THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5682 of 2018 (O&M)
Date of decision:11.01.2019.

IFFCO TOKIO General Insurance Co. Ltd.

...Appellant

Versus

Daya Ram and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vishal Aggarwal, Advocate for the appellant.

LISA GILL, J.

This appeal has been filed by the Insurance Company challenging quantum of compensation awarded to claimants/respondents No.1 to 3 by the learned Motor Accident Claims Tribunal, Narnaul (for short, the `Tribunal') vide award dated 23.05.2018 on account of death of Saroj Devi.

Claimants, who are sons and husband of the deceased, filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short, the 'Act') seeking compensation on account of death of Saroj Devi due to injuries received by her in a motor vehicle accident which took place on 07.04.2016. FIR No.88 dated 07.04.2016 was registered under Sections 279 and 304-A IPC against respondent No.4-Bir Singh. The deceased was claimed to be earning Rs.30,000/- per month from the work of sewing of ladies' clothes and agricultural work, besides, performing domestic chores. Compensation was thus prayed for.

The 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 the offending vehicle by its driver, respondent No.4.

Learned Tribunal further concluded that deceased-Saroj Devi was a house wife. Her income was assessed as 1/3rd of the income of her husband in terms of the judgment of Hon'ble Supreme Court in Arun Kumar Aggarwal and another v. National Insurance Company and others, *2010 (4) LJR 790.* Husband of the deceased was admittedly a Government employee i.e., a constable in Rajasthan Police, drawing a salary of Rs.42,900/- per month. Accordingly, notional income of the deceased was assessed at Rs.14,300/- per month. Deduction of 1/3rd towards personal expenses was effected. Multiplier of 14 was applied. An amount of Rs.15,000/- each was awarded towards loss of estate and funeral expenses, besides, Rs.40,000/- towards loss of consortium. Thus, the claimants were held entitled to a total compensation of Rs.16,71,544/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellant argues that income of the deceased has been wrongly assessed at Rs.14,300/- per month, whereas minimum wage in the States of Rajasthan as well as Haryana at the time of accident were much less than the income assessed. Therefore, notional income of the deceased should be assessed at a much lower rate. Moreover, deduction of 1/2nd should be effected.

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

It is a settled position that income of a housewife cannot be equated to that of a minimum wager or a labourer. Gratuitous services rendered by house wife are not comparable with those of a casual labour or skilled worker.

Hon'ble Supreme Court in Arun Kumar Aggarwal's case (supra) has held in para No.32 as under: -

"In our view, it is highly unfair, unjust and inappropriate to compute the compensation payable to the dependents of a deceased wife/mother, who does not have regular income, by comparing her services with that of a housekeeper or a servant or an employee, who works for a fixed period. The gratuitous services rendered by wife/mother to the husband and children cannot be equated with the services of an employee and no evidence or data can possibly be produced for estimating the value of such services. It is virtually impossible to measure in terms of money the loss of personal care and attention suffered by the husband and children on the demise of the housewife. In its wisdom, the legislature had, as early as in 1994, fixed the notional income of a non-earning person at Rs.15,000/- per annum and in case of a spouse, 1/3rd income of the earning/surviving spouse for the purpose of computing the compensation. Though, Section 163-A does not, in terms apply to the cases in which claim for compensation is filed under Section 163-A of the Act, in the absence of any other definite criteria for determination of compensation payable to the dependents of a non-earning housewife/mother, it would be reasonable to rely upon the criteria specified in clause (6) of the Second Schedule and then apply appropriate multiplier keeping in view the judgments of this Court in General Manager Kerala State Road Transport Corporation v. Susamma Thomas (Mrs.) and others (supra), U.P. S.R.T.C. v. Trilok Chandra (supra), Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another (supra) and also take guidance from the judgment in Lata Wadhwa's case. The approach adopted by different Benches of Delhi High Court to compute the compensation by relying upon the minimum wages payable to a skilled worker does not commend our approval because it is most unrealistic to compare the gratuitous services of the housewife/mother with work of a skilled worker."

Therefore, learned Tribunal has rightly assessed notional income of the deceased as Rs.14,300/- i.e. 1/3rd of the salary of her husband.

Learned counsel for the appellant is unable to point out any infirmity or illegality in the impugned award dated 23.05.2008 passed by the learned Motor Accident Claims Tribunal, Narnaul which calls for interference by this Court.

No other argument has been raised.

Accordingly, the appeal is dismissed with no order as to costs.

Statutory amount be remitted to the learned Tribunal for disbursal to the claimants.

(LISA GILL)
JUDGE

11.01.2019
'Ishwar/om'

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No