

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO No.10565 of 2014
Decided on: 01.12.2016**

Phooli Devi and others

....Appellants

Versus

Darshan Singh and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Vinod K. Kanwal, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for Mr. Sanjeev Goyal, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Ram Sarup in a motor vehicular accident that took place on 27.02.2012.

The Tribunal assessed income of the deceased at Rs.4,400/- per month, deducted 1/4th for personal expenses and adopted a multiplier of 7 to compute loss of dependency at Rs.2,77,200/-. In addition, an amount of Rs.10,000/- each for funeral expenses and consortium has been awarded making total compensation to Rs.2,97,200/- payable with interest @ 7% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the minimum wage admissible to an unskilled worker in the State of Haryana at the relevant time was more than Rs.4,500/- per month. The deceased met with an accident when he was driving the motorcycle sufficient to show

that he was hale and hearty. Another submission made by counsel is that compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company, on the contrary, has submitted that application for compensation was filed by the widow and four sons of the deceased. All the four sons were more than 25 years of age and were married and the Tribunal has not accepted their plea of being dependent on earnings of the deceased. It is further argued that as the sons were not dependent upon the deceased, admissible deduction should be 1/3rd in place of 1/4th.

I have heard counsel for the parties and perused the paperbook particularly the award passed by the Tribunal.

The learned Tribunal assessed income of the deceased at Rs.4,400/- per month by taking a clue from minimum wage of an unskilled worker and in the light of age of the deceased who was getting old age pension. The minimum wage of an unskilled worker in the State of Haryana at the relevant time was Rs.4,847.17 paise. Keeping in view the minimum wage coupled with age of the deceased, I do not find any reason to interfere in assessment of income made by the Tribunal.

Perusal of statement of Phooli Devi, widow of the deceased and Raghbir Singh one of the sons of the deceased leaves no manner of doubt that all the sons of the deceased had their independent earnings and were not dependent upon the deceased. Phooli Devi in her cross-examination has stated that all her sons are earning hand and she is residing with claimant No.4. In view of the above, admissible deduction would be 1/3rd in place of 1/4th. In this manner, loss of

dependency comes to **Rs.2,46,400/-** (Rs.4,400/- x 12 x 7 = Rs.3,69,600/- – Rs.1,23,200/- (1/3rd deduction towards personal expenses)).

Under conventional heads, an amount of **Rs.1,00,000/-** for loss of consortium to the widow, **Rs.1,00,000/-** in equal share to the sons for loss of love and affection, **Rs.25,000/- each** for expenses on funeral and loss of estate is awarded. The total compensation comes to Rs.4,96,400/- and the enhanced compensation is **Rs.1,99,200/-** (Rs.4,96,400/- – Rs.2,97,200/-) payable with interest @ 7.5% per annum from the date of petition till realization. The enhanced compensation shall be payable exclusively to widow of the deceased, to be deposited in fixed deposit receipt for a period of 03 years.

The appeal is partly allowed in the aforesaid terms.

01.12.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No