

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr.No.115+328

Case No. : FAO-719-2022 (O&M)

Date of Decision : August 16, 2023

The Oriental Insurance Company Limited Appellant
vs.
Roshan Lal and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Satpal Dhamija, Advocate
for the appellant-Insurance Company.

Mr. Rajesh Goyal, Advocate
for respondents no.2 and 3-claimants.

Ms. Nidhi Garg, AAG, Haryana.

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GURBIR SINGH, J. :

1. This appeal has been filed by The Oriental Insurance Company Limited (hereinafter referred to as – the Insurance Company) for reduction of the amount of compensation and rate of interest from 7% per annum to 6% per annum, awarded vide Award dated 12.08.2021 passed by learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as – the Tribunal), in favour of respondents no.1 to 3 (hereinafter referred to as – the claimants).

2. The claim petition was filed by the claimants under Section 166 of the Motor Vehicles Act for grant of compensation on account of death of Smt. Anita Devi in a motor vehicular accident. The learned Tribunal, on the basis of evidence led on the file, has held that Anita Devi died in the accident caused by Mukesh Kumar – respondent no.4, while driving Bus

No.HR-46-D-8682, in a rash and negligent manner. The claimants, being husband and two sons, are entitled for compensation, being dependents of the deceased.

3. After hearing the arguments of both the sides, learned Tribunal held that the claimants are entitled for compensation in the following manner :-

<u>Sr.No.</u>	<u>Heads of claim</u>	<u>Amount</u>
1.	Income	Rs.8500/- per month
2.	15% to be added as future prospects	Rs.8500/-+Rs.1275/- = Rs.9775/-
3.	Compensation after applying multiplier of 11	Rs.9775 x 12 x 11 = Rs.12,90,300/-
4.	Loss of consortium	Rs.40,000/-
5.	Loss of love & affection, care and guidance for minor children	Rs.15,000/-
6.	Transportation and funeral expenses	Rs.15,000/-
7.	Medical Bills	Rs.2,65,010/-
	Total Compensation Awarded	Rs.16,25,310/-

4. Learned counsel for the appellant has argued that the learned Tribunal has held that Anita Devi (since deceased) was only a housewife but her notional income was taken as Rs.8,500/- per month equivalent to that of a skilled labourer. Her notional income should have been taken as that of unskilled worker. The 15% of her income was also added on account of future prospects. It has been argued that the learned Tribunal was required to make deduction of 1/3rd of her income as her personal expenses but no such deduction was made. In support of his contentions, learned counsel for the appellant has relied upon a judgment of Hon’ble Supreme Court in **Kirti and another etc. vs. Oriental Insurance Company Ltd. - Civil Appeal Nos.19-20 of 2021 [arising out of Special Leave Petition (C) Nos.18728-29 of 2018]**, decided on 05.01.2021.

5. On the other hand, learned counsel appearing for the claimants has submitted that a housewife cannot be equated with an unskilled labourer. She does multifarious duties and her role is of a home-manager as well as home-maker. Reliance has been placed on judgments, passed by Co-ordinate Benches of this Court in Asgar Ali and others vs. Ram Karan and others reported as 2020(2) Law Herald 1270 and in Sher Singh and others vs. Buta Singh and others reported as 2019(5) RCR (Civil) 897.

6. I have heard learned counsel for the parties and have gone through the record.

7. The services provided by a housewife cannot be measured in terms of money. Such services rendered by a wife with love and affection to her husband and children is invaluable. She works round the clock. A house-keeper or a maid-servant can do the household chores like cooking, washing, cleaning etc. but cannot substitute the services rendered by a housewife. On the other hand, the claimants, on the death of a housewife or their mother, are entitled for just compensation. Assessing the amount, which a skilled worker gets, is the best way to assess the income of a housewife for granting compensation. In the case in hand, the learned Tribunal considered the notional income of the deceased as Rs.8500/- per month, which was of a skilled worker in the year 2019, when the accident took place. I do not find any illegality in the same. The income of a housewife is not her actual income but it is taken as rationale service provided by her. In case of Lata Wadhwa and others vs. State of Bihar and others – Writ Petition (Civil) No.232 of 1991, decided on 16.08.2001, the Hon'ble Apex Court laid guidelines for the purpose of compensation to

be awarded in case of non-earning housewives. In the said case, no amount was deducted as personal expenses from the notional income of the housewife (since deceased).

8. The learned Tribunal has relied on a Division Bench judgment of this Court in case Paramjeet Singh and another vs. Dilbagh Singh @ Bagga and others reported as 2014(4) RCR (Civil) 895, wherein it has been held that deduction for self-expenses is not warranted and did not deduct any amount as personal expenses. In case of Kirti (supra), case of Lata Wadhwa (supra) was not discussed. So, I am of the view that the learned Tribunal rightly did not deduct any amount of the notional income of the deceased as her personal expenses. In case of Kirti (supra), it is held by Hon’ble Apex Court that granting of future prospects on the notional income, calculated in such cases, is component of just compensation. Keeping in view the age of the deceased, the 15% of her notional income has been rightly taken into consideration as future prospects for assessing the amount of compensation.

9. Accordingly, this Court is of the view that a lawful Award has been passed by learned Tribunal. There is no ground to interfere in the same. The appeal stands dismissed in the afore-said terms.

10. Pending applications, if any, shall stand disposed of along with this judgment.

August 16, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes.
Whether reportable ?	Yes.