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

**FAO No. 1293 of 2002
DECIDED ON: MARCH 13, 2019**

SHRI KRISHAN SINGH AND OTHERS

APPELLANTS

VERSUS

RAJ KUMAR AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajesh Kumar Moudgil, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate
for respondent No.2.

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AVNEESH JHINGAN, J (ORAL):

The award dated 29.10.2001 passed by the Motor Accident Claims Tribunal, Ambala (for brevity 'the Tribunal') has been assailed in appeal by legal heirs of Sunita seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act'). The appellants are husband, two minor sons and a daughter of the deceased.

The driver-cum-owner and insurer (i.e. National Insurance Co. Ltd.) of Jeep bearing registration No. HR-12P-0256 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No. 1 and 2 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that a motor vehicular accident took place on 26.12.1999. The accident proved fatal for Sunita.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation.

In the claim petition it was pleaded that the deceased was 26 years old and was running a milk dairy and was also doing stitching work. The claimants failed to prove occupation and monthly earning of the deceased. The Tribunal considered the deceased as house-wife and assessed monthly earning of the deceased as ₹1600/-; and multiplier of '18' was applied. The Tribunal awarded a sum of ₹3,55,600/-. The amount awarded included ₹5,000/- each for funeral expenses and loss of consortium.

Heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

Learned counsel for the appellants contends that income assessed by the Tribunal is on the lower side and the amounts awarded under the conventional heads are not in consonance with the established law. His grievance is that no interest has been awarded.

Learned counsel for the respondents while defending the award resisted any further enhancement.

The contentions raised by learned counsel for the appellants deserve acceptance. In Indian society, role of a lady towards her family cannot be measured in monetary terms. She has roles as a mother and wife. She is not working for some financial benefit but it is her affection, sincerity and care towards her family that keeps her working round the clock.

The Supreme Court in ***Jitendra Khimshankar Trivedi and others Versus Kasam Daud Kumbhar and others***, 2015 (4) SCC 237, has held as under:

> *"Even assuming Jayvantiben Jitendra Trivedi was not self employed doing embroidery and tailoring work, the fact remains that she was a housewife and a home maker. It is hard to monetize the domestic work done by a house mother.The services of the mother/wife is available 24 hours and her duties are never fixed. Courts have recognisedthe contribution made by the wife to the house is unvaluable and that it cannot be computed in terms of money. A housewife/home-maker does not work by the clock and she is inconstant attendance of the family throughout and such services rendered by the home maker has to be necessarily kept in view while calculating the loss of dependency."*

Having a clue from the minimum wages at the time of accident, notional monthly income of the deceased is assessed as ₹2000/- per month. As the notional income is being assessed, no deduction for self-expenses is to be made. Reliance in this regard is placed on the decision of Division Bench of this Court in ***Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others, 2014 (4) RCR (Civil) 895***, wherein it was held that no deduction for self expenses is to be made in case of notional income. Relevant para is quoted below:

> *"15. After the decision in Lata Wadhwa's case (supra), the notional income of the housewife is estimated according totheir age. The notional income of the housewife was takento be Rs.3,000/- per month if she had been between the age group of 34 to 59 at the time of accident. The only riddle which is to be solved by us is as to whether 1/3rd cut should be applied on the notional income or not? The answer to this question is couched in the aforesaid extracted paragraph of the judgment of Lata Wadhwa's case (supra), as in that case, the Supreme Court was searching for a modest notional income of the housewife who was not earning an income but rendering multifarious services while managing all the chores of the family. Since it is a case where the Courts are confronted with the notional income of the housewife on account of her multifarious services which not only includes rearing the children but also performing all matrimonial obligations, in our considered view, the deduction of 1/3rd out of her notional income is not warranted."*

As the quantum of compensation is being revisited the multiplier is to be applied in consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21.*** Multiplier of '17' is applied.

In view of decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157,*** the claimants are entitled to ₹15,000/- each for loss of funeral expenses and for loss of estate. Another sum of ₹40,000/- is awarded for loss of consortium.

In view of above discussion, compensation is re-calculated as under:

	Head	**Compensation awarded**
(i)	Monthly income	₹ 2000/- per month
(ii)	Total Income	₹ 24000/- per annum
(iii)	Multiplier	17 (as per age of deceased)
(iv)	Loss of income	24000x17= ₹4,08,000/-
(v)	Funeral expenses	₹15,000/-
(vi)	Loss of estate	₹15,000/-
	Loss of consortium	₹40,000/-
	Total Compensation awarded	₹4,78,000/-

The award dated 29.10.2001 is modified to the extent that amount of ₹3,55,600/- awarded by the Tribunal is enhanced to ₹4,78,000/-.

The compensation is to be awarded alongwith statutory interest as provided under Section 171 of the Act. The Supreme Court in ***Dharampal and others Vs. U.P. State Road Transport Corporation (2008) 12 SCC 208*** *held as under:*

> *"8. As per Section 171 of the Motor Vehicle Act, 1988 (hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.*
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> *9. In **National Insurance Company Ltd. Vs. Keshav Bahadur, reported in 2004(2) RCR (Civil) 99: (2004) 2 SCC 370** this Court has held that the provisions require payment of interest in addition to compensation already determined. Even though the expression "may"is used, a duty is laid on the*

Tribunal to consider the question of interest separately with due regard to the facts and circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules.

10. Interest is compensation for forbearance or detention of money, which ought to have been paid to the claimant. No rate of interest is fixed under Section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest."

The appellants shall be entitled to the entire amount including the enhanced amount alongwith interest @6% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

MARCH 13, 2019
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Whether speaking/reasoned Yes
Whether reportable Yes