

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 2780 of 2008(O&M)

Date of Decision: January 09 , 2019.

Subhash Chander and others

..... APPELLANT (s)

Versus

Beeker and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Neha Sonawane, Advocate
for the appellants.

Mr. Vishnu Dutt Sharma, Advocate
for respondent No.1.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate
for respondent No.3– Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

CM No.26254-CII of 2017

This is an application for early hearing of the main case.

Learned counsel for non-applicant/respondents submit that they have no objection in case the main appeal is taken up for hearing.

With the consent of the parties, the main appeal is taken up for final hearing today itself.

Application is disposed of.

FAO No.2780 of 2008

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Jind (for short, the 'Tribunal') vide impugned award dated 10.12.2007 on account of death of Smt. Roshni in a motor vehicle accident. Appellant No.1 is the husband and appellants No.2 and 3 are the daughters of the deceased.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of death of Smt. Roshni, aged 26 years, who lost her life in a motor vehicle accident which took place on 02.06.2006. FIR (Ex.P2) was lodged at Police Station Sadar Narwana against respondent No.1-Beekar on the statement of PW1 Subhash Chander.

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 truck bearing registration No. HR-37A-2174 by respondent No.1 – Beekar. The said finding of the learned Tribunal has not been challenged and has attained finality. Learned Tribunal while assessing income of the deceased to be ₹1,400/- per month, awarded a total sum of ₹3,08,800/- as compensation to the appellants vide impugned award dated 20.12.2007. Multiplier of 16 was applied. ₹20,000/- each was awarded to appellant No.1 on account of loss of consortium and funeral expenses.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as ₹1,400/- per month which is extremely meagre by any yardstick. It is further submitted that increase in income on

account of future prospects be afforded in view the judgment of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680. Meagre amount has been afforded under the conventional heads as well. It is thus prayed that compensation awarded to the appellants be enhanced.

Learned counsel for the respondents on the other hand prays for upholding the impugned award and submits that no ground whatsoever is made out for any kind of enhancement of the compensation. It is submitted that there is no documentary evidence on record to prove that the deceased was earning any amount from embroidery and sewing work. She was merely a housewife and the learned Tribunal has rightly held that in the absence of a lady, if one is to hire someone for services rendered by the deceased, such services would be available for less than ₹1,400/- per month. It is thus prayed that this appeal be dismissed.

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

Liability of the Insurance Company is not in dispute and neither is there a dispute regarding the accident in which Smt. Roshni succumbed to the injuries received by her due to the rash and negligent act of respondent No.1 – Beekar. There is no documentary evidence on record to prove that the deceased was earning any income from embroidery and sewing work as claimed. However, even if the deceased is taken to be a house-wife, services rendered by a house-wife cannot be equated with that of a daily wager. Services rendered by a housewife are multifarious. She renders invaluable services in her various facets/roles in a home. This Court in FAO No.3395 of 2015 has assessed the

income of a housewife to be ₹7,000/- per month in respect to an accident which took place in the year 2011. In the present facts and circumstances of the case where the accident in question took place in June 2006, it is considered appropriate to assess the notional income of the deceased to be ₹3,000/- 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 the case of death of a house-wife. Increase in income at the rate of 40% on account of future prospects has to be afforded as well. Age of the deceased was 26 years at the time of the accident, therefore, multiplier of 17 is to be applied as per the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77**. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**, the appellants are entitled to ₹40,000/- each on account of loss of spousal consortium to appellant No.1 (instead of ₹20,000/-) and loss of parental consortium to appellants No.2 & 3. ₹15,000/- each is awarded towards funeral expenses (instead of ₹20,000/-) and loss of estate.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	3,000 p.m. i.e. ₹36,000/- per annum

2.	Increase in income at the rate of 40%	$36,000 \times (36,000 \times 40\%) = 50,400$
3.	Total dependancy after applying a multiplier of 17	$(50,400 \times 17) = 8,56,800$
4.	Loss of spousal consortium to appellant No.1 @40,000	40,000
5.	Loss of parental consortium to appellants No.2 & 3 @40,000	$40,000 \times 2 = 80,000$
6.	Loss of estate	15,000
7.	Funeral expenses	15,000
Grand Total		₹10,06,800/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment amongst the claimants as well as manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

January 09 , 2019.
'om'

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