IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2370 of 2018
DECIDED ON: MARCH 28, 2019

GURPREET SINGH AND ANOTHER

APPELLANTS

VERSUS

YADWINDER SINGH AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gurpreet Singh Sandhu, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for the respondent-Insurance Company.

*****

AVNEESH JHINGAN, J (ORAL):

The award dated 09.08.2017 passed by the Motor Accident Claims Tribunal, Bathinda (for brevity 'the Tribunal') has been assailed in appeal by legal heirs of Manjit Kaur seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act'). The appellants are the son and husband of the deceased.

The driver-cum-owner and insurer (i.e. United India Insurance Co. Ltd.) of car bearing registration No. HR-26-AS-5163 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No. 1

and 2 respectively in the appeal and two daughters of the deceased have been arrayed as proforma respondents No.3 and 4.

The brief facts necessary for adjudication of the present appeal are that on 02.05.2016, Gurpreet Singh alongwith Manjit Kaur was going to village Dhanaula on motorcycle bearing registration No. PB-03-Q-4158. On the way, the motorcycle was struck by the offending vehicle. As a result of the impact the riders of the motorcycle fell down and sustained multiple grievous injuries. Manjit Kaur was taken to Civil Hospital, Rampura from where she was referred to Civil Hospital, Bathinda but she succumbed to the injuries on the way to hospital. FIR No. 37, dated 03.05.2016 was registered at Police Station Tapa Mandi, District Barnala.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The driver-cum-owner and insurer of the offending vehicle were held jointly and severally liable to pay compensation.

In the claim petition it was pleaded that the deceased was 52 years of age old and earning ₹1500/- per month by selling milk. It was also claimed that the deceased was also earning ₹5000/- by doing house hold work. The claimants failed to prove occupation and monthly earning of the deceased. The Tribunal considered the deceased as house-wife and assessed the notional monthly earning of the deceased as ₹5000/-; and multiplier of '11' was applied. The Tribunal awarded a sum of ₹7,85,000/- alongwith interest @7% per annum. The amount awarded included ₹25,000/-

for funeral expenses and ₹1,00,000/- for loss of consortium.

Heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

Learned counsel for the appellants contends that income assessed by the Tribunal is on the lower side. His grievance is that no amount has been awarded on account of loss of estate.

Learned counsel for the insurer while defending the award resisted any further enhancement. He contends that the Tribunal has rightly assessed the monthly earning of the deceased, as the claimants failed to prove the same. He further contends that the amounts under the conventional heads be awarded in consonance with the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.***

In Indian society, role of a lady towards her family cannot be measured in monetary terms. She has roles as a mother and wife. She is not working for some financial benefit but it is her affection, sincerity and care towards her family that keeps her working round the clock.

The Supreme Court in ***Jitendra Khimshankar Trivedi and others Versus Kasam Daud Kumbhar and others*, (**2015) 4 SCC 237, has held as under:

> *"Even assuming Jayvantiben Jitendra Trivedi was not self employed doing embroidery and tailoring work, the fact remains that she was a housewife and a home maker. It is hard to monetize the domestic work done by a house mother.The services of the mother/wife is available 24 hours and her duties are never fixed.*

> *Courts have recognisedthe contribution made by the wife to the house is unvaluable and that it cannot be computed in terms of money. A housewife/home-maker does not work by the clock and she is inconstant attendance of the family throughout and such services rendered by the home maker has to be necessarily kept in view while calculating the loss of dependency."*

Having a clue from the minimum wages at the time of accident, monthly income of the deceased is assessed as ₹6500/- per month. As the notional income is being assessed, no deduction for self-expenses is to be made. Reliance in this regard is placed on the decision of Division Bench of this Court in ***Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others, 2014 (4) RCR (Civil) 895***, wherein it was held that no deduction for self expenses is to be made in case of notional income. Relevant para is quoted below:

> *"15. After the decision in Lata Wadhwa'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 age group of 34 to 59 at the time of accident. The only riddle which is to be solved by us is as to whether 1/3rd cut should be applied on the notional income or not? The answer to this question is couched in the aforesaid extracted paragraph of the judgment of Lata Wadhwa's case (supra), as in that case, the Supreme Court was searching for a modest notional income of the housewife who was not earning an income but rendering multifarious services while managing all the chores of the family. Since it is a case where the Courts are confronted with the notional*

income of the housewife on account of her multifarious services which not only includes rearing the children but also performing all matrimonial obligations, in our considered view, the deduction of 1/3rd out of her notional income is not warranted."

In consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** multiplier of '11' has rightly been applied by the Tribunal.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in ***Pranay Sethi's*** case (supra). The claimants are entitled to ₹15,000/- each for loss of funeral expenses and for loss of estate. Another sum of ₹40,000/- is awarded for loss of consortium.

In view of above discussion, compensation is re-calculated as under:

	Head	**Compensation awarded**
(i)	Monthly income	₹ 6500/- per month
(ii)	Annual Income	₹ 78000/- per annum
(iii)	Multiplier	11 (as per age of deceased)
(iv)	Loss of income	78000x11= ₹8,58,000/-
(v)	Funeral expenses	₹15,000/-
(vi)	Loss of estate	₹15,000/-
	Loss of consortium	₹40,000/-
	Total Compensation awarded	₹9,28,000/-

The award dated 09.08.2017 is modified to the extent that amount of ₹7,85,000/- awarded by the Tribunal is enhanced to ₹9,28,000/-.

The appellants shall be entitled to the enhanced amount alongwith interest @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 afore-said terms.

(AVNEESH JHINGAN)
JUDGE

MARCH 28, 2019
sham

Whether speaking/reasoned ***Yes***
Whether reportable ***Yes***