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EXPOSITION OF PRINCIPLES FOR NON-EARNING HOUSE MAKERS IN SETTING ACCIDENTAL CLAIMS UNDER INDIAN LAWS

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INTRODUCTION

Road safety has become a national problem. The rapid and unplanned urbanization process has led to unprecedented proportions of change in the growth of vehicles around the world. Rapid population growth as well as increased economic opulence have contributed significantly to the growth of vehicles on the road. Shocking increases in deaths due to accidents in the last few decades are a matter of great concern worldwide. These accidents are resulting in high human suffering. It has an impact socially as well as economically. There are laws for regulating traffic. There are laws and legal principles to compensate for the loss that one incurs due to an accident. In the present study, the researcher has intended to study the broad principles of compensation as adopted under the Indian Justice System. The concentration is more on addressing the issues relating to discriminatory practices on the application of legal principles for compensation in cases of female victims of road accidents. To be more specific, it is normally noticed, comparatively male victim of a road accident receives more compensation than that of a female victim. It is so as the calculation of future loss is normally made on economic consideration. What is the worth of a housewife? Does she economically contribute to running the daily household affairs? Whether this aspect is considered when a road accident victim happens to be a housewife? Whether our law in this area stand on the side of justice? These are a few questions that need to be checked. The present study is an effort in that direction.

WHY DID I CHOOSE THIS TOPIC?

I chose this topic because the role of a housewife in a family is considered to be very important as her selfless service to the family keeps each member of the family healthy and energetic to lead a happy life but in case of the death of housewife due to motor accident, the tribunals or court

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passes an order of compensation to a very little extent as the income of the housewife becomes very meagre which is completely Unreasonable.

So, what attracted me is such unreasonable passing of compensation by the tribunals or courts. In my opinion, the income of the housewife cannot be compared with any working lady as because the service rendered by housewife for her family is much above the income of any working lady.

It is my humble opinion so far mathematical calculation is a concern. It is to be pointed out that the income the housewife should be Rs. 50,000 per month, but interestingly many persons think that the housewife has no income. The selfless service of the housewife for her family nourishes the members of the family with love and affection which cannot be compared with the income of any working lady.

The work of housewife is much higher than any working lady. So, in case of death of any housewife due to motor accident the tribunals or courts should consider this aspect, while passing order for compensation there are many decisions of the Honourable Supreme Court of India on this issue and it is held that the house wife is not less than any working lady and compensation amount must be enhanced to a large extent.

REPORT

According to the NCRB 2019 reports that in India 4, 37,396 people were killed and 4. 39,262 persons injured and 1, 54,732 deaths in road accidents, 38.0% victims of road accidents were riders of 'two wheelers followed by trucks / lorries, cars and buses which have accounted for 14.6%, 13.7% and 5.9% respectively of road accidental deaths. Majority (59,6%) of road accidents were due to "over speeding' which caused 86,24 1deaths and 2, 71,581 persons injured. Dangerous/careless driving or overtaking contributed to 25.7% road accidents which rendered 42,557 deaths and 1, 06,555 persons injured. Besides, only 2,6% of road accidents were due to poor weather conditions. 59.5% and 40,5% of road accidents were reported in rural areas (2, 60,379 cases) and urban areas (1, 77,017 cases) respectively. 29.9% (1, 30,943 cases out of 4, 37,396 cases) of total road accidents were reported near residential areas.

JUDICIAL ANALYSIS

COMPENSATION THAT WILL BE REWARDED IF THE VICTIM IS THE HOUSEWIFE

To date the deceased housewives, in the absence of information and since the housewives were not earning money, efforts have been made to obtain compensation based on the services they perform in the household. On the basis of the age group of women, repeated use is appropriate, but estimates of the number of services provided to the house by women, amounting to Rs. 12,000 / - per year in the case of some and Rs.10, 000 / - for others, it seems to be very low. It is true that the claimants, who should have provided the details of the compensation claim, did not help in any way by providing details to estimate the amount of services provided by these women 19 Even in the absence of such information and considerations, most of the services provided to housewives to manage the whole family, or to a lesser extent, should be Rs.3000/- per month and Rs.36,000/ - per year This will apply to all those women who are between the ages of 34 and 59 and who are active in life. Compensation paid, therefore, must be recalculated, taking the number of services rendered annually to be Rs.36,000 / - and subsequently applying as already spent, and up to the normal amount concerned, the same for refund, should be Rs.50,000/ -- in lieu of Rs.25,000/- provided under the Report To date older women, in the 62- to 72-year-old age group, the number of services provided has been reduced by RS 10, 000/- per year and eight repetitions have been used. Although, the frequency used is correct, but the prices of the services provided at Rs. 10, 000 / per year, cannot be considered fair and, therefore, we must improve the same to Rs, 20,000 / - per year.

JITENDRA KHIMSHANKAR TRIVEDI V. KASAM DAUD KUMBHAR, (2015) 4 SC 237

Even assuming Jayantiben Jitendra Trivedi was not self-employed doing embroidery and tailoring work, the fact remains that she was a housewife and a homemaker. It is hard to monetise the domestic work done by a house-mother. The services of the mother/wife is available 24 hours and her duties are never fixed Courts have recognised the contribution made by the wife to the house is invaluable and that it cannot be computed in terms of money. A housewife/homemaker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the homemaker have to be necessarily kept in view while calculating the loss of

dependency. Thus even otherwise, taking deceased Jayantiben Jitendra Trivedi as the homemaker, it is reasonable to fix her income at Rs 3000 per month.

KIRTI VS ORIENTAL INSURANCE COMPANY ON 5 JANUARY, 2021

In yet another remarkable judgment on gender equality, the Supreme Court said that while calculating the notional income of a housewife, it should make an attempt to fix an approximate economic value for all the work she does. The bench, comprising Justices NV Ramana, Surya Kant and Aniruddha Bose, made the above observations while hearing an insurance claim by three surviving dependants of a deceased couple. This impugned a judgment of the Delhi High Court through which the motor accident compensation of Rs 40.71 lakh awarded by the Motor Accidents Claims Tribunal was reduced to Rs 22 lakh. However, the apex court bench enhanced the compensation to Rs 33.20 lakh, which is to be paid to the father.

FINDINGS, CONCLUSION AND SUGGESTION

The researcher has started the paper by taking a proper hypothesis that "lack of a proper express provision in law in calculating worth of married women particularly the house wife victims in motor accident proving to be detrimental for the cause of protection of interest of the women in general. After conducting the proper study in the present topic, the researcher is of the view that the present hypothesis is partially validated Though there are fewer legislative measures for protecting the interest of the house wife in fatal accident cases but role of judiciary has greater impact on this count. The researcher agrees that there is no direct recognition of the interest of the housewife in the legislative framework still the housewife is eligible for the general compensation available to all according to the present laws. A close scrutiny into the judicial pronouncements have suggested that the right of women should be protected by taking in the facts of the individual case as how death or injury to the women in accidental cases is going to affect the family, who are directly dependent on the housewife for their daily basic needs.

This has been recognised in various cases such as In Arun Kumar Aggarwal v. National Insurance Company Ltd. (2010). In this case court held that the loss of husband and children as a result of the death of the mother, who is a housewife, should be calculated by measuring jobs in the family. In Rajendra Singh and others v. National Insurance Co. Ltd. (2020). The MACT clarified that there is no distinction between a skilled wife and house wife. It is true that though they both work in different situations and different atmosphere they both work for the family directly or indirectly.

In the said case, it was held that housewife who contributes to the well-being of the family and upbringing of the children should be given hope as time goes on the use of her services increases in the family.

In various cases, the court case has also provided a commendable compensation looking into the individual Shival Belsare 2019 allowed compensation of y. scenario. Such as in Rambhau 8,22,000 at a 6% interest rate after working on the deceased women salary as a house wife. In a remarkable judgement of Kirti VS. Oriental Insurance Company the court said that while calculating the notional income of a house wife, an attempt should be made to approximate economic values of all the work done by a house wife. Thus, the importance of judicial verdict reflects that though there is no legislative recognition of the interest of the women in case of fatal accidents yet the judicial precedents are there for protecting the same interest of the women. The time has come to recognise these precedents in the legislative amendments.

CONCLUSION

In India the courts have recognized the contribution made by the wife to the house it is very important and cannot be calculated financially. Free services provided by a wife with true love and affection for the children and for her husband and in charge of the home stories cannot be compared to the services provided by others Spouse / mother is unemployed by the clock She stays in the family day and night and work for family. Without her, it would be very difficult on the part of other earning members of the family to go to their work place respectively in time. She cares all the needs of the husband and children, including cooking food, washing clothes, etc. She teaches her young children and gives them valuable guidance for their future. A housekeeper or a maid may do household chores, such as preparing meals, washing clothes and utensils, to keep the house clean, etc., but he will never replace his wife / mother who performed self-sacrificing work for her husband and children. It is really wonderful that our judiciary recognises the efforts of house-wife in shaping a family. And their contribution cannot be computed in terms of financial gain. Existing legislative laws in India is not sufficiently dealing with the economic worth of a house wife. It is more so in the case of an accident where the victim is a house wife.

In my view, it is highly unfair, unjust and inappropriate to compute the compensation payable to the dependents of a deceased wife/mother, who does not have regular income, by comparing her services with that of a housekeeper or a servant or an employee, who works for a fixed period. The gratuitous services rendered by wife/mother to the husband and children cannot be equated

with the services of an employee and no evidence or data can possibly be produced for estimating the value. It is virtually impossible to measure in terms of money the loss of such services, personal care and attention suffered by the husband and children on the demise of the housewife. In its wisdom, the legislature had, as early as in 1994, fixed the notional income of a non-earning person at Rs.15,000/- per annum and in case of a spouse, 1/3rd income of the earning/surviving spouse for the purpose of computing the compensation. Indian judiciary is using various methods, such as Opportunity Cost method, Partnership Method" and Replacement Method" for calculating notional income for house maker / non-earning members. But these are not absolute methods. This may lead to violation of principle of equality as corresponding judge may opt for any particular methods and there of becoming arbitrary. This possibility needs to be ceased at the earliest. And it would be possible by making necessary amendment in the M V Act.

SUGGESTION AND CONCLUDING REMARKS

Keeping in view of the aforesaid observations made by the scholars by examining various judicial pronouncements, he is of the view that in order to avoid any kind of confusion in computing the worth of house maker, it would be proper to make necessary amendments in the M V Act suggesting mode of calculation of it. It is important to fix a notional income for house maker on the basis of a pecuniary contribution they are making in running the household. Though the judiciary is using various methods in calculating compensation for non-earning members (house maker), there is no specific guidelines for using those methods. A specific guideline in the form an amendment in the relevant laws will be an act of recognition of the work labour and sacrifices of homemakers. It will also be a reflection of the changing attitudes of the present generation in treating women in home. A settlement guideline will assist the concerned quasi-judicial bodies in choosing a method of fixing the notional income for settling just and fair compensation for housemakers. This will help us to build a just institutional order' for our future generation.

CITATION

1. The Constitution of India - D.D. Basu Art 14/Art 15/Art 21/Art 32(A)
2. National Judicial Academy

3. Lawsuit (SC) 490, Case No 5843 Of 2010
4. M.V. Act 1988, S.166
5. <https://indiankanoon.org/doc/106405133> (2010)9 SCC 218
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