IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2898 of 2016 (O&M)

Date of Decision: 12.03.2019

Ajitpal Singh and another

.....Appellants

Versus

Raj Kumar and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Urvashi Singh, Advocate for
Mr. Kanwar Pahul Singh,
for the appellants.

Ms. Shamsher Kaur, Advocate
for respondent No.3-Insurance Company

AVNEESH JHINGAN, J.(oral)

The award dated 1.9.2015 passed by Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal') has been assailed by the legal heirs of Palwinder Kaur @ Parminder Kaur.

Respondents are driver, owner and insurer (i.e. Oriental Insurance Company Limited) of Bus bearing registration No.KA-19-AD-4858 (for short 'the offending vehicle').

The facts are that on 22.4.2013 Gurmeet Singh was driving motor cycle bearing registration No.PB-02-AX-8417 and his wife was the pillion rider. They were going to Rayya, on the way the motor cycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, Gurmeet Singh died at the spot. Palwinder Kaur sustained injuries. She was taken to hospital but she died on the way. FIR No. 33 dated 22.4.2013 was lodged.

In the claim petition filed, it was pleaded that the deceased was 45 years old and was running a boutique and was earning ₹ 20,000/- per month but the claimants failed to substantiate the occupation and monthly earning of the deceased. The Tribunal considering her to be a house-wife assessed her notional income as ₹ 3000/- per month, 30% future prospects were awarded and 1/3rd deduction for self-expenses was made and multiplier of 14 was applied. The Tribunal awarded compensation of ₹ 6,11,800/- along with interest at the rate of 9% per annum. The amount awarded included ₹ 25,000/- for funeral expenses, ₹ 1,00,000/- for loss of love and affection and ₹ 50,000/- for loss of estate.

Learned counsel for the appellants contends that the monthly income assessed by the Tribunal is on lower side, no deduction for self-expenses be made.

Learned counsel for the insurer argues that the claimants failed to prove the occupation and earning of the deceased. As notional income was being assessed, no future prospects should have been awarded. He further contends that the amount awarded under the conventional heads are on the higher side and no amount is to be awarded for loss of love and affection.

Husband and wife both died in the same accident The deceased was survived by a son aged 21 years and a daughter aged 23 years, who was un-married. Unfortunate claimants lost their parents in the accident. Even though the claimants failed to prove the monthly earning and occupation of the deceased, the Tribunal considered her as a housewife. The role of a mother in Indian society cannot be under-estimated. It is very difficult to equate the contribution of a house maker in monetary terms. More so, when the children are at the stage of settlement and daughter is of marriageable age. Taking a clue from the minimum wages prevalent at the relevant time, the notional income of the deceased is assessed as ₹ 5,500/-. As this is notional income of a house wife, no deduction is to be made for self-expenses. Reliance in this regard is placed upon the decision of the Supreme Court ***Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others, 2013(4) PLR 328,*** wherein it has been held as under:

> *"15. After the decision in LataWadhwa's case (supra), the notional income of the housewife is estimated according totheir age. The notional income of the housewife was takento be Rs.3,000/- per month if she had been between the agegroup of 34 to 59 at the time of accident. The only riddlewhich is to be solved by us is as to whether 1/3rd cut shouldbe applied on the notional income or not? The answer tothis question is couched in the aforesaid extractedparagraph of the judgment of LataWadhwa's case (supra),as in that case, the Supreme Court was searching for amodest notional income of the housewife who was notearning an income but rendering multifarious serviceswhile managing all the chores of the family. Since it is acase where the Courts are confronted with the notionalincome of the housewife on account of her multifariousservices which not only includes rearing the children butalso performing all matrimonial obligations, in ourconsidered view, the deduction of 1/3rd out of her notionalincome is not warranted."*

As the deceased is being treated as a house maker and her notional income is being assessed, there is no occasion to grant future prospects as no deduction is being made for self-expenses. The Tribunal has rightly applied multiplier of 14 as per the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21.***

As the quantum of compensation is being revisited, the amount under the conventional heads is awarded in consonance with the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157***. The claimants are entitled to ₹ 15,000/- each for funeral expenses and for loss of estate.

In view of the above discussion, the compensation is recalculated as under:

Sr. No.	Particulars	Amount Awarded
1.	Monthly notional income	₹ 5,500/-
2.	Applying multiplier of 14 (5500x12x14)	₹ 9,24,000/-
3.	Conventional heads	₹ 30,000/-
4.	Total	₹ 9,54,000/-

The award dated 1.9.2015 is modified to the extent that amount of ₹ 6,11,800/- awarded by the Tribunal is enhanced to ₹ 9,54,000/-.

The claimants shall be entitled to enhanced amount alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

12.03.2019
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Whether speaking/reasoned Yes
Whether Reportable: Yes