

Sunny Chugh and others v. Darshan Lal and others (S. S. Sodhi, J.)

(23) The view that I have taken with respect finds support from a judgment of the Karnataka High Court in *Commissioner of Income Tax v. K. Ramaiah* (7). The Karnataka High Court while interpreting the provisions of section 2 of the U.N. (Privileges and Immunities) Act, 1947 and section 18 clause (b) of Article V of the Schedule thereto, which granted exemption from income tax to salaries and emoluments paid by the United Nations to its officials, held that since under section 17 of the Income Tax Act, 1961, salary had been defined to include pension and if salary was exempt from tax, so shall be the pension. The Central Board of Direct Taxes in fact accepted the ratio of the said decision and intimated its decision in this regard by issuing Circular No. 293 dated 10th February, 1981 to the departmental authorities. Since the department, despite the aforesaid circular, had not withdrawn a reference pending in the Delhi High Court so, the said High Court answered the said reference in favour of the assessee-pensioner following the aforesaid decision of the Karnataka High Court (see in this regard *Commissioner of Income Tax, Delhi-1 v. Dr. P. L. Narula*) (8).

(24) In any case where two interpretations are possible in regard to a taxing statute, the judicial consensus favours the acceptance of the one that is in favour of the assessee.

(25) For the reasons aforementioned, I answer the question in the affirmative, i.e., in favour of the assessee, and against the Revenue. I allow Rs. 500 by way of costs to be paid by the Revenue.

H.S.B.

Before S. S. Sodhi, J.

SUNNY CHUGH AND OTHERS,—Appellants.

versus

DARSHAN LAL AND OTHERS,—Respondents.

First Appeal from Order No. 485 of 1979.

January 17, 1985.

Motor Vehicles Act (IV of 1939)—Section 110-B—Motor Accident leading to death of a young house wife—Claim petition filed by husband and minor children—Quantum of compensation in such cases—How to be determined—Principles for granting compensation—Stated.

(7) (1980) 126 I.T.R. 638.

(8) (1984) 150 I.T.R. 21.

Held, that it is now well settled that the services that housewife provides for the household, even though rendered gratuitously do indeed have a monetary value in respect of which compensation is payable, particularly to the beneficiaries of such services which would include the husband and the children. Such compensation can be granted under various heads of pecuniary loss both for the husband on the death of his wife as also to the children in respect of their mother. Included here is the loss of the wife's contribution to the household from her earnings, the additional expenses incurred or likely to be incurred by having the household run by a housekeeper or servant instead of the wife, the expenses of buying clothes for the children instead of having them made by the wife; and similarly having husband's own clothes mended or stitched elsewhere than by his wife and further the loss of that element of security provided to the husband where his employment was insecure or his health was bad and where the wife could go out and work for a living. It is also pertinent to bear in mind that there is no retirement age of a house wife and she continues to work in the house for as long as she is physically capable of doing so. Considered in this light, it is to be assumed that the deceased would have continued to provide such services to her husband and children for many years to come on account of her own age and this fact must also reflect on the quantum of compensation payable to the claimants under Section 110-B of the Motor Vehicles Act, 1939.

(Paras 3 & 4)

First Appeal from the order of the Court of Shri R. K. Nehru, Motor Accident Claims Tribunal, Karnal, dated the 19th day of May, 1979 passing an award of Rs. 1500/- by way of claim compensation in favour of Raj Kumar claimant and against the respondents in claim petition. Raj Kumar vs. Surjeet Singh No. 30/75 with proportionate cost and also an award of Rs. 14400/- in favour of the claimants and against the respondents in claim petition Sunny Chug vs. Darshan Lal and others No. 26/75 with proportionate cost. These awards would be satisfied by the Insurance Company Respondent in both the claim petitions. It was further directed that compensation amount of Rs. 14,400/- awarded in claim petition No. 26/75 would be shared by the claimants in equal shares. It was further directed that if the above claim compensation awarded to the claimants in the two petitions referred above are paid to them by the respondent Insurance Company within one month of the passing of this award, no interest would be claimed on the above amounts by the claimants otherwise the claimants would be entitled to interest on the above claim amount at the rate of 4 per cent P.A. from the day of the filing of their respective claim petitions till the date of realisation.

D. S. Bali, Advocate, for the Appellants.

V. P. Gandhi, Advocate, for the Respondent No. 3.

Harbhagwan Singh, A.G., Haryana with B. S. Pawar, A.A.G.,
Hy. for Respondent Nos. 5 & 6.

Sunny Chugh and others v. Darshan Lal and others (S. S. Sodhi, J.)

JUDGMENT

S. S. Sodhi, J.

(1) Several passengers were injured and one died too, namely, Urmila Chugh, when the Haryana Roadways bus HRE-1916, they were travelling in, turned turtle in an accident with the truck HRK-5335, coming from the opposite direction. This happened on November 12, 1974, on the Karnal by-pass. It was the finding of the Tribunal that the negligence here was wholly that of the truck-driver. A sum of Rs. 14,400 was awarded as compensation to the claimants—they being the husband and two minor children of Urmila Chugh deceased.

(2) The claim in appeal now is for enhanced compensation.

(3) Urmila Chugh was 29 years of age at the time of her death. She was a qualified teacher and had been teaching before her marriage and evidence was led to show that she had been taking tuitions thereafter and her earnings from the source were to the tune of about Rs. 450 per month. This was, however, not accepted by the Tribunal. There can, at any rate, no manner of doubt that the deceased was a qualified teacher and was thus capable of working and earning as such. Besides this, it is now well-settled that the services that a housewife provides for the household, even though rendered gratuitously do indeed have a monetary value in respect of which compensation is payable, particularly to the beneficiaries of such services which would include the husband and the children. In *Kemp & Kemp*, on Quantum of Damages, Volume-1, various heads of pecuniary loss for the husband on the death of his wife have been listed out. Included there is the loss of the wife's contribution to the household from her earnings; the additional expenses incurred or likely to be incurred by having the household run by a house-keeper or servant, instead of the wife; the expenses of buying clothes for the children instead of having them made by the wife; and similarly having his own clothes mended or stitched elsewhere than by his wife, and the loss of that element of security provided to the husband where his employment was insecure or his health was bad and where the wife could go out and work for a living.

(4) It is also pertinent to bear in mind that there is no retirement age for a house-wife. She works in the house for as long as she is

physically capable of doing so. Considered in this light, it is to be assumed that the deceased would have continued to provide such services to her husband and children for very many years to come. Her young age as also that of the claimants here must also reflect upon the quantum of compensation payable to them.

(5) Considered in their totality the circumstances of the claimants and that of the deceased, in the light of the factors as set out above there can be no manner of doubt that the amount awarded was wholly inadequate. The compensation payable to them is accordingly hereby enhanced to Rs. 50,000 which they shall be entitled to along with interest at the rate of 12 per cent per annum from the date of the application to the date of the payment of the amount awarded. Out of the amount awarded, a sum of Rs. 15,000 each shall be payable to the minor children of the deceased and the balance to her husband. The amount payable to the minor claimants shall be paid to them in such manner as the Tribunal may deem to be in their best interest.

(6) The respondent truck driver, owner and the insurance Company shall be jointly and severally liable for the compensation awarded.

(7) This appeal is accordingly hereby accepted with costs. Counsel fee Rs. 500.

H.S.B.

Before D. S. Tewatia, J.

PROGRESSIVE POLY PLAST CO. (P) LTD.,—Petitioner.

versus

UNION OF INDIA AND ANOTHER,—Respondents.

Civil Writ Petition No. 2736 of 1984.

January 31, 1985.

Constitution of India 1950—Article 226—Territorial jurisdiction—Provisional order of assessment passed by Assistant Collector at Bombay—Order challenged in the High Court at Chandigarh—Goods