

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

FAO-2513-2014 (O&M)

Reserved on : 09.01.2023

Date of pronouncement: 16.01.2023

Rekha Devi

...Appellant

Versus

Dhan Singh Khadaka and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Ashwani Arora, Advocate for the appellant.

Mr. S.S. Sidhu, Advocate for respondent No.3.

H.S. MADAAN, J.

On account of death of Mrs. Baby, a married women, aged about 24 years in a motor vehicular accident, which took place on 14.09.2011 at 5.00 pm, in the area of Village Khant, District Fatehgarh Sahib statedly on account of rash and negligent driving of truck bearing No.PB-10-CG-3362 (for short 'the offending truck') by respondent No.1 Dhan Singh Khadaka, parents in-law of the deceased namely her mother in-law Smt. Rekha Devi and father in-law Sh. Jai Kishan had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Dhan Singh Khadaka-driver, M/s D.S. Transport Corporation, Ludhiana – owner and National Insurance Company Ltd., Chandigarh-insurer of the offending truck.

After contest by respondents No.2 and 3, the claim petition

was accepted by the Motor Accidents Claims Tribunal, SAS Nagar, Mohali, vide award dt. 17.02.2014 and compensation of Rs.4,09,000/- with interest @ 6% p.a., and costs of the petition were awarded to the claimants, payable by respondents No.1 to 3 jointly and severally.

Since petitioner/claimant Jai Kishan had died, the share in the compensation payable to him was ordered to be released to his wife-petitioner/claimant No.1 Rekha Devi.

However, finding that the compensation awarded was on lower side, petitioner/claimant Rekha Devi has approached this Court by way of filing the present appeal, notice of which was given to respondent No.3-insurance company and it has put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

It may be mentioned here that in the accident in which Smt. Baby had lost his life, her husband Harvinder Singh had also perished and the petitioner/claimants are surviving family members who had brought the claim petition in question.

The Tribunal after holding that the accident in which Smt. Baby had lost his life was caused due to rash and negligent driving of the offending truck by respondent No.1, went on to determine the compensation payable. The age of the deceased was taken to be 32 years as per entry in her post mortem report Ex.P2. She was treated as a household lady and her services to the petitioners were quantified as Rs.3000/- per month. Now the question arises as to whether the amount

of Rs.3000/- was just and appropriate or it was on lower side. The accident had taken place on 14.09.2011.

The Tribunal relying upon judgment **United India Insurance Company Ltd. Vs. Parlad Rai & Ors.** in FAO-1716-1999, decided on 06.08.2010 by this Court has observed that parents in-law of deceased married woman are entitled to get compensation on account of death of their daughter in-law in the motor vehicular accident.

Learned counsel for the appellant has referred to judgment **United India Insurance Company Ltd., Vs. Sube Singh & Ors.** in FAO-218-2014 decided on 15.01.2014 dealing with a case when a house wife aged about 40 years had died in a motor vehicular accident on 23.11.2012, then her notional income was fixed as Rs.9000/- per month by the tribunal which was upheld by a single Judge of this Court observing that in **Lata Wadhwa & Ors. Vs. State of Bihar & Ors.**, 2001 (4) RCR (Civil) 673 where the accident had taken place in 1981, the Supreme Court had evaluated the contribution of a house wife at Rs.3000/- per month, whereas the accident in the case in question had taken place after 23 years. It was observed that to tag a house wife as a skilled worker alone does not do complete justice to her multifarious role as a home manager. There, it would not be unreasonable to estimate contribution of deceased at a higher figure, therefore, notional income of the deceased fixed at Rs.9000/- per month by the tribunal was not reduced. This judgment was challenged by the United India Insurance Company by way of filing a Special Leave to Appeal bearing No.14334-

2014 in the Supreme Court which was, however, dismissed.

Counsel for the appellant had further referred to judgment N. Jayasree & Ors. Vs. Cholamandalam MS General Insurance Co. Ltd., 2021 ACJ 2685 by the Apex Court, where a mother in-law of the deceased who was residing with her and was dependent on her for her shelter and maintenance was taken to be her legal representative. The next judgment relied upon was Kirti & Anr. Vs. Oriental Insurance Company Ltd., 2021 AIR SC 353 by the Apex Court where in a case of a death of a house wife, her notional income was assessed keeping in view the minimum wages of Rs.6197/- payable to skilled workers at the relevant time i.e., during April 2014 in the State of Haryana. Addition towards future prospects was made, however, deduction towards personal expenses was also carried out. As such keeping in view the social and economic position of the family, I find that the minimum wages payable to skilled labourer at the relevant time should be considered to assess the notional income of the deceased and as submitted by learned counsel for the appellant, the same were Rs.4202/- per month, which I do not find to be on higher side.

40% of this amount is to be added towards future prospects i.e. Rs.1680.08/-. Therefore, the total income is worked out to Rs.5883/- (Round off).

Deducting 1/3rd of amount towards personal expenses of the deceased, the amount towards personal services rendered to deceased comes out to Rs.3922/- per month. Annual contribution in that respect

comes out to Rs.47,064/- (3922 X 12).

Keeping in view the age of deceased, multiplier of 16 is to be used. Doing that, the total compensation is worked out to Rs.7,53,024/-.

The claimant are entitled to get Rs.40,000/- each i.e. Rs.80,000/- under the head loss of consortium, Rs.15,000/- as funeral expenses and a similar amount of Rs.15,000/- on account of loss of estate. Therefore, the total compensation comes out to Rs.8,63,024. The Tribunal has awarded compensation of Rs.4,09,000/-. Therefore, the additional compensation of Rs.4,54,024/- is awarded to the appellant/claimant Rekha Devi with interest @ 7.5% p.a., from the date of filing of claim petition till actual realization. The liability to pay this amount shall be joint and several of all the respondents.

The appeal is partly allowed with costs.

16.01.2023

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No