

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

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FAO-554-1995

Date of decision: 18.12.2023

Atma Singh and others

.....Claimant-Appellants

Versus

Malkiat Singh @ Jagjit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.4-Insurance Company.

AMAN CHAUDHARY, J.

1. The present appeal has been filed by the claimant-appellants for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Bathinda (for short 'the Tribunal') vide award dated 03.10.1994, on account of death of Karamjit Kaur in a motor vehicular accident.
2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for more than 28 years, the counsel for respondent No.4 has no objection, if the same is decided on the basis of the available record.
3. It has been averred in the grounds of appeal that the deceased, 24 years old at the relevant time, was a household lady, looking after and managing the domestic affairs of her family and therefore her income should have been assessed to the extent of Rs.1000/- per month. She left behind husband and three minor daughters. The compensation awarded by the Tribunal is on the lower side.

4. On the other hand, learned counsel for respondent No.4 submits that the Tribunal has assessed the compensation in light of the evidence led by the claimant-appellants, thus, prays for the dismissal of the present appeal.

5. Heard and perused.

6. It is not disputed that the death of the deceased-Karamjit Kaur had occurred in a roadside accident caused by respondent No.1 and at that time she was having a pregnancy of about four months and her postmortem examination was conducted at the Civil Hospital, Bathinda. Pertinently, there is no challenge to the factum of the accident and manner of its taking place, as well as liability fastened upon the driver and insurer to be joint and several, thus, no further scrutiny is warranted.

7. Before proceedings further to consider the matter regarding enhancement of compensation in case of the deceased being a homemaker, a profitable reference can be made to the judgment in **Kirti vs. Oriental Insurance Co. Ltd.**, (2021) 2 SCC 166, wherein Hon'ble the Supreme Court has held thus:

“41. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarised as follows:

41.1. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.

41.2. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.

41.3. Various methods can be employed by the court to fix the notional income of a homemaker, depending on

the facts and circumstances of the case.

41.4. The court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

41.5. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.”

8. As per the pleadings in the claim petition, the deceased was a household lady, who was looking after and managing domestic affairs of the family and she was helping in the earning to the extent of Rs.1000/- per month and her husband claimant No.1 suffered a loss of the aforesaid amount, since he was to look after the minor claimants, for that purpose had to remain absent from his agriculture work. There was also no other female member in the family to look after the minors, who were their daughters, aged 6 years, 4 years and 2 years. In wake of there being no rebuttal to the aforesaid, Rs.1000/- can safely be taken as her monthly income. Gainfully referring to **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009(3) RCR (Civil) 77, **National Insurance Company Limited vs. Pranay Sethi and others** 2017(4) RCR (Civil) 1009, **Janabai vs. ICICI Lambord Insurance Co. Ltd.**, (2022) 10 SCC 512 and also **Kirti** (supra), this Court holds the appellants entitled to enhanced compensation, by granting them future prospects to the extent of 40% and also for the compensation under the conventional heads i.e. Rs.18,000/- for funeral expenses; Rs.1,44,000/- (48,000 x 3) for filial consortium to three minor daughters and Rs.48,000/- loss of consortium to husband. As the deceased was 24 years of age, the multiplier of 18 should be applied and there being four dependents, the deduction of 1/4th ought to be made towards personal expenses of the deceased.

9. Consequently, the total compensation comes to Rs.4,36,800/-

(Rs.1000/- (monthly income) + 40% (towards future prospects) - 1/4 (deduction) x 12 x 18 (multiplier) + Rs.2,10,000/- (conventional head). Thus, the enhanced compensation of Rs.3,86,800/-, over and above the amount of Rs.50,000/- already awarded by the Tribunal, alongwith interest at the rate of 7.5% per annum from the date of filing of the present appeal, till its realization, shall be paid to the claimant-appellants by the respondent, as ordered by the Tribunal, within a period of 2 months from the date of receipt of a certified copy of this judgment. Failing which, the amount shall accrue an interest as awarded by the Tribunal.

10. Modifying the award to the aforesaid extent, the present appeal is disposed of.
11. Registry is directed to send a copy of the order to the concerned Tribunal for necessary compliance.

18.12.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No