

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

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FAO No.6289 of 2016 (O&M)

Date of decision: 13.05.2019

SWARANJIT SINGH DECEASED THR LRS

... Appellants

Versus

NAVIN KUMAR & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.

Mr. Ritesh Aggarwal, Advocate for respondent No.1.

Mr. Harjinder Singh, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.21187-CII of 2016

Prayer in this application is for condonation of delay of 224 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.1(i)-Narender Singh coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 224 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay, in case compensation is enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Parkash Kaur in a motor vehicular accident that took place on 29.01.2012.

The Tribunal awarded Rs.11,51,800, detailed hereunder:-

1. Monthly value of services of the deceased	Rs.2300/-
2. Multiplier	11
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.1,98,000/-
5. Expenses on funeral	Rs.20,000/-
6. Loss of estate	Rs.10,000/-
7. Loss of consortium	Rs.1,00,000/-
8. Loss of love and affection to claimants No.2 to 4	Rs.1,00,000/-
9. Medical expenses	Rs.30,000/-

The Tribunal has assessed value of services of the deceased @

Rs.2300/- per month in view of judgment passed by Hon'ble the Supreme Court **Arun Kumar Aggarwal and another Vs. National Insurance Company and others, 2010(3) RCR (Civil) 827**. In **Arun Kumar Aggarwal and another's case (supra)**, Hon'ble the Supreme Court has adverted in detail the services rendered by a house-maker to her family such as taking care of all requirements of husband and children including cooking of food, washing of clothes, teaching small children and providing invaluable guidance to them for their future life. It has also been held that a house keeper or maid servant can never be a substitute for a wife/mother to render selfless service to her husband and children. It is not possible to quantify the amount in view of services rendered by wife/mother to the family. As such, it is difficult to affirm findings of the Tribunal assessing value of services of the deceased at a paltry sum of Rs.2300/- per month even less than minimum wage of a casual worker whose status and position, in no circumstances, can be better vis-a-vis a house-maker. Taking a clue from notification issued by the State of Haryana fixing minimum wage coupled with multifarious duties to be performed by a house-maker and age of the deceased, interest of justice commands that value of services of the deceased is assessed at Rs.7000/- per month. No deduction for personal expenses would be made in the light of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730**. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,24,000/- (7000 x 12 x 11).

The Tribunal has awarded a sum of Rs.30,000/- for medical expenses on the basis of bills Exs.P22 to P33 and the same is affirmed. The claimants examined Jitender Singh PW8, Medical Record Technician from IVY Hospital, Mohali and he proved bill Ex.P47 valuing Rs.5,54,167/- out of which CSR/discount is Rs.18,150/- and the amount charged by the hospital is Rs.5,36,017/-. As per the bill, Parkash Kaur was admitted in the aforesaid hospital on 29.01.2012 and discharged on 18.02.2012. This bill contains details of heads under which different amounts were charged making total value of the bills to the tune of Rs.5,54,167/-. Though, the Tribunal in para 26 of award has made reference to bill Ex.P47, receipts

Exs.P3 to P21 and reliance not placed upon receipts Exs.P3 to P21 but no reasons have been assigned by the Tribunal as to why the claim in this regard to medical expenses on the basis of bill Ex.P47 is not sustainable. Counsel for the insurance company has not made any submission in order to counter plea of the claimants for seeking reimbursement of medical expenses on the basis of bill Ex.P47. In view of the above, claimants shall be entitle to an amount of Rs.5,36,000/- on account of medical expenses qua treatment of the deceased in IVY Hospital, Mohali from 29.01.2012 to 18.02.2012.

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.55,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of consortium	Rs.40,000/-

Total compensation is Rs.15,45,000/- and the additional amount is Rs.3,93,200/- (15,45,000 - 11,51,800). The insurance company shall be liable to pay the additional amount after adjusting the compensation already paid to the claimants. The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization, to be shared by claimants No.2 to 4 in equal ratio.

The appeal is partly allowed in the aforesaid terms.

13.05.2019

ashok

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No