IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-548-2019 (O&M)

Reserved on: 16.12.2022

DATE OF PRONOUNCEMENT:21.12.2022

Mahesh Kumar and ors. …………Appellants

Versus

Satyaveer Singh and others ……..…Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Bhupinder Singh, Advocate for
Mr. P.S. Chauhan, Advocate for the appellants.

Ms. Deepika, Advocate for
Mr. S.K. Yadav, for respondents No.1 & 2.

Mr. Vinod Gupta, Advocate
for respondent No.3- Insurance Company.

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HARKESH MANUJA, J.

The present appeal lays challenge to an award dated 03.10.2018 passed by the learned Motor Accident Claims Tribunal, Rewari (in brevity, 'the Tribunal'), whereby compensation of Rs.10,30,000/- has been awarded to the appellants/ claimants along with interest @ 9% per annum.

On account of death of Ravita in road a accident on 29.07.2017, a claim petition was filed before the learned Tribunal wherein it was held by the learned Tribunal that accident took place due to rash and negligent driving of the respondent No. 1/ driver. Learned Tribunal, on account of her multifarious services towards the family, assessed her notional income as Rs. 5,000/- per month and awarded compensation in the following manner-

S.No	Heads of Claim	Amount (in Rs)
1.	Loss of dependency	Rs.9,60,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
3.	Loss of consortium	Rs.40,000/-
	Total	Rs. 10,30,000/-

Being aggrieved against the award dated 03.10.2018, the present appeal has been preferred by the appellants/ claimants, praying for enhancement of compensation on account of loss of dependency and loss of consortium.

Learned counsel for the appellants contends that in the present case the notional income of the deceased- house wife should have been assessed at least equal to the minimum wages of a skilled labourer at the relevant time. In support of his contention, he places reliance upon **"Lata Wadhwa and others vs. State of Bihar and others"** reported as (2001)8 SCC 197, **"New India Assurance Company Ltd. vs Nazar Singh and others"** reported as 2019(4) R.C.R. (Civil) 939, **"Sher Singh and others vs Buta Singh and others"** reported as 2019 (5) R.C.R. (Civil) 897 and **"Reliance General Insurance Company Ltd. vs Puran Singh and others"** reported as 2021 ACJ 1078. He further contends that no future prospects have been awarded while in view of **"National Insurance Company Vs. Pranay Sethi and others"**, reported as 2017(4) RCR (Civil) 2009, future prospects @40% should have been awarded. With respect to conventional heads, he contends that no compensation has been awarded on account of parental consortium.

On the other hand, learned counsel of respondent No. 3 / Insurance Company contends that notional income of the deceased housewife has been appropriately considered by the learned Tribunal so as to assess the just and fair compensation. He further contends that if no deduction has been made on account of personal expenses, no future prospects are liable to be awarded and if future prospects are awarded, then deduction on account of personal expenses has to be made.

I have heard learned counsel for the appellant and gone through the paper book. I find force in the argument raised by learned counsel for the appellants, which are supported by the reasoning given in the judgements cited by him. Apart from that, a housewife deftly manages daily house chores apart from taking care of each and every family member. She maintains budgetary expenses, she takes care of food and other choices of all the family members, while for children she acts as a guide as well as a friend, at the same time she is an emotional support for all elderly members as such her contribution towards the family is unparalled and has to be assessed appropriately. Therefore, in the present case, on account of these multifarious activities in the shape of services by the deceased to the family, her notional income shall be assessed at least equal to a skilled labourer which in Haryana at relevant time was approximately Rs. 9,000/- per month.

With respect to the argument made by learned counsel for respondent No. 3 / Insurance Company that if future prospects are awarded, deduction on account of personal expenses shall also be made, I am unable to accept the same. He has not been able to bring out any relationship between future prospects and deduction on account of personal expenses to buttress his argument. While deduction on account of personal expenses is on the basis that from his income, deceased would have spent a part of it on his self care, while future prospects are awarded to compensate the rising cost of living. So, no cogent reasoning has come from him to show why both these aspects should go hand in hand.

Even this court in case of **“Paramjit Singh and another vs Dilbagh Singh alias Bagga and others”** in FAO No. 3310 of 2012 decided on 16.05.2013, held that when notional income of a housewife is assessed as monthly value of her services and not her monthly income, the concept of deduction cannot be applied and in **Sher Singh’s** case (supra) future prospects has been awarded, while no deduction has been made on account of personal expenses. In view of the aforestated judgements, this court is bound to make no deduction on account of personal expenses. Apart from that, when notional income is assessed on account of monthly value of the services rendered by the deceased towards the family members, assessment is equivalent to contribution towards family rather than income and on that basis also, no deduction is required to be made.

Therefore in view of **Pranay Sethi’s case** (supra) as the age of the deceased was 35 years at the time of accident, future prospects are awarded at the rate 40%.

With respect to consortium as well, submission made by the learned counsel for the appellants has merit as only spousal consortium has been awarded, and no parental consortium has been awarded. As there are two children of the deceased, parental consortium of Rs 88,000/- (Rs.44,000/- each) is awarded. As per **Pranay Sethi's** case (supra), appellants are also entitled for Rs.16,500/- each on account of funeral expenses as well as loss of estate, instead of Rs.15000/- as awarded by the Tribunal.

In view of what has been stated hereinabove, the appellants/claimants shall be entitled for the grant of following compensation:-

Sr.No.	***Nature***	***Amount in Rupees***
1.	*Annual Income of deceased*	*Rs.1,08,000/-*
2.	*Add 40% of Future prospects*	*Rs.43,200/-*
3	*Total Income (Rs. 1,08,000/- + Rs. 43,200)*	*Rs.1,51,200 /-*
5.	*Multiplier of 16 as per age of 35 years (Rs. 1,51,200 /- X 16)*	*Rs.24,19,200/-*
7.	*Funeral Expenses*	*Rs.16,500/-*
8.	*Loss of Consortium (Rs.44,000x2 + 40,000)*	*Rs.1,28,000/-*
9.	*Loss of Estate*	*Rs.16,500/-*
	Total Compensation	*Rs.25,80,200/-*
	Amount Awarded by the Tribunal	*Rs.10,30,000/-*
	Enhanced Amount	*Rs.15,50,200/-*

Disposed off in the above terms.

Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

December 21, 2022
Sonika

Whether speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*