IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3382-2008
Date of decision: 19.04.2022

Raj Kumar and another .... Appellants

Versus

Balbir Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Mr. Anil Mehta, Senior Standing Counsel, U.T. Chandigarh with
Mr. Lajwant Virk, Additional Standing Counsel
for respondent No.2-CTU.

Mr. D.P. Gupta, Advocate and
Mr. Shubham Gupta, Advocate
for respondent No.3-Insurance Company.

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PANKAJ JAIN, J.

Claimants are in appeal seeking modification of award dated 16.04.2008 passed by MACT, Chandigarh whereby compensation of Rs.37,000/- alongwith interest @ 7.5% per annum (to be calculated from the date of filing of the claim petition till actual realization) has been awarded on account of death of their mother Jwali Devi.

2. Claim petition under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act') was filed by the appellants seeking compensation on account of their mother Jwali Devi (hereinafter referred to as the deceased), who died in a motor vehicular accident on 10.06.2005. It was claimed that while deceased alongwith her grand son was going from Shahbad to Ropar, she was looking for bus to go to Ropar from Chandigarh. She met with an accident at ISBT, Sector-17, Chandigarh with bus No.CH-01-G-5790. It has been stated that bus was being driven at high speed rashly and negligently

when it struck the deceased and crushed her. Jwali Devi died on account of multiple injuries suffered by her in the accident. The bus was not insured thus, the compensation has been awarded against respondents No.1and 2 jointly and severally.

3. MACT, Chandigarh while granting compensation, came to the conclusion that the deceased was 70-80 years of age. Her income has been assessed @ Rs.12,000/- per annum with the deduction of 1/3rd. Multiplier of 4 has been awarded, apart from awarding Rs.2,500/- as funeral expenses and Rs.2,500/- as loss to the estate.

4. While assailing the award passed by MACT, Chandigarh, counsel for the claimants has relied upon law laid down by Supreme Court in the case of **'Lata Wadhwa vs. State of Bihar'** reported as **2001 ACJ 1735** to claim that the deceased was a housewife and thus her income ought to have been assessed @ Rs.20,000/- per annum. It needs to be noticed that though initially the service of respondents No.1 and 2 was dispensed with vide order dated 11.12.2008, but today on the asking of the Court, Senior Standing Counsel, U.T. has appeared and has stated no objection to argue the appeal finally.

5. Mr. Mehta, Senior Standing Counsel has argued that the deceased was 80 years of age and thus multiplier of 4 has been rightly awarded. She being dependent on her grand children even for her own chores, the income assessed @ Rs.12,000/- per annum is on higher side.

6. I have heard learned counsel for the parties and have carefully gone through the record of the case.

7. Admittedly, the claim petition has been filed under Section 163-A of the Act, thus the issue of rashness and negligence is inconsequential. Moreover, the issue having been decided in favour of the claimants and no appeal having been preferred by the respondents, thus this Court may not delve

on to the same. Consequently, finding on issue No.1 is maintained. Coming on to the compensation part adjudicated under issue No.2, in the considered opinion of this Court, the income of the deceased has been assessed at a lower side. Supreme Court in the case of Lata Wadhwa (supra) held that:-

> "So far as the deceased housewives are concerned, in the absence of any data and as the housewives were not earning any income, attempt has been made to determine the compensation, on the basis of services rendered by them to the house. On the basis of the age group of the housewives, appropriate multiplier has been applied, but the estimation of the value of services rendered to the house by the housewives, which has been arrived at Rs.12,000/- per annum in cases of some and Rs.10,000/- for others, appears to us to be grossly low. It is true that the claimants, who ought to have given datas for determination of compensation, did not assist in any manner by providing the datas for estimating the value of services rendered by such housewives. But even in the absence of such datas and taking into consideration, the multifarious services rendered by the housewives for managing the entire family, even on a modest estimation, should be Rs.3000/- per month and Rs.36,000/- per annum. This would apply to all those housewives between the age group of 34 to 59 and as such who were active in life. The compensation awarded, therefore should be re-calculated, taking the value of services rendered per annum to be Rs.36,000/- and thereafter applying the multiplier, as has been applied already, and so far as the conventional amount is concerned, the same should be Rs.50,000/- instead of Rs.25,000/- given under the Report. So far as the elderly ladies are concerned, in the age group of 62 to 72, the value of services rendered has been taken at Rs.10,000/- per annum and multiplier applied is eight. Though, the multiplier applied is correct, but the values of services rendered at Rs.10,000/- per annum, cannot

> be held to be just and, we, therefore, enhance the same to Rs.20,000/- per annum. In their case, therefore, the total amount of compensation should be re-determined, taking the value of services rendered at Rs.20,000/- per annum and then after applying the multiplier, as already applied and thereafter adding Rs.50,000/- towards the conventional figure.

8. One more thing that needs to be noticed is that in the case of Lata Wadhwa, the date of accident was 03.03.1989 whereas in the present case, the date of accident is 10.06.2005.

9. Apex Court in the case of **Deepal Girishbhai Soni vs. United India Insurance Company Limited** reported as (2004) 5 SCC 385, while noticing objects and reasons behind insertion of Section 163-A held that:-

> "Section 163-A was introduced in the year 1994. The executive authority of the Central Government has the requisite jurisdiction to amend the Second Schedule from time to time. Having regard to the inflation and fall in the rate of bank interest; it is desirable that the Central Government bestows serious consideration to this aspect of the matter."

10. Thus in view of aforesaid ratio of law, the income of the deceased is assessed @ Rs.20,000/- per annum which shall have further component of 40% for future prospects. The deceased being more than 65 years of age, the multiplier applicable will be of 5. Keeping in view the large family of the deceased, 1/4th deduction shall be made to calculate dependency. Claimants are further held entitled to Rs.10,000/- as funeral expenses and Rs.30,000/- each as loss of consortium and Rs.10,000/- as loss to the estate.

11. The present appeal thus stands allowed and the award dated 16.04.2008 passed by MACT, Chandigarh impugned under the present appeal

stands modified to the extent as stated herein above.

12. Since the main case has been decided, the pending miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

19.04.2022
Dinesh

Whether speaking/reasoned	:	Yes
Whether Reportable	:	No