

[218] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.274 of 2008
Date of decision: 11.02.2019

Indira Devi and others. Appellants

Versus

Sh. Mohan Lal and Others. Respondents

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

Present: Ms. Ekta Thakur, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for the respondent No.2-
Insurance Company.

B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the mother-in-law and two minor children of Nirmala Devi who died in a motor vehicular accident on 23.06.2004 along with her husband seeking enhancement of compensation of ₹ 3,89,000/- awarded by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal').

[2] The Tribunal took into account the contribution of the deceased-housewife towards her family at ₹ 3,000/- per month, made deduction of $\frac{1}{3}^{\text{rd}}$ of the notional contribution of the deceased-housewife towards her personal expenses, applied multiplier of 16 and by awarding ₹5000/- on account of funeral expenses, awarded total compensation of ₹ 3,89,000/-.

[3] Learned counsel contends that the appeal is liable to be allowed, award modified and compensation payable enhanced by taking into

account contribution of the deceased-housewife towards her family at

₹ 9000/- per month instead of ₹ 3000/- per month taken into account by the learned Tribunal, excluding the deductions ordered by the learned Tribunal and by awarding compensation of ₹ 15,000/- on account of funeral expenses as against ₹ 5000/- awarded by the learned Tribunal, besides, by awarding ₹ 15,000/- on account of loss of estate and further by awarding each of the children of the deceased ₹ 40,000/- on account of loss of parental consortium in accordance with the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333.**

[4] Per contra, learned counsel for respondent No.2-Insurance Company contended that the death of Nirmala Devi took place in a motor vehicular accident on 23.06.2004, therefore, the claim for notional contribution of the deceased-housewife @ ₹ 9000/- per month was on the higher side. Learned counsel contended that in view of date of accident being 23.06.2004, notional contribution of the deceased-housewife towards her family at ₹ 3000/- per month was correctly taken into account by the learned Tribunal for working out compensation payable.

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

[6] Admittedly, Nirmala Devi died on 23.06.2004. Her husband was working as an Assistant Engineer with Executive Engineer, Division No.2, CPWD, Kendriya Sadan, Sector 9, Chandigarh and drawing salary of ₹ 14,513/- per month. In the case of an accident of 15.04.2003, this Court in FAO No.5627 of 2014 in case titled as Brahmanand and others vs Rajesh Kumar and others decided on 07.12.2016 enhanced the contribution of the deceased-housewife assessed at ₹ 2000/- per month by the Tribunal to

₹ 6,000/- per month by observing that even a domestic help round the clock

was not available at ₹6000/- per month, besides a housewife had to perform multifarious duties.

Likewise, this Court in FAO No.4763 of 2016 in case titled as United India Insurance Company Ltd. vs Mohit and others, decided on 25.09.2018 by taking into account the year of death of the housewife as 2015 assessed the contribution of the deceased-housewife @ ₹ 9000/- per month in the light of the decision of a Co-ordinate Bench of this Court in FAO No.218 of 2014 decided on 15.01.2014 in case titled as United India Insurance Company Ltd. v. Sube Singh and others wherein the date of death of the housewife was 23.11.2012.

Since, the accident and date of death in the instant case is 23.06.2004, I am of the considered view that ends of justice would be met if the monthly contribution of the deceased-housewife towards her family is taken @ ₹ 7000/- per month.

[7] Secondly, as per decision of a co-ordinate Bench of this court in Cholamandalam MS General Insurance Company Limited v. Lakhmi Chand and others FAO No.3483 of 2013 decided on 26.02.2015, neither future prospects are to be awarded nor is any deduction to be made towards personal expenses in view of notional contribution of the deceased housewife being taken into account.

Accordingly, in the light of decision in Cholamandalam's case (Supra), no deduction is to be made on account of personal expenses of the deceased-housewife.

[8] A sum of ₹ 5,000/- was awarded by the Tribunal on account of funeral expenses but no amount was paid on account of loss of estate whereas as per the decision of Hon'ble the Supreme Court in **National**

(Civil) 1009, ₹ 15,000/- is payable on account of funeral expenses and like amount on account of loss of estate. Accordingly, the appellants are held entitled to ₹ 15,000/- on account of funeral expenses and ₹ 15,000/- on account of loss of estate.

[9] Likewise, as per the decision of Hon’ble the Supreme Court in **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333** each of the children of the deceased are entitled to ₹ 40,000/- on account of the loss of parental consortium.

[10] In the light of the position as noted above, appellants are held entitled to the following compensation:-

Sr. No.	Heads	Amount assessed by the Tribunal	Amount assessed by the Court
1.	Income	₹ 3000 /-	₹7000/-
2.	Future Prospects	Nil	Nil
3.	Total Income Assessed	₹ 3000/-	₹ 7000/-
4.	Multiplier applied	16	16
5.	Deduction (towards personal expenses of deceased)	1/3 rd of ₹ 3000/- = ₹ 1000/-	Nil
6.	Dependency (Annual)	(₹ 3000/- - ₹ 1000/-) = ₹ 2000/- (per month) and (₹ 2000/- x 12) = ₹ 24,000/- (Annually)	₹ 7000 x 12 = ₹ 84,000/- (Annually)
7.	Compensation awarded by applying multiplier	₹ 24,000 /- x 16 = ₹ 3,84,000/-	₹ 84,000/- x 16 = ₹ 13,44,000/-
8.	Loss of parental consortium	NIL	₹ 40,000/- to each of the two then minor children (Total ₹ 80,000/-)

9.	Funeral Expenses	₹ 5,000/-	₹ 15,000/-
10.	Loss of Estate	NIL	₹ 15,000/-
11.	Rate of interest	7.5 % per annum	7.5% per annum
	Total	₹ 3,89,000/-	₹ 14,54,000/-

[11] Accordingly, as against compensation of ₹ 3,89,000/- awarded by the Tribunal, the appellants are held entitled to compensation of ₹ 14,54,000/- along with interest @ 7.5% per annum on the enhanced amount with effect from the date of claim petition till date of payment, less payment, if any made earlier. Apportionment of the compensation shall be made in accordance with the ratio stipulated in the award passed by the learned Tribunal after first making payment of loss of parental consortium to the children of the deceased.

[12] Accordingly, appeal is allowed by modifying the Award dated 20.09.2007 passed by the learned Tribunal to the extent as noted above.

(B.S. WALIA)
JUDGE

11.02.2019
amit

1. Whether speaking/reasoned

:

Yes/No.
2. Whether reportable

:

Yes/No.