

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

FAO No. 5231 of 2013 (O&M)

Date of decision: 22.03.2016

Oriental Insurance Company Limited

... Appellant

versus

Rawinder Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

K.Kannan, J. (ORAL)

The appeal is against the issue of quantum assessed by the Tribunal on the ground that the issue of negligence was not properly considered and the extent of dependency and the choice of multiplier were wrong.

The Court was considering the case of the deceased who was driving in a motor cycle turned right through a slit in the traffic divider and came by collision with the insured bus which was coming from the opposite direction. The Tribunal cast the entire liability on the driver of the insured bus as responsible for the accident. In the evidence of the Krishan Singh, it was elicited that the accident had taken place in the middle of GT road when the bus was coming from Sirhind to Khanna and when the deceased was proceeding from Khanna to Gobindgard took turn in the slit in the traffic divider where there was no even road light. The place of impact would shall make it evident that if the deceased himself had taken adequate care, he could have avoided the accident. He surely contributed to the accident and I will modify the Tribunal's finding and impugned the liability between the driver of the bus and the deceased at 75:25. The deceased was cited

to be running a game center and his income was taken to be Rs. 1,53,850/- as per the document filed before the Tribunal. I will retain the same.

The Tribunal adopted the multiplier of 9 taking the age of deceased as 60 but the wife herself had admitted at the trial that her husband was 62 years of age. I, therefore, modify the multiplier at 7, the loss of dependency at Rs. 7,17, 969/-. I rework the claim for loss of consortium at Rs. 1,00,000/- and provide for Rs. 1,00,000/- to the minor son and Rs. 50,000/- to major son. The various heads are tabulated as :

<u>Fatal</u>	Date of accident	12.10.2011	
Age	60		
Occupation	Running game center		
Claimants	Wife, son, minor son.		
SR. No.	Heads of claim	Tribunal Amount (Rs.)	High Court Amount (Rs.)
1	Income	1,53,850/- (yearly)	
2.	Add, % of increase, 30%/50%		
3.	Deduction, 1/2, 1/3, 1/4,	1,02,566/-	1/3
4.	Multiplicand	1,02,566/-	
5.	Multiplier	9	7
6.	Loss of dependence	9,23,000/-	7,17,969/-
7.	Medical Expenses		
8.	Loss of Consortium	10,000/-	1,00,000/-
9.	Loss of love and affection		1,50,000/-

10.	Loss to estate		5,000/-
11.	Funeral Expenses		25,000/-
	Total	9,38,000/-	9,97,969/-

The aggregate amount will be 9,97, 969/- and if I apply 25% cut for the contributory negligence as found above, the total compensation will be Rs. 7,48, 476.75 which is rounded of to Rs. 7,48,500/-. The compensation assessed already stands modified and scaled down as above. The amount of compensation shall be distributed in the same proportion in which it has been found by the Tribunal. The award stands modified and the appeal is allowed to the above extent.

(K.KANNAN)
JUDGE

22.03.2016
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