

220

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5342-2012

Date of decision : 01.12.2017

Santra Devi and others

... Appellant(s)

Versus

Shailender and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.P. Chahar, Advocate
for the appellants.

Mr. Navin Kapur, Advocate for
Mr. N.K. Manchanda, Advocate
for respondent No.3.

AMIT RAWAL, J. (ORAL)

The appeal has been preferred by the legal representatives of the deceased-Dharuv Kumar @ Tinku, who died in a motor accident occurred on 19.08.2010, for enhancement of compensation against the award passed by the Tribunal, whereby a compensation of ₹ 8,80,000/-with interest @ 7.5% per annum from the date of filling of the claim petition till its realization, had been awarded.

Mr. S.P. Chahar, learned counsel appearing on behalf of the appellants-claimants submits that the deceased was earning ₹ 70,000/- per month by running a shop and from the agricultural work, but the Tribunal took the income of the deceased as ₹ 6000/- and applied a deduction of 1/4th towards his personal expenses and awarded the compensation to the tune of ₹ 8,80,000/- after applying the multiplier of '16', which is on lower

side. Moreover, no increase was made in the salary towards future prospects and the amount of ₹ 6,000/- towards funeral expenses and ₹ 10,000/- for loss of consortium are also on lower side, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of the Insurance Company submits that the Tribunal has taken care of all the heads sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that once the Insurance Company has not challenged the income of the deceased as assessed by the Tribunal i.e. ₹ 6,000/-, by taking the findings of the learned Tribunal, I take the income of the deceased as ₹ 6,000/-, but provide an increase of 40% towards future prospects. I will make a deduction of ₹ 1/4th towards personal expenses and apply a multiplier of '16' to assess the loss of dependency as ₹ 12,09,600/-. I will further add to it ₹ 70,000/- towards conventional heads i.e. loss of consortium, loss of estate and funeral expenses as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in **SLP (Civil) No.25590 of 2014** titled as **“National Insurance Company Ltd. V/s Pranay Sethi and others”**.

In all the compensation payable shall be ₹ 12,79,600/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till its realization. The enhanced amount shall be distributed amongst the appellants-claimants in the ratio of 1:2:2:2:2:2. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

01.12.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No