IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(1) FAO No.2878 of 2011

Date of Decision: 01.03.2019

Jaspreet Kaur and others …..Appellants/claimants

Versus

Jagtar Singh and others …..Respondents

(2) FAO No.2879 of 2011

Date of Decision: 01.03.2019

Jaspreet Kaur and another …..Appellants/claimants

Versus

Jagtar Singh and others …..Respondents

Coram: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Argued by: Mr. S.S. Antal, Advocate for the appellants.

None for respondents No.1 and 2.

Mr. Pardeep Goyal, Advocate for respondent No.3.

ARUN KUMAR TYAGI, J.

1. This order disposes of **FAO No.2878 of 2011 titled as Jaspreet Kaur and others Vs. Jagtar Singh and others** filed by the claimants-minor daughter and son and mother-in-law of deceased Jagjit Kaur seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Patiala (for short, 'the Tribunal') vide award dated 04.12.2010 passed in **MACT Case No.47T/01.12.2009 titled as Jaspreet Kaur and others Vs. Jagtar Singh and others** and **FAO No.2879 of 2011 titled as Jaspreet**

Kaur and another Vs. Jagtar Singh and others filed by claimants Jaspreet Kaur and Amrinder Singh, minor sister and brother of deceased Navneet Kaur alias Sonu seeking enhancement of compensation awarded by the abovesaid Tribunal vide award dated 04.12.2010 passed in **MACT Case No.46T/01.12.2009 titled as Jaspreet Kaur and another Vs. Jagtar Singh and others** as both the above said claim petitions arose out of the same motor vehicular accident and both the appeals involve common questions of facts and law.

2. The above said claim petitions were filed on the common facts that on 20.10.2009, Jagjit Kaur along with her minor daughter Navneet Kaur alias Sonu was going from Nabha to Patiala on Hero Honda Motorcycle No.PB-11AH-1279, driven by her husband Avtar Singh. When they reached about 2 kms. after crossing Rohti Bridge on Nabha to Patiala Road, Trax Jeep bearing registration No.PB-11AD-1012, owned by respondent No.2 and insured with respondent No.3, came from Patiala side driven by respondent No.1 in a very high speed and rash and negligent manner and struck against their motorcycle due to which Jagjit Kaur, Avtar Singh and Navneet Kaur alias Sonu fell down on the road and suffered multiple injuries and Avtar Singh and Navneet Kaur alias Sonu died on the spot and Jagjit Kaur, who was taken to Civil Hospital, Nabha and then to Rajindra Hospital, Patiala died on 23.10.2009. FIR No.137 dated 21.10.2009 was registered under Sections 279, 337, 427 and 304-A of the Indian Penal Code, 1860 (for short, 'the I.P.C.') in Police Station Sadar, Nabha regarding the accident.

3. In **MACT Case No.46T/01.12.2009 titled as Jaspreet Kaur and another Vs. Jagtar Singh and others**, the claimants pleaded that the deceased Navneet Kaur alias Sonu, was aged about 13 years. Amount of ₹50,000/- was spent on transportation, funeral and last rites of the deceased. The claimants accordingly sought compensation of ₹10,00,000/- with costs and interest.

4. The petition was contested by the respondents. In their joint written statement, respondents No.1 and 2, besides taking usual legal objections as to maintainability, limitation, jurisdiction, non-joinder, etc. denied the accident and also other material averments made in the petition.

5. In its written statement, respondent No.3 took preliminary objections as to respondent No.1 not having valid and effective driving licence and breach of the terms and conditions of the insurance policy by respondent No.2 and denied its liability.

6. Issues were framed and evidence produced by the parties was recorded.

7. The petition was allowed by the Tribunal vide award dated 04.12.2010 holding that Navneet Kaur alias Sonu died due to injuries suffered in accident caused by rash and negligent driving by respondent No.1 of Trax Jeep bearing registration No.PB-11AD-1012 owned by respondent No.2 insured with respondent No.3 and respondent No.1 had valid and effective driving licence. The Tribunal held the deceased-Navneet Kaur alias Sonu to be aged about 13 years and awarded compensation of ₹2,00,000/- to claimants No.1 and 2 with costs and interest at the rate of 8% per annum with

direction to respondents No.1 to 3 to jointly and severally pay the same to the claimants.

8. In **MACT Case No.47T/01.12.2009 titled as Jaspreet Kaur and others Vs. Jagtar Singh and others** the claimants pleaded that the deceased Jagjit Kaur, aged about 30 years at the time of her death, was house wife and the value of her services rendered to the family was to the tune of ₹5,000/-. The claimants accordingly sought compensation of ₹15,00,000/- with costs and interest.

9. The petition was contested by the respondents. In their joint written statement, respondents No.1 and 2, besides taking usual legal objections as to maintainability, limitation, jurisdiction, non-joinder, etc. denied the accident and also other material averments made in the petition.

10. In its written statement, respondent No.3 took preliminary objections as to respondent No.1 not having valid and effective driving licence and breach of terms and conditions of the insurance policy by respondent No.2 and denied its liability.

11. Issues were framed and the parties were given opportunity to produce their evidence.

12. The Tribunal allowed the petition vide award dated 04.12.2010. The Tribunal held that Jagjit Kaur died due to injuries suffered in accident caused by rash and negligent driving by respondent No.1 of Trax Jeep bearing registration No.PB-11AD-1012 owned by respondent No.2 insured with respondent No.3 and respondent No.1 had valid and effective driving licence. The Tribunal held the deceased-Jagjit Kaur to be aged about 31 years,

assessed her income as ₹3,000/- per month, deducted 1/3rd towards personal expenses, applied multiplier of 16 and calculated loss of dependency as ₹3,84,000/- and by adding ₹6,000/- as funeral expenses awarded total compensation of ₹3,90,000/- to claimants No.1 and 2 with costs and interest at the rate of 8% per annum and directed respondents No.1 to 3 to jointly and severally pay the same to claimants No.1 and 2.

13. Feeling aggrieved, the claimants have filed the present appeals seeking enhancement of the compensation awarded.

14. I have heard learned counsel for the parties and have gone through the relevant record.

15. Mr.S.S. Antal, learned Counsel for the appellants-claimants has argued that the Tribunal did not properly assess notional income of deceased-Jagjit Kaur. The Tribunal did not make any addition towards future prospects, awarded meager amount towards funeral expenses and did not award any amount towards loss of estate and loss of filial consortium.

16. Learned counsel for the appellants-claimants has further argued that the Tribunal awarded lump sum of ₹2,00,000/- as compensation for death of Navneet Kaur alias Sonu without assessing her notional income and applying the multiplier and did not award any amount under the conventional heads.

17. Learned counsel for the appellants-claimants has further argued that in both the cases the Tribunal also awarded lesser rate of interest of 8% per annum instead of 18% per annum. Therefore,

the compensation awarded and interest specified in both the cases may be enhanced and awards may be modified.

18. These arguments have been vehemently controverted by Mr. Pardeep Goyal, learned Counsel for respondent No.3 who has argued that the Tribunal has awarded just and adequate compensation to the claimants and the claimants are not entitled to enhancement of the compensation awarded by the Tribunal. Therefore, the appeals may be dismissed.

19. In **MACT Case No.47T/01.12.2009 titled as Jaspreet Kaur and others Vs. Jagtar Singh and others** the Tribunal awarded compensation to claimants No.1 and 2-minor son and daughter and did not award any compensation to claimant No.3-mother-in-law. Claimant No.3-mother-in-law, though not one of the legal heirs of deceased-Jagjit Kaur, is one of her dependents as well as one of the beneficiaries of her services and therefore, claimant No.3-mother-in-law will also be entitled for payment of compensation for her death.

20. The deceased-Jagjit Kaur is admitted to be a house wife. Therefore, her notional income is to be taken into consideration for assessment of compensation for loss of dependency. The claimants pleaded the value of her services to be ₹5,000/- per month but the Tribunal assessed the value of her services as ₹3,000/- per month and the question arises as to what would be the appropriate determination of her notional income.

21. In **Lata Wadha and others v. State of Bihar and others 2001(4) R.C.R. (Civil) 673** income of housewife was assessed as ₹3000/- per month.

22. In **Arun Kumar Aggrawal and another Versus National Insurance Company and others 2010 (3) RCR (Civil) 827 (Supreme Court)**, Hon'ble Supreme Court observed as under:-

> "In our view, it is highly unfair, unjust and inappropriate to compute the compensation payable to the dependents of a deceased wife/mother, who does not have regular income, by comparing her services with that of a housekeeper or a servant or an employee, who works for a fixed period. The gratuitous services rendered by wife/mother to the husband and children cannot be equated with the services of an employee and no evidence or data can possibly be produced for estimating the value of such services. It is virtually impossible to measure in terms of money the loss of personal care and attention suffered by the husband and children on the demise of the housewife. In its wisdom, the legislature had, as early as in 1994, fixed the notional income of a non- earning person at Rs.15,000/- per annum and in case of a spouse, ⅓rd income of the earning/surviving spouse for the purpose of computing the compensation. Though, Section 163A does not, in terms apply to the cases in which claim for compensation is filed under Section 166 of the Act, in the absence of any other definite criteria for determination of compensation payable to the dependents of a non-earning housewife/mother, it would be reasonable to rely upon the criteria specified in clause (6) of the Second Schedule and then apply appropriate multiplier keeping in view the judgments of this Court in ***General Manager Kerala State Road Transport Corporation v. Susamma Thomas (Mrs.) and others*** (supra), ***U.P.S.R.T.C. v. Trilok Chandra*** (supra), ***Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another*** (supra) and also take guidance from the judgment in Lata Wadhwa's case......".

23. In the present case, there is no evidence as to income of the husband of deceased-Jagjit Kaur and therefore, value of her services cannot be determined by adopting the criteria of 1/3rd of the income of her husband. In the facts and circumstances of the case, notional income of deceased-Jagjit Kaur at the time of her death would have to be assessed as equal to that of wages of casual labourer to be employed in her place for doing the household work.

In view of Punjab Government Labour Department notification notifying minimum wages of ₹3,398/- to be payable to casual labourer, it will be just and reasonable to assess the notional income of deceased Jagjit Kaur as ₹3,500/- per month at the time of her death.

24. Since deceased-Jagjit Kaur was house wife and for assessment of compensation payable for her death, notional income is to be taken into consideration, no addition towards future prospects is required to be made in her notional income. In **Lata Wadha and others Versus State of Bihar and others 2001(4) R.C.R.(Civil) 673** no deduction was made towards personal expenses while assessing notional income of housewife. In **Paramjit Singh and another Vs. Dilbagh Singh @ Bagg and others Vol.CLXXII-(2013-4) the Punjab Law Reporter 328 (Punjab and Haryana High Court**) an Hon'ble Division Bench of this Court held that in view of the observations in **Lata Wadha and others v. State of Bihar and others 2001(4) R.C.R. (Civil) 673** no deduction is required to be made from notional income of housewife towards personal expenses. Therefore, no deduction is required to be made from notional income of deceased Jagjit Kaur towards her personal expenses. Consequently, annual dependency of the claimants on the deceased comes to (₹3,500 X 12 =) ₹42,000/-

25. In view of the observations made by Hon'ble Supreme Court in para No.61(vii) of its judgment in **National Insurance Company Limited vs. Pranay Sethi and others, 2017 (4) R.C.R. (Civil) 1009 (SC)**, in the present case the age of the deceased has to be taken as determinant of the multiplier. In view of the age of the

deceased at the time of her death being 31 years and observations in **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298 (Supreme Court)**, it will be just and reasonable to adopt multiplier of 16. When multiplier of 16 is applied to annual dependency of the claimants compensation for loss of dependency payable to the claimants in equal shares comes to (₹42,000 X 16=) ₹6,72,000/-.

26. In **MACT Case No.46T/01.12.2009 titled as Jaspreet Kaur and another Vs. Jagtar Singh and others**, the Tribunal held deceased Navneet Kaur alias Sonu to be aged about 13 years. The Tribunal awarded amount of ₹2,00,000/- in lump sum as compensation to the claimants on account of her death. Since the deceased was a student and was not having any income compensation payable for her death has to be determined on the basis of her notional income. In **Krishan Gopal Vs. Lala, 2013 (4) RCR (Civil) 276** Hon'ble Supreme Court assessed notional income of child aged about 10 years, who died in an accident which took place in the year 1992, as ₹30,000/- per annum. In **Himkanti Misra and another Vs. Ajay Kumar and others, 2017 AAC 612** an Hon'ble Coordinate Bench of this Court assessed notional income of child aged 10 years as ₹30,000/- per annum and by applying multiplier of 15 and adding amount of ₹50,000/- towards love and affection awarded compensation of ₹5,00,000/-. In **Beet Nath and another Vs. Gulab Singh and others FAO No.159 of 2015 decided on 10.07.2017** an Hon'ble Coordinate Bench of this Court

assessed notional income of child aged 15 years, who died in an accident which took place in the year 2012, as ₹50,000/-. In **Sunita Devi and another Vs. Vijay Pal and others, 2018 (2) Law Heraid 1659** an Hon'ble Coordinate Bench of this Court assessed notional income of child aged about 4/5 years, who died in an accident which took place on 16.04.2014, as ₹50,000/- and by applying multiplier of 15 and adding amount of ₹15,000/- under conventional heads awarded compensation of ₹7,56,000/- with costs and interest at the rate of 7.5% per annum.

27. In the present case, accident took place in the year 2009. In view of the facts and circumstances of the case notional income of deceased Navneet Kaur alias Sonu is assessed as ₹40,000/- per annum. By applying multiplier of 15 to notional annual income of ₹40,000/- of the deceased compensation payable to the claimants comes to ₹6,00,000/-

28. So far as award of compensation under convention heads is concerned, in **MACT Case No.47T/01.12.2009 titled as Jaspreet Kaur and others Vs. Jagtar Singh and others**, the Tribunal merely awarded amount of Rs.6,000/- to claimants No.1 and 2 towards funeral expenses and the Tribunal did not award any amount under the head of loss of consortium and loss of estate. In **MACT Case No.46T/01.12.2009 titled as Jaspreet Kaur and another Vs. Jagtar Singh and others**, the Tribunal did not award any amount towards funeral expenses, loss of consortium and loss of estate.

29. Hon'ble Supreme Court in para No.61(viii) of its judgment in **Pranay Sethi's case (Supra)** observed as under:-

> "Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."

30. As a corollary to above direction of Hon'ble Supreme Court for enhancement of the figures on conventional heads at the rate of 10% in every three years for assessment of compensation in cases arising in future, the figures on conventional heads will be liable to be reduced at the rate of 10% for every block of three years for assessment of compensation in cases which have arisen in the past.

31. In **Magma General Insurance Company' case (Supra)**, Hon'ble Supreme Court clarified that in legal parlance 'consortium' is compendious term which encompasses 'spousal consortium', 'parental consortium' and 'filial consortium' and awarded compensation of ₹40,000/- each for loss of filial consortium to father and sister of the deceased. However, the Bench observed in para No.8.7 of its judgment that the amount of compensation to be awarded for loss of consortium will be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down in **Pranay Sethi's case (Supra)**.

32. In view of the principles of awarding compensation under conventional heads as laid down by Hon'ble Supreme Court in **Pranay Sethi's case (Supra)** referred to above, in **MACT Case No.47T/01.12.2009 titled as Jaspreet Kaur and others Vs. Jagtar Singh and others**, the claimants-Jaspreet Kaur minor daughter,

Amrinder Singh minor son and Harpreet Kaur mother-in-law will be entitled to award of compensation of ₹32,000/- only towards loss of parental and filial consortium and ₹12,000/- towards funeral expenses and ₹12,000/- towards loss of estate in equal shares and in **MACT Case No.46T/01.12.2009 titled as Jaspreet Kaur and another Vs. Jagtar Singh and others**, the claimants-Jaspreet Kaur, sister and Amrinder Singh, brother will be entitled to award of compensation of ₹32,000/- only towards loss of filial consortium and ₹12,000/- towards funeral expenses and ₹12,000/- towards loss of estate in equal shares

33. In both the cases, the Tribunal directed the respondents No.1 to 3 to jointly and severally make payment of the compensation amounts with interest at the rate of 8% per annum from the date of filing of the claim petition till realization of the whole amount which is challenged to be inadequate and the question which arises is as to what would be the appropriate rate of interest.

34. In **Puttamma and others Vs. K.L. Narayana Reddy and another 2014 (1) R.C.R. (Civil) 443**, Hon'ble Apex Court observed in para 60 as under:-

> "This Court in Abati Bezbaruah Vs. Deputy Director General, Geological Survey of India and another (2003) 3 SCC 148 noticed that varying rate of interest is being awarded by the Tribunals, High Courts and this Court. In the said case, this Court held that the rate of interest must be just and reasonable depending on the facts and circumstances of the case and should be decided after taking into consideration relevant factors like inflation, change in economy, policy being adopted by the Reserve Bank of India from time to time, how long the case is pending, loss of enjoyment of life etc."

In **Supe Dei and others Vs. National Insurance Company Ltd. and another 2009 (4) SCC 513**, Hon'ble Apex Court held that 9% per annum would be the appropriate rate of interest to be awarded in Motor Accidents Claims compensation cases. **In Sube Singh and another Vs. Shyam Singh (Dead) and others 2018 (2) R.C.R. (Civil) 131 (SC)** rate of interest of 6% per annum awarded by the Motor Accidents Claims Tribunal was modified by Hon'ble Supreme Court of India to 9% per annum.

35. In view of the observations in above referred judicial precedents, mercantile rate of interest prevalent, rate of interest allowed by Nationalized Banks on fixed deposit receipts and other relevant factors, it will be appropriate to modify interest awarded by the Tribunal to 9% per annum.

36. It follows from the above discussion that in **MACT Case No.47T/01.12.2009 titled as Jaspreet Kaur and others Vs. Jagtar Singh and others**, the claimants are entitled to payment of compensation of ₹7,28,000/- in equal shares with interest at the rate of 9% per annum from the date of filing of the petition till realization and the amount of ₹3,90,000/- already awarded to the claimants will be liable to be deducted from the amount calculated above. In **MACT Case No.46T/01.12.2009 titled as Jaspreet Kaur and another Vs. Jagtar Singh and others**, the claimants are entitled to payment of compensation amount of ₹6,56,000/- in equal shares with interest at the rate of 9% per annum from the date of filing of the petition till realization and the amount of ₹2,00,000/- already awarded to the claimants will be liable to be deducted from the

amount calculated above. The amounts of the share of minor claimants-Jaspreet Kaur and Amrinder Singh shall be deposited in FDR in their name and they shall be entitled to withdraw the same on attaining of majority by them.

37. In view of the above discussion, the appeals are allowed and impugned awards are modified as mentioned above.

(ARUN KUMAR TYAGI)
JUDGE

01.03.2019
Vinay/Kothiyal

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No