

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

FAO No. 6374 of 2015 (O&M)

Date of decision : July 15, 2019

Sher Singh and others

.....Appellants

Versus

Buta Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.S. Momi, Advocate
for the appellants.

Service upon respondents No. 1 and 2 dispensed with
vide order dated 01.08.2017.

Mr. Davinder Kumar, Advocate for
Mr. P.K.S. Phoolka, Advocate
for respondent No. 3.

Mr. Sanjeev K. Arora, Advocate
for respondent No. 4.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as the 'Tribunal') on account of death of Bachint Kaur, vide award dated 27.02.2015.

Brief facts necessary for adjudication of the case are that the claimants i.e. husband and children of the deceased filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Bachint Kaur. It is pleaded that Bachint Kaur died in a motor vehicle accident, which took place on 28.10.2011 due to driving of the offending vehicle Bus bearing registration No. PB-31H-9955 driven by respondent No. 1 in a rash and negligent manner.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 28.10.2011 due to rash and negligent driving of the offending bus bearing registration No. PB-31H-9955 by respondent No. 1. Income of the deceased was assessed as ₹5,000/- per month. Multiplier of 14 was applied as the deceased was 42 years old at that time. Additionally, a consolidated sum of ₹1,00,000/- on account of loss of consortium, love and affection, funeral expenses and loss of estate was awarded. Learned Tribunal awarded a sum of ₹9,40,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as ₹5,000/- per month only. 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**. Meager 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 respondent No.4 – Insurance Company on the other hand prays for upholding the impugned award and submits that no ground is made out for further enhancement of the compensation.

Heard learned counsel for the parties and have gone through the file with their able assistance.

The deceased in this case is claimed to be doing dairy farming business but admittedly there is no evidence available on record to

substantiate this plea. At the same time, income of the deceased as assessed by the learned Tribunal is indeed required to be enhanced. This is so for the reason that even if deceased is taken to be a housewife, her income cannot be assessed as ₹5,000/- per month. It is a settled position of law that gratuitous services rendered by the housewife cannot be equated with that of a labourer or even a skilled worker. This Court in **Ved Parkash and others versus Ram Sarup and others, FAO No. 3395 of 2015**, decided on 08.08.2018, 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. Accident in the present case took place on 28.10.2011. In the present facts and circumstances, it is considered appropriate to assess the notional income of the deceased to be ₹7,000/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 25% (₹1750/-) is afforded as the deceased was 42 years old at the time of accident, which takes the income of the deceased to ₹8,750/- per month. In terms of judgment of Division of this Court in **Paramjit Singh and another versus 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. Applying a multiplier of 14, dependancy of the claimants is, therefore, assessed as ₹14,70,000/- (₹8750x12x14). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate besides the claimant – husband is entitled to ₹40,000/- on account of loss of spousal consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision dated 14.03.2019 of this

Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others,** appellants No. 2 to 4 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹15,80,000/- detailed as under:-

Loss of dependency (₹8750x12x14)	₹14,70,000/-
Loss of spousal consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Loss of parental consortium	₹40,000/-
Total	₹15,80,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the amount of compensation from the date of filing of the claim petition till realisation.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

July 15, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :
Whether reportable

:
:

Yes/No
Yes/No