaluating the notional income of the deceased housewife, 1/3rd deduction towards personal expenses while computing the dependency of the family is unwarranted. The ratio of **Paramjit Singh vs. Dilbag Singh @ Bagga, 2014(4) RCR (Civil) 895 (DB)** can be applied.

[8]. In view of above, the annual dependency of the family has to be assessed without applying any cut towards personal expenses of the deceased. In this way the annual income of the deceased comes out to be Rs.36,000/- (3000 x 12). The deceased was 45 years of age at the time of accident, therefore, multiplier of 14 would be just and appropriate in view of ratio held in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**. In this way, the dependency would come out to be Rs.5,04,000/- (36,000 x 14).

[9]. In view of **National Insurance Co. Limited vs. Pranay Sethi, 2017 SCC 1270** compensation towards conventional heads needs to be answered to the tune of Rs.70,000/- towards

loss of estate, loss of consortium and funeral expenses. In this way the total amount of compensation would come out to be Rs.5,74,000/- (5,04,000 + 70,000).

[10]. In view of above, an amount of Rs.4,22,500/- (5,74,000 - 1,51,500) stands enhanced in addition to the amount of compensation already awarded by the Tribunal. The enhanced amount of compensation would carry interest @ of 7.5% per annum from the date of filing of the claim petition till realization of the amount.

[11]. With the aforesaid modification, this appeal stands disposed of.

September 12, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No