

FAO No. 4286 of 2015 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 4286 of 2015 (O&M)

Date of Decision: November 27, 2019

Ashok Kumar and another

..... Appellants(s)

Versus

Kuldeep Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gulshan Nandwani, Advocate
for the appellants.

Service upon respondents no.1 & 2 dispensed with
vide order dated 02.06.2016.

Mr. Pradeep Kumar, Advocate
for respondent no.3.

LISA GILL, J.

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 09.01.2015, passed by learned Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal).

Appellants-claimants filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of Anuj Devi. The claimants are the husband and mother-in-law of the deceased. Learned Tribunal on considering the evidence on record concluded that Anuj Devi died due to the injuries received by her in the motor vehicle accident, which took place on 12.05.2013, due to the rash and negligent driving of the

offending car bearing registration No. RJ-02-CB-2220, by its driver Kuldeep Singh-respondent no.1. The deceased Anuj Devi was accepted to be a housewife besides a student of Ayurvedic Nursing at Nawalgarh. Learned Tribunal while assessing notional income of the deceased as Rs.4,000/- per month, awarded a sum of Rs.11,51,560/- to the claimants, which is detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income # 4,000 x 12	48,000/- per annum
2.	Total dependency after applying a multiplier of 18	48,000 x 18 = 8,64,000/-
3.	Loss of estate	5,000/-
4.	Funeral expenses	5,000/-
5.	Loss of love and affection/consortium	25,000/-
6.	Medical treatment	2,52,560/-
	Grand Total	Rs.11,51,560/-

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants submits that notional income of the deceased should be assessed as at least 10,000/- per month. It is further stated that under the conventional heads, the compensation be re-worked as per the judgments of **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680 and Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

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Learned counsel for respondents, however, submits that the impugned award dated 09.01.2015 does not call for any enhancement of the compensation as the same is just and reasonable in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

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

There is no dispute regarding the death of Anuj Devi, aged 20 years, in the motor vehicle accident, which took place on 12.05.2013, due to the rash and negligent driving of the offending car bearing registration No. RJ-02-CB-2220, by its driver Kuldeep Singh-respondent no.1. The appellants have claimed the deceased to be a student at Ayurvedic Nursing at Nawalgarh. The certificate issued by the Shiv Pyari Devi Runthla Ayurvedic Development Institute, Nawalgarh (Rajasthan) is on record as Ex.P36, which indicates admission of the deceased for the nursing course in the year 2012-2013. At the same time, it cannot be ignored that the deceased was indeed looking after her household work as well. Income of the deceased has been assessed as Rs.4,000/- per month, which is indeed unjustified in the given facts and circumstances of the case. The deceased was well educated. Her educational certificates Ex.P40 to Ex.P43 are on record. Even if she is taken to be a housewife, her income cannot be assessed as Rs.4,000/- per month. Notional income of a house wife in respect of an accident, which took place in the year 2011, has been assessed as Rs.7,000/- per month in FAO No.3395 of 2015 titled as ***Ved Parkash and others Vs. Ram Sarup and others***, decided on 08.10.2018. In the case of

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Harpal Kaur and others Vs. Parmod Kumar and another, FAO No.3680 of 2009, decided on 01.06.2016, income of Rs.9,000/- per month of a housewife, in respect to an accident which took place in 2013 has been upheld. Accident in the present case took place in May 2013. The deceased was only 20 years old at the time of the accident and was in the process of acquiring nursing skills. In this view of the matter, it is considered just and appropriate in the facts and circumstances of the case to assess the income of the deceased to be Rs.9,000/- per month instead of Rs.4,000/- per month.

At this stage, in all due fairness, I would refer to the objection raised by learned counsel for the insurance company in respect to the increment on account of future prospects. I do not find any merit in the argument that as income of the deceased has been taken to be that of a housewife and notional income assessed, thus there should be no increment towards future prospects. It cannot be ignored that the services of a housewife are multifarious and income is assessed accordingly as has been held by Hon'ble Supreme Court in a plethora of judgments. To say that the value of the service of a housewife would remain static and not increase, is indeed incorrect. Therefore, I do not find any justification or ground for not awarding increment towards future prospects in the case of a housewife. Deceased was 20 years old at the time of accident. She is thus, entitled to future prospects @ 40%.

In terms of the judgment of Division Bench in ***Paramjeet Singh and another Vs. Dilbag Singh alias Bagga and others***, FAO

No.3310 of 2012, decided on 16.05.2013, no deduction has to be effected. Multiplier of 18 was correctly applied by learned Tribunal. Instead of a sum of Rs. 5,000/- each awarded by the learned Tribunal on account of funeral expenses and loss of estate, appellants are entitled to Rs.15,000/- each on both these counts. Appellant no.1 is entitled to a sum of Rs.40,000/- towards loss of spousal consortium instead of Rs.25,000/- awarded to the claimants by the learned Tribunal on account of loss of love and affection and consortium.

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	9,000 p.m. i.e. ₹1,08,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,08,000 + (1,08,000 x 40%) = 1,51,200
3.	Total dependency after applying a multiplier of 18	1,51,200 x 18 = 27,21,600/-
4.	Funeral expenses	15,000
5.	Loss of estate	15,000/-
6.	Loss of spousal consortium to appellant no.1	40,000/-
	Grand Total	27,91,600/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. The rate of interest awarded by the learned Tribunal is maintained. Ratio of apportionment as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

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Appeal is accordingly disposed of.

November 27, 2019

Sunil

**(LISA GILL)
JUDGE**

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