

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

**FAO No.7560 of 2014
Decided on: 06.09.2016**

Sua and others

....Appellants

Versus

Narsi Kumar and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Vivek Khatri, Advocate
for the appellants.

Mr. H.S. Gharoo, Advocate
for Mr. Vijay Kumar Garg, Advocate
for respondent No.3.

REKHA MITTAL, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Mukesh in a motor vehicular accident that took place on 10.08.2013.

The learned Tribunal assessed income of the deceased at Rs.4,000/- per month, deducted 1/4th towards personal expenses, adopted a multiplier of 18 and allowed benefit of increase in income for future prospects to the extent of 50% to compute loss of dependency to the tune of Rs.9,72,000/-. In addition, an amount of Rs.1,00,000/- has been awarded for consortium to the widow and Rs.25,000/- on account of transportation and funeral expenses, making total compensation to the tune of Rs.10,97,000/- payable with interest @ 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that income of the deceased assessed by the Tribunal is liable to be enhanced as wage available to an unskilled worker in the State of Haryana at the relevant

time was more than Rs.5,000/- per month. It is further submitted that compensation awarded under conventional heads needs re-consideration, addition and enhancement.

Counsel for the insurance company, on the contrary, would urge that the Tribunal has wrongly deducted 1/4th towards personal expenses in place of 1/3rd as there is no evidence on record to prove that father of the deceased was dependent upon earnings of Mukesh, his married son.

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

There cannot be any dispute about the settled position in law that the Tribunal has an obligation to award just, reasonable and equitable compensation for the wrong done as far as money can do. Equally settled is that compensation can not be a bonanza or a source of profit.

As has been noticed hereinbefore, the Tribunal assessed income at Rs.4,000/- per month. Taking into consideration the minimum wage fixed for an unskilled worker in the State of Haryana available in August, 2013, income of the deceased is assessed at Rs.5,340/- per month. The learned Tribunal has allowed deduction to the extent of 1/4th but there is no evidence on record that father of the deceased was dependent upon his earnings, therefore, the remaining claimants being three in number, deduction to the extent of 1/3rd is admissible in the light of judgment ***“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another”***, 2009(3) R.C.R. (Civil) 77. In this manner, loss of dependency comes to ***Rs.11,53,440/-***

(Rs.5,340/- x 12 x 18 = Rs.11,53,440/- – Rs.3,84,480/- (1/3rd towards personal expenses) = Rs.7,68,960/- + Rs.3,84,480/- (50% for future prospects).

Suman, minor daughter of the deceased is awarded an amount of **Rs.1,00,000/-** and Sharda, mother of the deceased is allowed an amount of **Rs.50,000/-** for loss of love and affection. The appellants shall be entitled to an amount of **Rs.25,000/-** for loss of estate. The compensation awarded by the Tribunal *qua* loss of consortium to the extent of **Rs.1,00,000/-** and **Rs.25,000/-** for funeral expenses is affirmed. The total amount of compensation payable to the appellants comes to **Rs.14,53,440/-**. The enhanced compensation is calculated at **Rs.3,56,440/-** (Rs.14,53,440/- – Rs.10,97,000/-) payable with interest @ 7.5% per annum from the date of filing of the petition till realization exclusively to minor child, to be deposited in the shape of FDR in a nationalized bank till she attains the age of majority. The interest accrued on the amount of FDR shall be payable to mother of the minor child for meeting expenses on (childs') education.

The appeal is partly allowed in the aforesaid terms.

06.09.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No