

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

FAO No. 3440 of 2017

Date of Decision: May 09 , 2019.

Bawa Singh

..... APPELLANT (s)

Versus

Mehar Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Naveen Sharma, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No.3– Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to him by the learned Motor Accident Claims Tribunal, Rupnagar (for short, the 'Tribunal') vide impugned award dated 08.12.2016 on account of death of Smt. Roshan Kaur in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that claimant, who is the husband of the deceased, filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of death of his wife, Smt. Roshan Kaur, who lost her life in a motor vehicle accident

which took place on 24.11.2015. FIR No.105 dated 25.11.2015 (Ex.P1), under Sections 279/337/304A IPC, Police Station Kiratpur Sahib was registered against respondent No.1-driver.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of truck bearing registration No.HR-67-9469 by respondent No.1 –Mehtar Singh. The said finding of the learned Tribunal has attained finality.

Learned Tribunal while assessing income of deceased-Roshan Kaur, aged 66 years, to be ₹5,000/- per month, awarded a total sum of ₹2,01,000/- as compensation to the appellant vide impugned award dated 08.12.2016. Deduction of 1/3rd was effected. Multiplier of 5 was applied.

Aggrieved from the quantum of compensation, the present appeal has been preferred.

Learned counsel for the appellant argues that meagre compensation has been awarded by the learned Tribunal. Income of the deceased has been wrongly assessed as ₹5,000/- per month with reference to the income of a casual labourer and even minimum wage of the labourer was more than ₹5,000/- per month at the time of the accident. Furthermore, learned Tribunal has erred in effecting deduction, the deceased being a housewife. It is further submitted that no compensation under the conventional heads has been awarded. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3-Insurance company, on the other hand, refutes the abovesaid arguments. It is submitted that the deceased was 66 years old at the time of her death, therefore, income of the deceased has

been correctly assessed as ₹5,000/- per month. Reasonable and just compensation has been awarded by the learned Tribunal. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding death of Smt. Roshan Kaur in a motor vehicle accident which took place on 24.11.2015 due to the rash and negligent driving of the offending truck bearing registration No.HR-67-9469 by respondent No.1-Mehar Singh. Neither is there a dispute regarding liability of the Insurance company.

Deceased-Roshan Kaur was admittedly 66 years old at the time of her death. She is claimed to be a housewife. It is a settled position, that services of a housewife cannot be equated with that of a labourer. In the present case, the learned Tribunal with reference to the minimum wage of an unskilled labourer, assessed her income to be ₹5,000/- per month. Apart from the fact that even an unskilled labourer in the State of Punjab was earning about ₹7,000/- per month at the relevant time, as observed above, income of a housewife cannot be equated with that of an unskilled labourer. Services rendered by a housewife are multifarious. She renders invaluable services in her various facets/roles in a home. I do not find any merit in the argument raised by learned counsel for respondent-Insurance company that as the deceased was 66 years of age, she could not have been doing much work in the house. There is no such evidence on record to indicate that the deceased was unwell, unfit thus, unable to carry out her daily household chores required of a housewife.

This Court in FAO No.3395 of 2015 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. Keeping in view the facts and circumstances of the case, including the age of the deceased, her notional income is assessed as ₹7,000/- per month.

In view of the Division Bench judgment of this Court in **Paramjit Singh and another v. 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. Multiplier of 5 has been correctly applied. ₹15,000/- each is awarded towards funeral expenses and loss of estate. Appellant 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 Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018** as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (**Shri Ram General Insurance Company Ltd. v. Beant Kaur and others**).

Appellant is, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	7,000 p.m. i.e. ₹84,000/- per annum
2.	Total dependancy after applying a multiplier of 5	(84,000 x 5) = 4,20,000
3.	Loss of spousal consortium	40,000
4.	Loss of estate	15,000
5.	Funeral expenses	15,000
Grand Total		₹4,90,000/-

Needless to say, the amount already awarded by the learned Tribunal

shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest on the entire amount at the rate of 7.5% per annum, instead of 6%, from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

May 09 , 2019.
'om'

(LISA GILL)
JUDGE

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