IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) FAO-5203-2014 (O&M)

Sh.Suresh Kumar and another

...Appellants

VERSUS

Sh.Sharnjit Singh and another

...Respondents

(ii) FAO-5262-2014 (O&M)

Sh.Suresh Kumar

...Appellant

VERSUS

Sh.Sharnjit Singh and another

...Respondents

(iii) FAO-7433-2014 (O&M)

Sh.Narinder Pal and another

...Appellants

VERSUS

Sh.Sharnjit Singh and another

...Respondents

Date of Decision: January 31, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

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

None for respondent No.1.

Ms.Jagriti Kalia, Asst. Advocate General, Punjab
for respondent No.2.

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ARCHANA PURI, J.

These are three appeals, filed by the appellants-claimants, thereby, seeking enhancement of the compensation awarded to them, by learned Motor Accident Claims Tribunal, on account of deaths of Anita Devi, Priya @ Piya and Shobha Devi, in a motor vehicular accident, which took place on 16.07.2012.

Though, three different claim petitions were filed by the claimants, with regard to the deaths of aforesaid persons and they were consolidated, but however, the Awards, thereafter, were passed individually qua the separate claim petitions.

On appraisal of the evidence, brought on record, learned Tribunal had granted compensation to the extent of Rs.10,87,000/-, qua death of Anita Devi. Lumpsum amount of Rs.2,02,000/- was granted qua death of Priya @ Piya and qua death of Shobha Devi, compensation to the extent of Rs.10,27,000/- was awarded.

The accident had taken place on 16.07.2012 and learned Tribunal, on the appraisal of the evidence, had concluded about the accident to have been caused, on account of rash and negligent driving of bus bearing registration No.PB-07S-2704, driven by respondent No.1-Sharanjit Singh and the same resulted into deaths of Anita Devi, Priya @ Piya and Shobha Devi.

However, no appeal, has been filed by the respondents to assail the liability, fastened upon them. Be it noted that the appeals have been filed only for seeking enhancement of the compensation.

So far as, deceased Anita Devi and Shobha Devi, are concerned, it stands established from the evidence adduced that they were housewives, at the relevant time. Anita Devi was appropriately held to be 31 years old, whereas, Shobha Devi was appropriately held to be 38 years old. The notional income of both the deceased was assessed by learned Tribunal as Rs.5000/- per month.

Considering the age of deceased Anita Devi to be 31 years, multiplier of ‘16’ was appropriately applied and loss of dependency was worked upon as Rs.9,60,000/-. Besides the same, another amount of Rs.1 lakh was granted, on the count of ‘loss of consortium’ and Rs.25,000/- was granted, on the count of ‘funeral expenses’. Thus, the total compensation was worked upon as Rs.10,85,000/- and further, an amount of Rs.2000/- was granted as costs.

On the same parameters, considering the age of deceased Shobha Devi to be 38 years, suitable multiplier of ‘15’ was applied and the loss of dependency was worked upon as Rs.9,00,000/-. Besides the same, another amount of Rs.1 lakh was granted, on the count of ‘loss of consortium’ and Rs.25,000/- was granted, on the count of ‘funeral expenses’. Thus, the total compensation was worked upon as Rs.10,25,000/- and further, an amount of Rs.2000/- was granted as costs.

However, as per prevalent law, the compensation, so worked upon, do call for re-computation.

It should also always be kept in mind that the Motor Vehicles Act is a benevolent piece of legislation and the compensation awarded under the same ought to be ‘just and reasonable’. At the same time, the statutory provisions clearly indicate that the compensation must be ‘just’ and it ought not to be bonanza or a source of profit, but the same should also not be pittance.

Time and again, it has been held by the Courts, that to determine the compensation for the services rendered by the homemaker to the house, is a difficult task. There is no data for determination of compensation by following any straight jacket formula, but however, taking into consideration, the multifarious services rendered by the housewives for managing the entire family, the value of the services should be assessed and compensation be worked upon.

Beneficial reference is made to ***Kirti and another v/s Oriental Insurance Company Ltd., 2021(2) SCC 166***, wherein, the Hon'ble Supreme Court, while considering the case of death of a homemaker, the following observations were made, as herein given:-

> *"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.*
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> *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 cases 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, adverting to the case in hand, it is pertinent to mention that the accident had taken place on 16.07.2012. At the relevant time, the minimum wages of the un-skilled worker was Rs.4268/- per month and for skilled worker, it was Rs.4997/- per month. However, looking at the valuable services rendered by the housewife and also taking into consideration the loss of personal care and attention given by the deceased housewife to the children, as a mother and to her husband, as a wife, in any case, her services cannot be equated with that of skilled/un-skilled worker.

Considering the same, amount of Rs.5,000/-, so taken by learned Tribunal, as notional earnings, is on lower side. Keeping in view the various multifarious duties rendered by deceased housewife, in modest estimate, the notional earnings can appropriately be taken as Rs.7,000/- per month. Taking it to be so, further determination of the compensation has to be worked upon.

On this basis, firstly coming to the compensation qua death of Anita Devi. Taking her earnings to be Rs.7,000/- per month and considering her to be 31 years old, at the relevant time, addition of 40% ought to be made, on the count of 'future prospects', as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***. Thus, the monthly earnings of deceased Anita Devi, comes to be Rs.7000+2800=Rs.9800/-.

As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, considering the number of dependents, deduction to the extent of 1/3rd, on the count of 'personal expenses', ought to be made, as done by learned Tribunal and as such, the loss of dependency comes to be Rs.9800-3266=Rs.6534/- per month, annual whereof, comes to be

Rs.78,408/-.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**16**', as applied by learned Tribunal and thus, by applying the same, the loss of dependency, works out to be Rs.78408x16=**Rs.12,54,528/-**.

However, learned Tribunal had granted an amount of Rs.1,00,000/-, on the counts of 'loss of consortium' and Rs.25,000/-, on the count of 'funeral expenses', which is on higher side. As per ***Pranay Sethi's case (supra)***, the amount on the count of 'loss of consortium' has been fixed as Rs.40,000/-, with clause of enhancement to the extent of 10%, after period of every three years of pronouncement of the judgment and, the compensation, at present, works out to be Rs.48,400/-. As per ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***, the appellants-claimants, are entitled to 'spousal' and 'parental' consortium'. Thus, on the count of 'loss of consortium', the appellants-claimants are entitled to Rs.48,400x2=**Rs.96,800/-**. As per ***Pranay Sethi's case (supra)***, working on the same parameters, even, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Thus, the compensation worked upon qua death of Anita Devi, in the tabular form, is herein given:-

Loss of dependency	:	**Rs.12,54,528/-**
Loss of consortium	:	**Rs.96,800/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**

Total : Rs.13,87,628/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.13,87,628-10,87,000=Rs.3,00,628/-**.

On similar parameters, the 'work on' of the compensation, qua deceased Shobha Devi, is re-computed, as herein given:-

<u>Deceased Shobha Devi</u>

Sr.No.	Heads	Calculation
(i)	Salary/income	Rs.7000/- per month
(ii)	After adding 40% as 'future prospects', considering the age to be 38 years	Rs.7000+2800=Rs.9800/-
(iii)	After deducting 1/3rd on the count of 'personal expenses'	Rs.9800-3266=Rs.6534/- annual Rs.78,408/-
(iv)	Multiplier of '15'	Rs.78408x15=**Rs.11,76,120/-**
(v)	Loss of consortium	Rs.48,400x2=**Rs.96,800/-**
(vi)	Loss of Estate	**Rs.18,150/-**
(vii)	Funeral expenses	**Rs.18,150/-**
(viii)	Total	**Rs.13,09,220/-**
(ix)	Enhanced compensation after the deduction of compensation awarded by the Tribunal	**Rs.13,09,220-10,27,000= Rs.2,82,220/-**

Proceeding further, let us consider the compensation awarded by learned Tribunal, qua death of minor child Priya @ Piya.

The deceased child was about 2½ years old, at the relevant time. Considering her age and oblivious of what kind of future the child may have, learned Tribunal, had granted a lumpsum amount of Rs.2,00,000/-. However, the extent of the amount granted, is definitely on a lower side, which calls for enhancement.

The determination of damages for loss of human life, is extremely difficult task and it becomes all the more baffling, when the deceased is a child. Definitely, the future of a child is uncertain. Where the deceased was a child, he/she had no earnings but had a prospect to earn, the question of assessment of compensation, therefore, becomes stiffer. However, the fact remains that the loss of children is irrecuperable and no amount of money could compensate the parents.

In ***Lata Wadhwa and others vs. State of Bihar and others, 2001(4) RCR (Civil) 673 (SC)***, it was held that the compensation determined for the children, for all age group, could be doubled, of what is stated in Schedule II of the Motor Vehicle Act. The principles laid down in aforesaid case, was made applicable to the facts in the case of ***Kishan Gopal and another vs. Lala and others, 2013(4) RCR (Civil) 276***, wherein, the accident had taken place on 19.07.1992 and it was thus considered as ‘just and reasonable’ to take notional income of Rs.30,000/- and while applying the multiplier as laid down in ***Sarla Verma’s case (supra)***, it was observed as herein given:-

> *"In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of* ***Sarla Verma v. Delhi Transport Corporation****, the multiplier of 15 can be applied to the multiplicand. Thus, 30,000x15=4,50,000 and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in* ***Kerala SRTS v. Susamma Thomas****, which is referred to in Lata Wadhwa's case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount*

> *would be fair, just and reasonable compensation to be awarded in favour of the appellants."*

Furthermore, In ***'Meena Devi v/s Nunu Chand Mahto @ Nemchand Mahto and others, 2022(4) RCR (Civil) 553'***, wherein, the accident had taken place on 29.07.2003, the Hon'ble Supreme Court had considered the case of death of a 12 year child, in a motor vehicular accident and while granting compensation, had observed that the principles laid down in case of ***Kishan Gopal's case (supra)***, are aptly applicable to the facts of the case and thus, took the notional earnings as Rs.30,000/-, including future prospects and applied the multiplier of **'15'** and the loss of dependency was worked upon to be Rs.4,50,000/- and addition of Rs.50,000/- was made under the conventional heads. The total compensation was worked upon as Rs.5,00,000/-.

Now, adverting the case in hand. Minor child Priya @ Piya, was 2½ years old, at the relevant time and the accident had taken place on 16.07.2012. Taking into account the inflation, devaluation of rupee and high cost of living, in the fitness of the circumstances, the notional income of the deceased Priya @ Piya, can conveniently be taken as Rs.40,000/- per annum, inclusive of the future prospects and by applying the multiplier of '15', as applied by learned Tribunal, the loss of dependency comes to be Rs.40000x15=**Rs.6,00,000/-**.

Besides the aforesaid, as per ***Magma's case (supra)***, the appellant-claimant, who is father of the deceased is also entitled to 'filial' consortium, on the count of 'loss of consortium'. As already observed aforesaid, as per ***Pranay Sethi's case (supra)***, the appellant-claimant is held entitled to **Rs.48,400/-** on the said count and on the similar pattern, on the count 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**.

Considering the same, the compensation payable to appellant-claimant on account of death of Priya @ Piya, is computed, as herein given:-

Loss of dependency	:	**Rs.6,00,000/-**
Loss of consortium	:	**Rs.48,400/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.6,66,550/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.6,66,550-2,00,000=Rs.4,66,550/-**.

On the enhanced amount of the compensation, as now worked upon, in each case, 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.

Accordingly, the impugned Awards, stand modified, to the extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid all the appeals, stand allowed.

January 31, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**