

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) FAO-779-2001 (O&M)

Judge Singh and another
...Appellants

VERSUS

M/s Gurpreet Bus Service and others
...Respondents

(ii) FAO-1136-2001 (O&M)

Sukhwinder Singh and another
...Appellants

VERSUS

M/s Gurpreet Bus Service and others
...Respondents

Date of Decision: November 06, 2023

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.S.S.Salar, Advocate,
 for the appellants.

 Mr.Pardeep Goyal and Ms.Simran, Advocates
 for respondent No.4.

ARCHANA PURI, J.

These two above captioned appeals have been filed by the appellants-claimants, thereby, seeking enhancement of the compensation, granted by learned Tribunal, on account of death of Gurpreet Singh and Suresha Rani, in a motor vehicular accident, which took place on 31.07.1997.

The respective claim petitions filed by the appellants-claimants were consolidated and disposed of by common Award dated 02.11.1999.

FAO-779-2001 relates to the Award passed qua death of Gurpreet Singh and **FAO-1136-2001** relates to the Award passed qua death of Suresha Rani.

On appraisal of the evidence, brought on record, learned Tribunal, vide impugned Award, had granted compensation to the extent of Rs.84,000/-, on account of death of Gurpreet Singh and Rs.2,50,000/-, on account of death of Suresha Rani.

So far as the fact of accident and manner of its taking place, as well as liability fastened upon the driver, owner and insurer of the offending vehicle, to be joint and several are concerned, it is pertinent to mention that no appeal has been filed by the persons, so made liable to challenge the Award and thus, this issue does not warrant any further scrutiny.

So far as **FAO-779-2001** is concerned, relating to the death of Gurpreet Singh, it is submitted by learned counsel for the appellants-claimants that deceased Gurpreet Singh was 19 years old at time of accident. He was assisting in agriculture work as well as running a dairy farm and therefore, his earnings taken by learned Tribunal as Rs.2,000/- per month, is meagre. Besides the same, it is submitted that even though, deceased Gurpreet Singh was unmarried boy, the deduction, at the maximum, could only be made to the extent of 50%, but however, learned Tribunal had erroneously worked upon the dependency of the parents of the deceased as Rs.700/- per month. Further, it is also stated that it is the mother's age, which has been taken into consideration, for the application of the multiplier,

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but however, the age of the deceased ought to have been taken into consideration. Besides the same, it is submitted that erroneously only mother has been held to be entitled to compensation, whereas, father has been denied. Also, it is submitted that addition, on the count of 'future prospects' ought to be made. Both the appellants-claimants are also entitled to compensation, on the count of 'loss of consortium', 'funeral expenses' and 'loss of estate'. As such, a prayer has been made for acceptance of the appeal and re-computation of the compensation.

So far as **FAO-1136-2001**, vis-a-vis death of Suresha Rani is concerned, it is categoric claim of the appellants-claimants, who are husband and daughter of the deceased that Suresha Rani was 27 years old, at the time of accident and she was matriculate and knew stitching. She had been earning Rs.35,000/- by doing stitching work and tuition work and she used to attend the household works and looking after the cattle. Considering the averments aforesaid and the testimony of Sukhwinder Singh, husband of deceased Suresha Rani, learned Tribunal had worked upon the income of the deceased as Rs.2,000/- per month and dependency of the both the appellants-claimants had been taken as Rs.1,300/- per month. So working upon, the annual amount of dependence was taken as Rs.15,600/- and considering the same, multiplier of '16' was applied and compensation was worked upon as Rs.2,49,600/-, which was rounded off as Rs.2,50,000/-. As such, a prayer has been made for acceptance of the appeal and re-computation of the compensation.

On the other hand, learned counsel for the Insurance Company has submitted that looking at the scanty evidence, coming on record, the

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compensation, so worked upon by learned Tribunal in the case of deaths of Gurpreet Singh as well as Suresha Rani, is just and reasonable and the same does not call for further enhancement. Thus, he submits that both the appeals sans merit and the same deserve to be dismissed.

In view of the submissions so made, record has been perused by this Court.

So far as, **FAO-799-2001** qua death of Gurpreet Singh is concerned, from the evidence adduced, it stands amply established that Gurpreet Singh was 19 years and had passed 10+2 examination. It is specific claim of the appellants-claimants, who are parents of the deceased, that the deceased used to look after agricultural land and used to run milk dairy and his earnings were Rs.7000-8000/- per month. However, learned Tribunal has considered the earnings of the deceased as Rs.2,000/- per month and dependency of the appellants, has been taken to be Rs.700/- per month only and considering the age of the mother of the deceased, the multiplier of '10' has been applied and so working upon, the compensation has been worked upon as Rs.84,000/-.

Considering the aforesaid, however, as per settled prevalent law, the compensation, so worked upon by learned Tribunal, calls for re-appraisal.

Any compensation awarded by a Court ought to be just and reasonable and consequently, must undoubtedly be guided by the principles of fairness, equity and good conscience. Since, the Motor Vehicle Act is benevolent piece of legislation, in the absence of any concrete evidence, coming on record, with regard to the extent of earnings of the deceased, the

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various other circumstances, as spelt out, from the evidence brought on record, ought to be taken into consideration.

It is the specific claim of the appellants-claimants that deceased Gurpreet Singh had studied upto 10+2, till the time of his death. Also, from the evidence adduced, it stands amply established that he belonged to well off family. PW-1 Judge Singh (appellant No.1), who is father of the deceased, while in the witness box, has categorically deposed that deceased had passed 10+2 examination. Even, while facing cross-examination, the said witness had stated that he was working as Secretary and posted in Housefed, which is a Semi-Government body. Even, he stated that his wife Surinder Kaur, the other appellant, who is mother of the deceased, is a Government Servant and he also deposed that he was having 9 Killas of agricultural land.

Thus, from this part of the cross-examination, it is evident that the deceased had a good family background. Both his parents were educated and well-settled in life. In the given circumstances, the earnings of deceased, cannot be taken at par with the unskilled worker. Thus, earnings of the deceased taken as Rs.2,000/- per month, is on lower side. Considering the same and also considering the multiplier, so applied as well as various other counts, on which compensation ought to have been given, the compensation of Rs.84,000/-, worked upon by learned Tribunal, calls for re-appraisal.

At the very outset, it should be noted that appellant No.1-Judge Singh, father of deceased Gurpreet Singh was denied compensation by learned Tribunal and compensation was only granted to Surinder Kaur, mother of the deceased.

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However, the word '**dependent**' has a different meaning in different connotation. Some may be dependent in terms of money and others may be dependent in terms of service.

Thus, dependency is a relevant criteria to claim compensation for loss of dependency. Dependency not necessarily means financial only, it also includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money. Considering the same, even though, the deceased may not be rendering financial assistance to his father, but however, emotional and psychological dependency upon the deceased, by his father, as such, ought to be there and considering the same, father also ought to be paid the compensation.

Considering deceased Gurpreet Singh to be having affluent background and considering his parents to be well settled in life, in the minimum, in modest estimate, the earnings of the deceased, can appropriately be taken to be Rs.3,000/- per month. In consonance with the *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, addition on the count of 'future prospects' also to be made. Considering the age of the deceased, addition of '40%' has to be made on this account, which comes to be Rs.1,200/-. Thus, the total earnings are taken to be Rs.3000+1200(40%)=Rs.4,200/-. However, the deceased was unmarried boy and considering the same, 50% deduction ought to be made. After making the same, the dependence is worked upon as Rs.2,100/- per month and annual comes to be **Rs.25,200/-**.

Even though, learned Tribunal had applied the multiplier,

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considering the age of the mother of the deceased, but however, as per Pranay Sethi's case (*supra*), the age of the deceased should be the basis for applying the multiplier. Considering the same, as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, the appropriate multiplier to be applied in the present case is '18' and after, so applying this multiplier, the loss of dependency comes to be Rs.25,200x18=Rs.4,53,600/-.

Besides the same, the amounts are to be paid under the conventional heads, such like, loss of consortium, loss of estate and funeral expenses as held in *Pranay Sethi's case (supra)*. In *'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'*, the concept of consortium, has been dilated in detail and the dependents were entitled to compensation, on the count of 'parental', 'spousal' and 'filial' consortium, which view, has been further endorsed in *Harpreet Kaur and others vs. Mohinder Yadav and others, 2023(1) RCR (Civil) 327*, wherein, the Hon'ble Supreme Court, while relying upon *Magma's case (supra)*, had concluded about the children and mother of the deceased, all to be entitled to Rs.40,000/- each towards filial and parental consortium. Also, reference is made to *Janabai and others vs. M/s I.C.I.C.I. Lambord Insurance Company Ltd., 2022(4) RCR (Civil) 85*, wherein also, the Hon'ble Supreme Court had held the claimants of that case, each to be entitled to compensation, on the count of 'spousal consortium' for wife and 'parental consortium' for two children.

In consonance with the observations made in *Pranay Sethi's case (supra)*, after making addition of 10% for the first three years from the

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passing of the judgment, which has since passed by, till 31.10.2023, the amount payable was taken to be Rs.44,000/- for each of the claimant. Another addition of 10% ought to be made after the expiry of three years' thereafter and thus, after 31.10.2023, addition has to be made to the extent of 10%, on the amount of Rs.44,000/-, which now works out to be Rs.48,400/- for each of the claimant and similarly, revised amount has to be granted on the count of 'loss of estate' as well as 'funeral expenses', which comes to be Rs.18,150/-, on each count.

Considering the same, the compensation payable to dependents, on account of death of Gurpreet Singh, is re-computed, as herein given:-

Loss of dependency	:	Rs.4,53,600/-
Loss of consortium	:	Rs.96,800/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.5,86,700/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be Rs.5,86,700-84,000=Rs.5,02,700/-. On the enhanced amount of the compensation i.e. Rs.5,02,700/-, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The compensation, as now awarded, be disbursed to the appellants-claimants in equal proportions. However, if any amount of compensation, as awarded by learned Tribunal, has been paid to the mother of the deceased, the same shall be adjusted while disbursing the enhanced amount.

So far as compensation granted qua death of Suresha Rani is

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concerned, in view of the settled prevalent law, the compensation, so worked upon, calls for re-appraisal.

Even though, it is pleaded about indulgence of deceased Suresha Rani in stitching work and tuition work, but however, the same does not stand substantiated by any material. In the given circumstances, the compensation ought to be worked upon, while considering the deceased as a homemaker.

As already observed aforesaid, an attempt ought to be made by the Courts to award compensation, which should be just and reasonable. There are two categories of situations, which the Court, usually encounter to make assessment of the compensation, to be granted, to the victims of the motor vehicular accident cases. One such category is of the non-earning victims, that the Courts are called upon to calculate the compensation for the homemakers. The grant of compensation for homemakers, on pecuniary basis, has been considered by the Courts, time and again.

In *Lata Wadhwa vs. State of Bihar, 2001(8) SCC 197*, following observation has been made:-

“10. 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 data for determination of compensation, did not assist in any manner by providing the data for estimating the value of services rendered by such housewives. But even in the absence of such data 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...”

In *Arun Kumar Aggarwal vs. National Insurance Company Ltd., 2010(9) SCC 218*, while considering the case of grant of compensation, on account of death of a housewife, due to the motor vehicle accident, it was observed, as herein given:-

“26. In India the courts have recognised that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by the wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of the husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean, etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children.

27. It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. the husband and children. However, for the purpose of award of compensation to the dependents, some pecuniary estimate has to be made of the services of the housewife/mother. In that context, the term “services” is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. The amount payable to the dependents cannot be diminished on the ground that some close relation like a grandmother may volunteer to render some of the services to the family which the deceased was giving earlier.”

In *Kirti and another v/s Oriental Insurance Company Ltd., 2021(2) SCC 166*, the Hon'ble Supreme Court, while considering the case of

death of a homemaker, has observed, as herein given:-

*“26. The sheer amount of time and effort that is dedicated to household work by individuals, who are more likely to be women than men, is not surprising when one considers the plethora of activities a housemaker undertakes. A housemaker often prepares food for the entire family, manages the procurement of groceries and other household shopping needs, cleans and manages the house and its surroundings, undertakes decoration, repairs and maintenance work, looks after the needs of the children and any aged member of the household, manages budgets and so much more. In rural households, they often also assist in the sowing, harvesting and transplanting activities in the field, apart from tending cattle [See Arun Kumar Agrawal (supra); **National Insurance Co. Ltd. v. Minor Deepika rep. by her guardian and next friend, Ranganathan, 2009 SCC OnLine Mad 828**]. However, despite all the above, the conception that housemakers do not “work” or that they do not add economic value to the household is a problematic idea that has persisted for many years and must be overcome.*

Therein, it was further held as under:-

32. Returning to the question of how such notional income of a homemaker is to be calculated, there can be no fixed approach. It is to be understood that in such cases the attempt by the Court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and circumstances.

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35. However, it must be remembered that all the above methods are merely suggestions. There can be no exact calculation or formula that can magically ascertain the true value provided by an individual gratuitously for those that they are near and dear to. The attempt of the Court in such matters should therefore be towards determining, in the best manner possible, the truest approximation of the value added by a homemaker for the purpose of granting monetary compensation.

*36. Whichever method a Court ultimately chooses to value the activities of a homemaker, would ultimately depend on the facts and circumstances of the case. The Court needs to keep in mind its duty to award just compensation, neither assessing the same conservatively, nor so liberally as to make it a bounty to claimants [**National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680; Kajal v. Jagdish Chand, (2020) 4 SCC 413**].*

Therein, it was also held that effects of inflation would equally be applied to the case of assessment of notional income of the homemaker and on this account, it was further held that the future prospects, also are required to be taken into consideration.

Thus, summing up, general observations were made regarding the issue of calculation of notional income for homemakers and grant of future prospects, with respect to them, for the purposes of grant of compensation, which was summarized, as follows:-

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

b. 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.

c. 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.

d. 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.

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

In this backdrop, advertent to the case in hand, it is pertinent to mention that deceased was matriculate, at the relevant time. Her matriculation certificate has been proved as Ex.A10 and her character certificate has been proved as Ex.A-2 and certificate of merit is Ex.A3.

Thus, it is evident that deceased was an educated woman. The deceased is

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established to be 27 years old, at the time of accident. The date of birth of the deceased, as spelt out from her educational certificates, is 01.01.1970. The deceased was having a husband and one and half year old daughter, who are the appellants-claimants of the present case. There cannot be any substitute of mother's love and affection, with which appellant No.2, who was a toddler at that time, must be looked after by the deceased. Considering the same, the value of services rendered by the deceased, in this present case, is appropriately taken to be Rs.2,000/- per month.

To the said amount, keeping in view the age of the deceased, as per *Pranay Sethi's case (supra)*, addition of 40%, on the count of 'future prospects' has to be made and total amount of earnings comes to be Rs.2000+800(40%)=Rs.2,800/- per month. Out of the same, keeping in view the number of dependents, 1/3rd is to be deducted on account of 'personal expenses', which is to the extent of Rs.933/- and the residue amount works out to be Rs.1867/- per month and annual comes to be Rs.22,404/-.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate multiplier to be applied in the present case is '17' and after, so applying this multiplier, the loss of dependency comes to be Rs.22,404x17=Rs.3,80,868/-.

Besides the same, the amounts are to be paid under the conventional heads, such like, loss of consortium, loss of estate and funeral expenses as held in *Pranay Sethi's case (supra)*. In '*Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*', the concept of consortium, has been dilated in detail and the

dependents were entitled to compensation, on the count of ‘parental’, ‘spousal’ and ‘filial’ consortium, which view, has been further endorsed in *Harpreet Kaur and others vs. Mohinder Yadav and others, 2023(1) RCR (Civil) 327*, wherein, the Hon’ble Supreme Court, while relying upon *Magma’s case (supra)*, had concluded about the children and mother of the deceased, all to be entitled to Rs.40,000/- each towards filial and parental consortium. Also, reference is made to *Janabai and others vs. M/s I.C.I.C.I. Lambord Insurance Company Ltd., 2022(4) RCR (Civil) 85*, wherein also, the Hon’ble Supreme Court had held the claimants of that case, each to be entitled to compensation, on the count of ‘spousal consortium’ for wife and ‘parental consortium’ for two children.

In consonance with the observations made in *Pranay Sethi’s case (supra)*, after making addition of 10% for the first three years from the passing of the judgment, which has since passed by, till 31.10.2023, the amount payable was taken to be Rs.44,000/- for each of the claimant. Another addition of 10% ought to be made after the expiry of three years’ thereafter and thus, after 31.10.2023, addition has to be made to the extent of 10%, on the amount of Rs.44,000/-, which now works out to be Rs.48,400/- for each of the claimant and similarly, revised amount has to be granted on the count of ‘loss of estate’ as well as ‘funeral expenses’, which comes to be Rs.18,150/-, on each count.

Considering the same, the compensation payable to dependents, on account of death of Gurpreet Singh, is re-computed, as herein given:-

Loss of dependency	:	Rs.3,80,868 /-
Loss of consortium	:	Rs.96,800/-
Loss of estate	:	Rs.18,150/-

Funeral expenses	:	Rs.18,150/-
Total	:	Rs.5,13,968/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.5,13,968-2,50,000=Rs.2,63,968/-**. On the enhanced amount of the compensation i.e. **Rs.2,63,968/-**, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The compensation, as now awarded, be disbursed to the appellants-claimants in equal proportions.

The impugned Award dated 02.11.1999 stands modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.

With the above observations, both the appeals stand allowed.

November 06, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No