IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2836 of 2006
Date of Decision: 24.01.2019

Harish Kumar and others

...Appellants

Versus

Iqbal Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Ashok Jindal, Advocate for the appellants.

None for respondent No.1.

Service of respondent No.2 dispensed with vide order dated 21.07.2017.

Mr. Neeraj Khanna, Advocate for respondent No.3.

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B.S.WALIA, J (Oral).

1. Appeal has been filed by the children of Kamlesh Rani, who died in a motor vehicular accident on 06.10.2004, seeking enhancement of compensation of ₹1,29,500/-, awarded by the learned Motor Accidents Claims Tribunal, Moga (hereinafter referred as to 'the Tribunal').

2. Learned counsel for the appellants contended that the appeal was liable to be accepted, award modified and compensation enhanced by taking into account appropriate notional contribution of the deceased house wife towards the family. Learned counsel contends that the accident in which Kamlesh Rani died took place on 06.10.2004 and the Tribunal assessed her notional contribution @ ₹1500/- per month whereas in the

case of Lata Wadhwa vs. State of Bihar 2001(8) SCC 197, in which the accident took place in the year 1981, notional contribution of the deceased house wife was taken at ₹3,000/- per month and that in the circumstances, there should be appropriate increase in the notional contribution of the deceased house wife in the instant case. Learned counsel further contends that husband of deceased namely Sharwan Kumar also died in the same accident on 06.10.2004 and that his income was taken at ₹3,000/- per month by this Court vide order dated 23.01.2019, passed in FAO No.2835 of 2006. Learned counsel further contends that despite entitlement no compensation under conventional heads has been awarded. Lastly learned counsel contended that multiplier of '10' has wrongly been applied by the learned Tribunal as against multiplier of '14' which ought to have been applied.

3. Learned counsel contends that in the circumstances at best the income of the deceased house wife in the instant case can be taken at ₹3,000/- per month. He, however, fairly does not dispute the claim for enhancement as made by learned counsel for the appellants under conventional heads in view of the law laid down by Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009.

4. I have considered the submissions of learned counsel for the parties and am of the view that the contribution of the deceased house wife towards the family is to be assessed by taking into account various aspects. No doubt the income of the husband is also a relevant factor but the fact remains that even though the contribution of deceased house wife is to be

assessed on notional basis yet the value of the services of the deceased house wife are to be assessed as a skilled worker discharging multifarious roles as a Home Manager etc. Accordingly, in the circumstances, I am of the view that the contribution of the deceased house wife towards the family be treated at ₹3,000/- per month.

5. The deceased left behind three children, accordingly, apart from award of ₹15,000/- on account of funeral expenses and ₹15,000/- on account of loss of estate, they are also entitled to ₹40,000/- each on account of loss of parental consortium in view of the decision of Hon'ble the Supreme Court in Magma General Insurance Co. Ltd vs. Nanu Ram Alias Chuhru Ram 2018 (4) RCR Civil 333. However, in view of the subsequent decision of Hon'ble the Supreme Court in Vimla Devi and others vs. National Insurance Company Ltd. and others, 2019 (1) RCR (civil) 86, compensation of ₹1,20,000/- on account of loss of parental consortium is restricted to ₹1,00,000/-.

6. Since in the instant case, deceased house wife was 42 years of age, therefore, in accordance with the decision of Hon'ble the Supreme Court in Sarla Verma Vs. Delhi Transport Corp. and another, 2009 (3) RCR (Civil) 77, multiplier of '14' would be applicable, as against multiplier of '10' applied by the learned Tribunal.

7. At this stage, learned counsel for the appellant contended that no interest was awarded by the Tribunal except in the eventuality of payment not being made within a period of two months of date of award. Learned counsel further states that payment was not made within the stipulated period. Be that as it may, once the appellants are held entitled to

award of compensation, the same would carry interest @ 9% per annum w.e.f. date of claim petition till date of realization.

8. In the circumstances, the appellants are held entitled to the following compensation:-

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
1	Notional Income	₹1000/-	₹3000/-
2	Future Prospects	Nil	Nil
3.	Total Income	₹1000/-	₹3000/-
4.	Multiplier applied	10	14
5.	Deduction	Nil	Nil
6.	Dependency	₹1000x12x10=₹1,20,000/-	₹3000x12x14=₹5,04,000/-
7.	General damages	₹9,000/-	₹15,000/- on account of funeral expenses ₹15,000/- on account of loss of estate ₹40,000/- to each of the three children of the deceased on account of loss of parental consortium, restricted to ₹1,00,000/- in view of the decision in Vimla Devi's case (supra)
8.	Interest	Nil.	9% per annum
	Total	₹1,29,500/-	₹6,34,000/-

9. Accordingly, as against the compensation of ₹1,29,500/- awarded by the Tribunal, the appellants are held entitled to award of compensation of ₹6,34,000/- along with interest @ 9% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

10. Needless to mention, the appellants would be entitled to the award of compensation in proportion to their shares as determined by the Tribunal.

11. Accordingly, appeal is allowed and award 09.03.2006, passed by the learned Tribunal is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

24.01.2019
rajesh.k.khurana

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No