

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

FAO No.1673 of 2007 (O&M)

Date of Decision.09.12.2019

Phool Chand and others

...Appellants

Vs

Yogender Singh @ Jogender Singh and others

...Respondents

**CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present: Mr. Vinod K. Kanwal, Advocate for  
Mr. Ashit Malik, Advocate  
for the appellants.

Mr. Ashwani Talwar, Advocate  
for the insurance company.

-. -

**JAISHREE THAKUR J. (ORAL)**

1. This is an appeal that has been filed seeking to challenge the award of the Motor Accident Claims Tribunal, Kaithal whereby compensation has been assessed at ₹2,42,800/- on account of death of Smt. Santosh, who died in the accident that took place on 25.05.2004.

2. Admitted facts that can be culled out are that Smt. Santosh was a passenger in a vehicle described as Tata 407 bearing registration No.HR10-9272, which struck into a truck bearing registration No.HR68A-8877, which was parked on the road without any indicator or parking lights on. On account of injuries suffered, Smt. Santosh died. In this regard, an FIR bearing No.60 under Sections 283, 304-A IPC was also registered. Consequently, the claim petition was filed by Sh. Phool Chand on his behalf and on behalf of the minor children.

3. The claim petition was contested by the driver and owner of the offending vehicle as well as by the insurance company. Evidence was led

by the parties and ultimately, a finding was returned that death was caused on account of wrong parking of the offending vehicle. The Tribunal while taking income of the deceased, who was a housewife at ₹2000/- per month, allowed 1/3<sup>rd</sup> deduction on the said notional income towards personal expenditure and came to hold that her annual income would be ₹15,600/- per annum. Based on her age, multiplier of 13 was adopted, thereby, assessing an amount of ₹2,02,800/- as loss of dependency. To this, an amount of ₹20,000/- was added towards consortium and loss of love and affection and ₹20,000/- for funeral expenses, making the total compensation payable at ₹2,42,800/-. Aggrieved against the inadequate compensation, the instant appeal has been filed.

4. Learned counsel appearing on behalf of the appellants urges that the annual income of a housewife as assessed by the Tribunal is wholly inadequate. It is argued that in the judgment rendered in **Lata Wadhwa and others. Vs. State of Bihar and others 2001(4) RCR (Civil) 673**, the Hon'ble Supreme Court had assessed the annual income of a deceased housewife for the accident that took place in the year 1981 as ₹36000/- per year and in the instant case when the accident has taken place in the year 2004, there has to be an increase towards annual income of the deceased, considering the inflation and increase in cost of living. It is argued that a housewife performs multi-purpose tasks and therefore, her income ought to have been taken not less than ₹4000/- per month, which would make her annual income at ₹48,000/- per annum. It is also argued that no deduction should be taken into account, while relying upon the judgment of Division Bench of this Court rendered in **Paramjit Singh and another Vs. Dilbagh Singh**

**alias Bagga and others 2014 (4) RCR (Civil) 895.**

5. It is further argued that age of the deceased has to be taken as 40 and if reliance is placed upon the judgment of the Hon'ble Supreme Court in **Sarla Verma Vs. Delhi Transport Corporation (2009)6 SCC 121**, multiplier applicable would be 15, while further arguing that judgment rendered in **National Insurance Company Limited Vs. Pranay Sethi and others (2017) 13 SCALE 12, 2017 (4) RCR (Civil) 1009** has allowed ₹70,000/- towards conventional heads.

6. Mr. Ashwani Talwar, learned counsel appearing on behalf of the respondent-Insurance Company vehemently would oppose any of the increases as sought by the counsel appearing for the appellants, however, this Court is not inclined to agree with any of the contentions raised.

7. Admittedly, the accident took place on 25.05.2004 and the judgment as rendered in **Lata Wadhwa's** case (supra) assessing income of housewife at ₹3000/- per month would not be applicable, since there is a time line between the date when the accident took place in **Lata Wadhwa's** case and in the instant case. A judicial notice can be taken of the fact that there is inflation in the cost of living since the said time. Moreover, the judgment as rendered by the Division Bench in **Paramjit Singh's** case (supra) does not allow for any deduction towards personal expenses, while calculating the compensation payable to a housewife.

8. In view of aforementioned facts and circumstances, income of the house is taken as ₹4000/- per month for the year 2004 and multiplier of 15 is adopted to assess the loss of dependency at ₹7,20,000/-. To this, a sum of ₹55,000/- is to be added towards loss of consortium

and funeral expenses.

9. In all, the compensation payable shall be ₹7,75,000/-. Needless to say that the amount in excess over what has already been assessed by the Tribunal will attract interest @7.5% from the date of filing of claim petition till its realization. The enhanced amount shall be distributed equally amongst the claimants. The liability shall remain the same as has already been fastened by the Tribunal.

10. The award of the Tribunal is modified to the above extent and the appeal is allowed.

**(JAISHREE THAKUR)**  
**JUDGE**

**December 09, 2019**

Pankaj\*

Whether speaking/reasoned      Yes/No

Whether reportable                Yes/No