

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

FAO No. 2633 of 2018 (O&M)

Date of decision : December 02, 2019

Tejinder Kumar and others

.....Appellants

Versus

Balwinder Singh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajeev Dev Sharma, Advocate
for the appellants.

Service upon respondent No. 1 dispensed with
vide order dated 06.02.2019.

Mr. Aman Mittal, Advocate for
Mr. A.S. Sidhu, Advocate
for respondent No. 2.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as the 'Tribunal') on account of death of Kamli @ Kamla Devi, vide award dated 26.05.2017.

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 Kamli @ Kamla Devi. It is pleaded that Kamli @ Kamla Devi died in a motor vehicle accident, which took place on 20.08.2016 due to driving of the offending vehicle Truck bearing registration No. HP-72-2139 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 20.08.2016 due to rash and negligent driving of the offending Truck bearing registration No. HP-72-2139 by respondent No. 1. Income of the deceased was assessed as ₹72,000/- per annum. Multiplier of 14 was applied. Additionally, a sum of ₹1,00,000/- each on account of loss of consortium as well as love and affection was awarded. A sum of ₹25,000/- was awarded towards funeral expenses. Learned Tribunal awarded a sum of ₹8,97,000/- 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 ₹72,000/- per annum. 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** and compensation under the conventional heads may be re-worked. It is, thus, prayed that compensation awarded to the appellants be enhanced.

Learned counsel for respondent No.2 – 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 tailoring and dairy work 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 ₹72,000/- per annum. 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. In the case of **Ved Parkash and others versus Ram Sarup and others, FAO No. 3395 of 2015**, decided on 08.08.2018, income of a housewife has been assessed to be ₹7,000/- per month, in respect to an accident which took place in the year 2011. Since the accident in the present case took place on 20.08.2016, keeping in mind the increase in price index, it would be appropriate to assess the notional income of the deceased to be ₹9,000/- 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% (₹2250/-) is afforded as the deceased was 42 years old at the time of accident, which takes the income of the deceased to ₹11,250/- 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 ₹18,90,000/- (₹11250 x12x14). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000/-) and loss of estate besides the claimant – husband is entitled to ₹40,000/- on account of loss of spousal consortium (instead of ₹1,00,000/-). The appellants are not entitled to a sum of ₹1,00,000/- towards loss of love and affection. 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 and 3 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 ₹20,00,000/- detailed as under:-

Loss of dependency (₹11250 x12x14)	₹18,90,000/-
Loss of spousal consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Loss of parental consortium	₹40,000/-
Total	₹20,00,000/-

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 enhanced 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.

December 02, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :
Whether reportable

Yes/No
:
Yes/No