IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5447 of 2008 (O&M).
Date of Decision: 19.12.2023.

Tara Chand and others ....Appellants.

Versus

Bakhshish Singh and others ....Respondents.

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CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Ms. Ekta Thakur, Advocate for appellants.

Mr. Vinod Gupta, Advocate
for respondent No.5-Insurance Company.

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Lalit Batra, J.

CM-23172-CII-2023

This application under Section 151 CPC has been filed by applicants/appellants for actual date of hearing in the main appeal.

For the reasons enumerated in the application, the same is allowed. The main appeal is taken on Board today itself.

FAO-5447-2008 (O&M)

By way of this appeal, appellants-Tara Chand and others seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Chandigarh (for short, "Tribunal"), vide Award dated

20.08.2008 passed in MACT Case No.000035 of 28.04.2004, on account of death of Kamlesh Rani (wife of appellant No.1 and mother of appellants No.2 and 3), caused in a motor vehicular accident, which took place on 26.03.2004, whereby appellants/claimants were awarded compensation of Rs.3,70,000/- along with interest @ 8% per annum from the date of filing the claim petition till its realization.

2. The submissions made by Ms. Ekta Thakur, learned counsel for appellants and Mr. Vinod Gupta, learned counsel for respondent No.5-Insurance Company have been heard and record perused.

3. Learned counsel for appellants/claimants argued that Kamlesh Rani (since deceased) while working as maid servant and managing house hold works/affairs and looking after husband as well as minor children used to earn Rs.5,000/- per month but learned Tribunal wrongly assessed her income at the rate of Rs.3,000/- per month and then arbitrarily deducted 1/3rd of the income towards personal and living expenses of the deceased without considering the fact that she was a married lady and her husband and children were the claimants and no deduction towards personal and living expenses of the deceased was called for while taking the value of the services rendered by her towards family as a homemaker. To support her argument, she has relied upon ***Paramjit Singh and another*** *vs.* ***Dilbagh Singh alias Bagga and others,*** **2014(4) RCR (Civil) 895.** Learned counsel further contended that no amount was added to the income of the deceased towards future prospects and learned Tribunal applied the multiplier of '15', whereas multiplier of '17' was applicable. The amount awarded as funeral expenses and loss of consortium is

on the lower side. Even no amount was awarded to the appellants for loss of love and affection. She further contended that learned Tribunal also erred in awarding interest at the rate of 8% per annum, whereas it should have been awarded at the rate of 12% per annum from the date of filing the claim petition.

4. On the other hand, learned counsel for respondent No.5-Insurance Company contended that keeping in view the evidence available on the record, learned Tribunal had rightly assessed Rs.3,000/- per month as monthly value of services rendered by deceased Kamlesh Rani towards her family and in this scenario, question of grant of future prospects did not arise at all. He further contended that there is no iota of merit in the instant appeal and the same may be dismissed.

5. Having due regard to the contentions of learned counsel for the parties, it is observed that learned Tribunal after having gone through the evidence available on the record rightly came to the conclusion that appellants/claimants could not prove that Kamlesh Rani (since deceased) while working as maid servant and cook used to earn Rs.5,000/- per month. However, she was proved to be a housewife. The role of a housewife includes managing budgets, co-ordinating activities, balancing accounts, helping children with education, managing help at home, nursing care etc. We have come by a gradual acknowledgment of gender equality as a constitutional scheme and the increasing recognition of the value of contribution of womanhood to the sum of economic prosperity and social facility. Housewives have obtained a new moniker as homemakers. Since housewife

takes care of all the requirements of her 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. All these chores could be performed by a maid servant, but she can never be a substitute for a wife/mother, who renders selfless service to her husband and children. Therefore, the dependents are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by housewife. Thus, income of housewife is assessed as monthly value of her services and not her monthly income and, therefore, the concept of deduction from her personal services cannot be applied. To this effect, reliance can also be placed on ruling **Paramjit Singh and another**'s case (supra). In a given situation, Kamlesh Rani (since deceased) being a housewife, it can be conveniently held that she must be rendering gratuitous services amounting to Rs.3,000/- per month towards her family and the annual gross services of Kamlesh Rani (since deceased) are assessed at Rs.36,000/- (Rs.3,000/- x 12). Since above said amount of Rs.3,000/- per month has been assessed as monthly value of services rendered by Kamlesh Rani (since deceased), no amount is required to be added towards future prospects. However, learned Tribunal erred in deducting 1/3rd of the income of the deceased towards her personal and living expenses which needs modification as in **Paramjit Singh and another's** case (supra), it was held that since Rs.3,000/- per month is assessed as monthly value of services rendered and not monthly income and, therefore, concept of deduction cannot be applied. In this scenario, while calculating the notional income of the housewife, the entire income should be taken as dependency of the legal heirs without applying any cut. As the deceased was aged 35 years at the time of accident, multiplier of '16' instead of '15' should have been applied by learned Tribunal. Accordingly, the compensation payable to the appellants-claimants towards dependency comes to Rs.5,76,000/- (Rs.3,000/- x 12 x 16).

6. In addition to the amount of Rs.5,76,000/- calculated towards dependency, appellant/claimants are entitled to compensation under conventional heads. Learned Tribunal has awarded only Rs.5,000/- towards funeral expenses and Rs.5,000/- towards loss of consortium, whereas as per ratio of ***National Insurance Company Limited*** vs. ***Pranay Sethi and others***, **2017(4) R.C.R. (Civil) 1009**, an amount of Rs.16,500/- is to be awarded to appellants/claimants towards funeral expenses and an amount of Rs.16,500/- is to be awarded to appellants/claimants on account of loss of estate and an amount of Rs.44,000/- is to be awarded to appellant/claimant No.1 on account of loss of consortium. Thus, amount of Rs.5,000/- awarded under the head of funeral expenses is enhanced to Rs.16,500/-, whereas the amount of Rs.5,000/- awarded towards loss of consortium is enhanced to Rs.44,000/-. The appellants/claimants are also entitled to compensation of Rs.16,500/- on account of loss of estate. In the above premise, the appellants/claimants are held entitled to total compensation of Rs.6,53,000/-, as indicated above, instead of Rs.3,70,000/-, which was awarded by learned Tribunal.

7. Accordingly, the appeal filed by the appellants/claimants is partly allowed and the award dated 20.08.2008 passed by learned Tribunal is modified. Appellants/claimants are entitled to total compensation of Rs.6,53,000/-. Meaning thereby that appellants/claimants are entitled to

enhanced compensation of Rs.2,83,000/- (Rs.6,53,000/- minus Rs.3,70,000/-), alongwith interest at the rate of 8% per annum from the date of filing of claim petition till its actual realization. The enhanced amount so quantified shall be deposited within eight weeks from the date of this judgment and paid to the appellants/claimants according to law. However, rest of the terms would remain the same as settled by learned Tribunal, vide Award dated 20.08.2008.

8. Pending application(s), if any, stands disposed of.

(LALIT BATRA)
JUDGE

19.12.2023
vp/jitender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No