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

FAO No. 6329 of 2017 (O&M)
Date of decision : January 16, 2019

Bhag Singh and another .....Appellants

Versus

Punjab Roadways and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Gunjan Gera, Advocate
for the appellants.

Mr. Arun Koundal, DAG, Punjab

Mr. Rohit Goswami, Advocate
for respondent No. 3.

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LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Fatehgarsh Sahib (hereinafter referred to as the 'Tribunal') on account of death of Manjit Kaur vide award dated 24.01.2017.

Brief facts necessary for adjudication of the case are that the claimants i.e. husband and son of the deceased filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Manjit Kaur on 31.12.2015 in a motor vehicle accident caused due to driving of the offending vehicle Bus bearing registration No. PB-29G-9645 driven by respondent No.2 in a rash and negligent manner. It was averred that Manjit Kaur alongwith her husband was waiting on the side of the road after de-boarding a bus at Dhuri Line, Ludhiana. It was averred that at about 11.40 a.m. the offending vehicle, i.e. bus bearing registration No. PB-29G-

9645 being driven by respondent No. 2 in a rash and negligent manner and at a high speed came and struck against Manjit Kaur. Due to this impact, she fell on the road and sustained injuries. She was taken to the hospital but succumbed to her injuries on the way. The deceased, aged 36 years at the time of the accident, was stated to be running a boutique earning a sum of ₹15,000/- per month.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 31.12.2015 due to rash and negligent driving of the offending bus bearing registration No. PB-29G-9645 by respondent No. 2. Income of the deceased was assessed as ₹5,000/- per month. Multiplier of 15 was applied as the deceased was 36 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded, besides a sum of ₹25,000/- on account of funeral expenses. Learned Tribunal awarded a sum of ₹9,00,000/- with interest at the rate of 7% 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. Moreover, even if notional income of a house-wife is calculated, ₹5,000/- per month is very less. 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***. Meagre 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.3 – 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 running a boutique but admittedly there is no documentary or oral evidence available on record to substantiate this plea. At the same time, income of the deceased as assessed by the learned Tribunal is 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 **Harpal Kaur and others vs Parmod Kumar and another**, FAO No.3680 of 2009, decided on 1.6.2016, has upheld ₹9,000/- per month as income of a housewife in respect to an accident which took place in 2013. Accident in the present case took place on 31.12.2015. Income of the deceased is, accordingly, assessed as ₹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 40% (₹3600/-) is afforded as the deceased was 36 years old at the time of accident, which takes the income of the deceased to ₹12,600/- 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 15, dependancy of the claimants is, therefore, assessed as ₹22,68,000/- (₹12,600x12x15). 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 others** (Civil Appeal No. 9581 of 2018), appellant No. 2 i.e. son of the deceased is entitled to ₹40,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹23,78,000/- detailed as under:-

Loss of dependency (₹12,600x12x15)	₹22,68,000/-
Loss of spousal consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Loss of parental consortium	₹40,000/-
Total	₹23,78,000/-

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.

Insurance company, it is noticed, has been afforded the right to recover the amount from respondent No. 1 – Punjab Roadways. There is no challenge to the same and the same is, accordingly, maintained.

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

(Lisa Gill)
Judge

January 16, 2019
rts

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