

interest @ 9% per annum from the date of filing of the petition, till the realization of the whole amount.

3. The award has been passed against the respondents by holding them jointly and severally liable to pay the amount, however, the ultimate liability to pay the amount has been fastened upon respondent No.1.

Brief Facts:-

4. For the sake of convenience, parties to the present appeal, are hereinafter referred to, in the same manner, in which, they were referred to, by the learned Tribunal.

5. Brief facts, leading to filing of the present appeal, before this Court, may be summed up, as under:-

5.1. The claimants, being sons and husband of Vidya Devi had filed the claim petition, under Section 166 of M.V. Act, against the respondents, being owner and driver of Bus No.HP-03B-6121, (hereinafter referred as to 'the offending vehicle').

5.2. According to the claimants, Vidya Devi, at the time of her death, was 57 years of age and was home maker. Her monthly income has been pleaded as Rs.30,000/- per month. The accident in question had taken place on 26.05.2014 at about 5:00 PM, at place Balgarh Kainchi, near Balgarh, involving the offending vehicle.

5.3. Elaborating their stand, according to the claimants, Vidya Devi had boarded the offending vehicle from Sainj to Shagar, along with other passengers. When, the offending vehicle reached near Balgarh Kainchi, then, respondent No.2, lost control over the offending vehicle, as a result of which, the same rolled down into a deep gorge. Consequently, Vidya Devi sustained fatal injuries. She was taken to IGMC Shimla for treatment, however, she had been declared as brought dead.

5.4. The information regarding the accident was given to police of Police Station Theog, where, FIR under Sections 279, 337, 304-A IPC was registered. The postmortem examination of the dead body of Vidya Devi was conducted at Civil Hospital, Theog, on 26.05.2014.

5.5. The claimants have also pleaded about their bright past and bleak future.

5.6. Since the accident in question has solely been attributed to the rash and negligent driving of respondent No.2, as such, the claimants have sought the compensation of Rs.20,00,000/- along with interest @ 18% per annum.

Stand of the respondents before the learned Tribunal

6. When, put to notice, the claim petition has been contested by the respondents.

6.1. Respondent No.1 has filed its separate reply, by taking the preliminary objections, that the claim petition is not maintainable, as there was no negligence on the part of respondent No.2.

6.2. On merits, the contents of the claim petition have mainly been denied for want of knowledge, however, the factum of accident and registration of the FIR has not been disputed. The contents of the claim petition have been contested by pleading that the driver of the offending vehicle was neither rash nor negligent.

7. Respondent No.2-driver of the offending vehicle filed his separate reply, by taking the preliminary objections, that the claim petition is not maintainable. According to respondent No.2, in the inquiry, conducted by the State Government, he has been exonerated and all these facts have been pleaded to demonstrate that he was neither rash nor negligent in the accident in question.

7.1. On merits, the contents of the claim petition have mainly been denied for want of knowledge.

7.2. Thus, the respondents have prayed for the dismissal of the claim petition.

8. From the pleadings of the parties, following issues were framed by the learned Tribunal, vide order dated 18.03.2015:

1). *Whether Smt. Vidya Devi, died in a Motor Vehicle Accident took place on 26.05.2014 at about 5:00 PM at Balghar Kainchi, Tehsil Theog, involving HRTC Bus No. HP-03B-6121, being driven rashly and negligently by respondent No.2, as alleged ?...OPP.*

2). *Whether the petitioners are entitled for compensation, if so, then what should be the quantum?...OPP.*

3). *Whether the petition is not maintainable in the present form?...OPR-1 & 2.*

4). *Whether the petitioners have no cause of action to file the petition? OPR-1.*

5). *Relief.*

9. Thereafter, parties to the lis were directed to adduce evidence. After closure of the evidence, the learned Tribunal, upon hearing learned counsel for the parties, has passed the award, which is sought to be enhanced before this Court, by filing the present appeal.

Contentions of the appellants-claimants

10. The claimants have sought the enhancement of the awarded amount, by way of the present appeal, mainly on the ground that the oral, as well as, the documentary evidence, so adduced, by the claimants has not been taken into consideration by the learned Tribunal.

11. According to the claimants, the learned Tribunal has not taken into consideration the fact that Vidya Devi was

earning Rs.1200/- to 1300/- per day, by selling milk and apart from this, she also used to do the agriculture work.

12. The learned Tribunal is stated to have wrongly taken the contribution of Vidya Devi, during her life time, towards her family, as Rs.3600/- per month.

13. On the basis of the above facts, Ms. Aruna Chauhan, Advocate, appearing for the appellants has prayed that the awarded amount may kindly be enhanced.

14. During the pendency of the appeal, before this Court, appellant No.1, has expired and his LRs. were ordered to be brought on record, as appellants No.1(a) and 1(b).

Findings

15. It is no longer res integra that while deciding the claim petition, the endeavour of the Court/Tribunal should be to provide 'just compensation', as the provisions of M.V. Act, are beneficial piece of legislation. The proceedings under the M.V. Act, are summary in nature, where, the liability of the tort feisor is to be fixed, on the touch stone of the preponderance of probability.

16. In the present case, factum of accident has been admitted, by respondent No.1, in the reply. Moreover, the respondents have not assailed the award and the same has only

been assailed, by the claimants, with a prayer to enhance the awarded amount.

17. In such situation, now, this Court would proceed straightaway to determine the fact, as to whether the amount of compensation, which has been awarded by the learned Tribunal, falls within the definition of 'just compensation' or not.

18. The age of Vidya Devi has been pleaded in the claim petition, as 57 years. In the postmortem report, Ex. PW-1/A, her age has been mentioned, as 52 years. However, when, the claimants themselves have pleaded the age of Vidya Devi at the time of her death, as 57 years, then, there is no legal hesitation for this Court to accept the stand, as taken by the claimants, by holding that the age of Vidya Devi at the time of her death was 57 years.

19. Now, the next question, which arises for determination is qua the contribution of Vidya Devi, during her life time, towards her family. Admittedly, Vidya Devi was a home maker and the learned Tribunal has taken the contribution of Vidya Devi, towards her family, as Rs.5400/- per month.

20. Hon'ble Supreme Court in a recent judgment in case titled as **Shishu Pal @ Shish Ram and others versus Surjeet and others**, reported in **2026 INSC 634**, has taken the

contribution of the home maker, as Rs.30,000/- under the head 'Loss of Domestic Care'. Relevant paragraphs-15 to 20 of the judgment, are reproduced as under:-

*“15. In usual circumstances this Court would not have ventured further than taking note of the fact that the incident and judgment in **Lata Wadhwa(supra)** was contemporaneous to the unfortunate accident in this case and as such compensation could be calculated using the Rs.3000/- per month metric applied therein however, in our considered view that would not be justified. It has to be observed that to measure the contributions of a homemaker and mother as in this case in strictly monetary terms is a task of considerable difficulty for each and every aspect of the day, month and year of such a homemaker's family members is informed, shaped by her sometimes acknowledged, but most often unacknowledged or taken for granted, efforts. If compensation is to be calculated in the present day while accounting for the egregious delay, to do so in terms that were frozen on the day of the death of the deceased would be grossly undervaluing the silent strength of homemakers.*

16. That being said, even when it comes to computation for damages under non-pecuniary heads, the loss still does require the recognition of such heads before compensation can be awarded. The first of them being the loss of the homemaker's dexterous ability to manage all the chores of the household. Granted, that in the increasingly modern urban centres of the country it may not be the case that a homemaker stands in front of the gas stove bright and early in the morning or late at night or even that she walks around, slouched, running the broom throughout the house, but, the fact of the matter is that in smaller cities, towns and villages, even today, such tasks assumedly and invariably fall on the homemaker, without as much as a second thought. The second head pertain to the children of the house. They have lost their mother, the source of never-ending love, comfort and affection, the person who they could run to with all their problems, questions and concerns and heartbreaks. She is also their first point of contact with the ways of the world, silently and subtly teaching them skills of survival, perseverance and excellence shaping them into well rounded human beings capable of being functioning contributors to the economy of the nation. This, in our view, is somewhat different from emotional support or dependence for primary skills necessary for everyday functioning that are imbibed by the children from their mother. This has a distinctly economic angle while also being partly an emotional aspect perfectly fitting into the non-categorizable roles played by homemaker. How does one calculate this? The third is equally

troubling. A husband has, no longer, the support of his life partner, someone he depends on entirely to run smoothly, an entire part of his life, his home, family, children, relatives. Even in conservative settings where patriarchy looms large, the sense of dependency that obtains, if taken away, greatly challenges the man for he is now directionless and suddenly responsible for a lot more than he is used to. When the efforts of the homemaker towards the husband and children are taken on the whole it cannot be disputed that although her labour be at emotional or physical is within the four walls of the home, its impact is much wider. In enabling the direct contribution today of their husbands and tomorrow of their children, they are the building blocks for the nation's road to holistic progress.[See: Kalukutty v. P.M. John¹², *Bhuvanewari v. Mani*¹³] We may also observe that in a recent order of this Court in *Arvind Kumar Pandey v. Girish Pandey*¹⁴, also made similar observations to the following effect:

“7. It goes without saying that the role of a homemaker is as important as that of a family member whose income is tangible as a source of livelihood for the family. The activities performed by a homemaker, if counted one by one, there will hardly be any doubt that the contribution of a homemaker is of a high order and invaluable. In fact, it is difficult to assess such a contribution in monetary terms.”

Any computation made as a result of injury suffered or death, should be aware of this larger role and not be myopic in its view.

The loss of a homemaker however is not limited to husband and children. It also directly impacts the women's own parents who have been deprived of the love and company of their child, who have lost the support and comfort of this person and are left alone with this boundless grief. Still further, the loss is acutely felt by her in-laws who are more often than not members of the same household and therefore are dependent on the love, labour and dedication of this person, for food for medicines and doctor's visit or for even the regular company over a morning tea. Strict arithmetic calculation does not lend its services to any of these scenarios.

17. It is settled law by virtue of *National Insurance Co. Ltd. v. Pranay Sethi*¹⁵, that in all cases that have resulted in death, loss of consortium is to be paid to the claimants at the rate of Rs.40,000/- per dependant along with 10% increase on the said amount every three years, so in 2026 the compensation awarded under this head is Rs.48,400/-. This we may note is irrespective of whether the deceased is a male/female/child/retired/working or whatever else. We are of the considered view, in such situations the computation of compensation upon the death of a

homemaker suffers from an inherent disadvantage. The amount awarded under the same is over and above what is calculated on the basis of the earnings/salaries/pension/notional income for certain categories of claimants. In view of the fact that there is no standard income on the basis of which compensation can be calculated and a figure is taken for the purposes of calculation on guesswork, the true worth of the homemaker is missed out, in as much as it is amenable to calculation in monetary terms.

18. Future prospects when calculated on the basis of the above judgment in *Lata Wadhwa*(supra) would also be calculated on the comparative lower notional income (Rs.3000/-per month) given that, both the fire incident and the accident forming the basis of this appeal are from the year 2001.

19. When such conservative figures are used to build up compensation, the amount arrived at is paltry, and not even close, as much as monetary terms can be, to the loss endured by the claimants. Notional income is intended to approximate the economic value of in the case of homemaker, services rendered by them. However, for whatever reason, judicial notice of this issue is usually overly conservative, without due acknowledgment of the fact that the role of the homemaker is neither entirely economic nor entirely non-economic and blends the factors of economy with emotional and managerial contributions and as such fixed compensation in terms of loss of consortium does not cover the entire gamut of their contribution.

Loss Of Domestic Care: An Additional Head

20. It is in these circumstances, that we deem it appropriate to direct that when a Motor Accidents Claim Tribunal or the High Court or this Court is concerned with or a case involving the death of a homemaker, in order to overcome the inherent disadvantage accrued against the homemaker on a calculation of compensation on the basis of conservatively computed notional income and while being acutely aware of the dictum in *Pranay Sethi*(supra) regarding loss of consortium as also the disposition towards uniformity, that for the three major heads (the homemaker's contribution towards smooth functioning of the household, the loss of maternal support for children and loss of spousal support/the support and care of their child who is an adult, for the parents of the deceased) discussed in the foregoing paragraphs, a composite sum of Rs.30,000/- shall be added under the head of 'loss of domestic care', provided that all three of these heads are met in the given case. This determination shall be revised by 10%, cumulatively, every three years. It may be clearly stated that this amount of Rs.30,000/- i.e., loss of domestic care is to be taken as a 'stand-in' (basic minimum monthly income) for monthly income in those cases where the homemaker does not have an input into the house, in strictly conventional, monetary terms. In those

cases where the homemaker is part of the workforce, the component of loss of domestic care shall be in addition to the monthly income as may be proved before the Tribunal/Courts.”

(Self emphasis supplied)

21. Being guided, by the above decision of the Hon'ble Supreme Court, monthly income/loss of domestic care in the present case, on account of death of Vidya Devi can safely be taken, as Rs.30,000/-. Vidya Devi was working in an unorganized sector and her age has been held to be 57 years at the time of her death, as such, 10% addition is required to be given, on account of her future prospects. Thus, the monthly contribution of Vidya Devi, comes to Rs.30,000/-+10%= Rs.33,000/-.

22. Keeping in view the number of dependents, 1/3rd amount is liable to be deducted, on account of personal expenses, had Vidya Devi, been alive. Thus, her established income comes to Rs.33,000/--Rs.11,000/-=Rs.22,000/- per month.

23. The learned Tribunal has applied the multiplier of '9', which is appropriate multiplier to be applied in the present case. Thus, the loss of Domestic Care comes to Rs.22,000/-x12x9= Rs.23,76,000/-.

24. In view of the decision of Hon'ble Supreme Court in **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, (2018) 18 SCC 130**, all the claimants

are held entitled to compensation under the head loss of consortium, to the tune of Rs.40,000/- each.

25. In view of the judgment of Hon'ble Supreme Court in case titled as **National Insurance Company Limited versus Pranay Sethi and others**, reported in **(2017), 16 Supreme Court Case 680**, 10% enhancement is required to be made in the compensation awarded to the claimants, under the conventional heads.

26. The entitlement of the claimants, thus, is ascertained, as under:-

1.Loss of Domestic Care=Rs.23,76,000/-

2.Loss of estate = Rs.19,500/-(Rs.15,000/-+Rs.4500-)

3.Funeral expenses = Rs.19,500/-(Rs.15,000/-+Rs.4500/-)

4.Loss of consortium= Rs.1,56,000/- (Rs.52,000/- x 3)

Total= Rs.25,71,000/-(Rs.23,76,000/-+
Rs.19,500/-+Rs.19,500/- +Rs.1,56,000/-)

27. Thus, the claimants are held entitled for a sum of Rs.25,71,000,/-.

28. The learned Tribunal has awarded interest at the rate of 9% per annum, which is liable to be reduced to 7.5% per annum, in view of the prevailing rate of interest of the nationalized banks.

29. In view of the above, the appeal is allowed and the amount of compensation is ordered to be enhanced from 5,03,800/- to Rs.25.71,000/- along with the interest @ 7.5% per annum.

30. The award passed by the learned Tribunal is modified in the above terms.

31. Memo of costs be prepared.

32. Pending application(s), if any, are also disposed of.

Record be sent back.

(Virender Singh)
Judge

June 20, 2026
(subhash)