

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

F.A.O No. 8645 of 2017

Date of decision:- 04.10.2019

Rinku and others.

...Appellants

Versus

Naresh Kumar @ Nachi & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Arun Sharma, Advocate
for the appellants.

Mr. Naveen Gupta, Advocate
for respondent No. 1 and 2.

Mr. Amit Goyal, Advocate for respondent No. 3

RITU BAHRI J.

1. The present appeal has been preferred by the appellants (for short 'the appellant') against the award dated 16.03.2017 passed by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') whereby learned Tribunal has granted the compensation to the appellants to the tune of Rs.7,98,000/-.

FACTS NOT IN DISPUTE

2. On 20.02.2016, deceased Mrs. Sapna Devi along with her husband started going from his village Kalpi for Nahoni on his splendor plus motor cycle bearing registration No. HR01-AD-0940, which was being driven by her husband on his correct left side of road. The deceased was travelling as pillion rider. When they reached near Nahono, District Ambala towards Saha Link road, in the meantime, a tata dumper bearing registration No. HR-55-S-6469 came from behind and struck against the motorcycle of the husband of the deceased. Due to which they fell down on the road and

the deceased came under rear tyre of Tata Dumper. F.I.R No. 24 dated 20.02.2016 u/ss 279/304-A IPC was registered at P.S. Mullana against Naresh Kumar.

3. The learned tribunal held that the deceased was 21 years old and was a house wife. She was held to be earning Rs. 3000/- per month. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.3000/- per month
(ii)	Compensation after multiplier of 18 is applied	Rs.3000 X 12 X 18= Rs.6,48,000/-
(iii)	Loss of consortium	Rs.1,00,000/-
(iv)	Funeral Expenses	Rs.25,000/-
(v)	Loss of love and affection	Rs.25,000/-
	Total compensation	Rs.7,98,000/-

4. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced. Learned counsel submits that the Tribunal has erred in law by taking the income of the deceased at Rs.3000/- per month only.

5. On the other hand, the learned counsel for the respondent has vehemently opposed the present appeal.

6. I have heard learned counsel for the parties and perused the record.

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured with the Insurance company.

8. Reference at this stage can be made to a judgment of this Court in a case of ***United India Insurance Co. Ltd vs. Sube Singh and others,***

passed in FAO No. 218-2014, decided on 15.01.2014 wherein this Court while dismissing the appeal filed by the Insurance Company against the award of the Tribunal wherein the Tribunal took the income of a house wife at Rs.9000/- per month, held that to tag a house wife as skilled labour alone does not do complete justice to her multifarious role as home manager. House wife is something more than mere skilled worker and it would not be reasonable to estimate contribution of deceased at high figure. The SLP filed against the said judgment has also been dismissed.

9. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.9000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.9000+Rs.3600=Rs.12600/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.12600-Rs.4200=Rs.8400 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.8400 X 12 X 18= Rs.18,14,400/-
(v)	Conventional heads (Loss of estate, loss of consortium and funeral expenses)	Rs.70,000/-
(vi)	Loss of filial consortium (mother-in-law)	Rs.40,000/-
(vii)	Loss of consortium (child)	Rs.40,000/-
(viii)	Total Compensation awarded	19,64,400/-
	Enhanced amount of compensation	Rs.19,64,400-Rs.7,98,000= Rs.11,66,400/- (rounded off to Rs.11,66,000/-)

10. Resultantly, the enhanced amount of compensation of **Rs.11,66,000/-** shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of judgment of Hon'ble the

Apex Court in Civil Appeal No. 4528-2019 titled as *Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019*. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

11. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

04.10.2019
G Arora

(*RITU BAHRI*)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>