

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

FAO-1470-1994 (O&M)
Date of decision: 20.11.2017

JASWINDER AND ORS.

...Appellants

Versus

RAJINDER KAUR AND OTHERS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Neha Jain, Advocate for
Mr. K.S. Dadwal, Advocate
for the appellants.

Mr. R.K. Bashamboo, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Nirmal Chand in a motor vehicular accident that took place on 12.12.92.

The Tribunal has awarded compensation of Rs.1,60,000/- by treating contribution towards family of the deceased to the extent of Rs.800/- per month but without following any criteria for arriving at an amount of Rs.1,60,000/-.

Counsel for the appellants has submitted that the deceased was a motor mechanic working in the workshop of Faqir Singh AW2 and had been earning Rs.2500/- to Rs.3000/- per month. It is further submitted that in view of age of the deceased and number of dependents on his earnings,

appropriate multiplier and deduction for personal expenses may be applied in the light of enunciation laid down by Hon'ble the Supreme Court in **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**. The claimants are entitled to benefit of increase in income for future prospects to the extent of 40% in the light of latest judgment of Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017**. Adequate compensation may be awarded under conventional heads.

Counsel representing the insurance company, on the other hand, has supported the award with the submission that the occurrence took place more than two decades ago.

The Tribunal in para 9 of the award has noticed that Jaswinder, widow of the deceased appeared in the witness box and stated that deceased was doing the job of motor mechanic thereby earning Rs.2500/- to Rs.3000/- per month. Her testimony finds corroboration from the statement of Faqir Singh in whose workshop the deceased was working as a motor mechanic. Taking into consideration the evidence on record, income of the deceased is assessed at Rs.2600/- per month. The claimants are entitled to increase in income for future prospects to the extent of 40%. In view of age of the deceased and number of claimants held entitle to get compensation, multiplier of 15 and deduction for personal expenses to the extent of 1/4th is to be applied. In this manner, loss of dependency comes to Rs.2600 x 12 x

15 + 40% (future prospects) – 1/4th (deduction for personal expenses) =
Rs.4,91,400/-.

Under conventional heads, claimants shall be entitled to following compensation:-

1.	Loss of consortium to the widow	Rs.30,000/-
2.	Expenses on funeral/last rites	Rs.10,000/-
3.	Loss of estate	Rs.10,000/-
	Total	Rs.50,000/-

The total compensation comes to Rs.5,41,400/- and the additional amount is Rs.3,81,400/- (5,41,400 – 1,60,000). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization, payable to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

20.11.2017
ashok

(REKHA MITTAL)
JUDGE

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