

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

FAO No.6393 of 2012 (O&M)

Date of decision: 31.10.2017

KAMALJIT KAUR AND ORS

...Applicant/Appellants

Versus

JAGTAR SINGH AND ORS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vishal Sharma, Advocate for
Mr. Vijay Lath, Advocate
for the applicant-appellants.

Mr. Ajay Singh Parmar, Advocate for
Mr. P.K. Kataria, Advocate
for respondent No.2.

Mr. Pardeep Kumar, Advocate for
Mr. Vinod Gupta, Advocate
for respondent-insurance company.

REKHA MITTAL, J. (Oral)

CM No.30660-CII-2012

Heard.

For the reasons stated in the application supported by affidavit of Mrs. Kamaljit Kaur wd/o Sh. Gurmukh Singh, same is allowed. Delay of 386 days in filing the appeal is condoned subject to the condition that the appellants shall forgo interest for the period of delay in case plea for enhancement of compensation is accepted.

Main Case

The claimants are in appeal seeking enhancement of

compensation in regard to death of Gurmukh Singh in a motor vehicular accident that took place on 22.11.2007.

The Tribunal assessed income of the deceased at Rs.3500/- per month, deducted 1/4th for personal expenses and applied multiplier of 15 to compute loss of dependency at Rs.4,72,500/-. In addition, an amount of Rs.50,000/- towards loss of consortium to the widow, loss of love and affection to the children and father of the deceased and funeral expenses has been awarded making total compensation to the tune of Rs.5,22,500/-, payable with interest @ 7.5% per annum from the date of petition till realization in case the amount is paid within one month failing which it would attract interest @ 12.5% per annum.

Counsel for the appellants has submitted that income of the deceased assessed by the Tribunal is on lower side and liable to be enhanced. The claimants are entitled to increase in income for future prospects. Compensation awarded under conventional heads needs enhancement.

Counsel representing the insurance company, on the other hand, would submit that as the claimants failed to adduce tangible much less convincing evidence on record to establish income of the deceased, they are not entitled to addition qua future prospects in the light of latest pronouncement of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors.** Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017.

I have heard counsel for the parties, perused the paper book particularly award dated 03.08.2012 passed by the Motor Accidents Claims Tribunal, Ropar.

The plea of the claimants is that the deceased was doing agriculture and dairy farming and earning Rs.15,000/- per month. In Para 14 of the award, the Tribunal has noticed that the claimants have neither produced any revenue record nor any witness from the village has been examined to prove that the deceased was running a dairy and earning Rs.15,000/- per month. However, the Tribunal has assessed his income at Rs.3500/- per month by treating him as an unskilled labour. Under the circumstances, there is no merit in contention of the claimants that income of the deceased is liable to be enhanced. There is nothing on record suggestive of the fact that the deceased was suffering from any disability to impair his capacity to work and earn livelihood for himself and his family consisting of his widow, three minor children and old aged father. The Tribunal has assessed age of the deceased as 40 years and applied multiplier of 15. In the light of enunciation laid down in aforesaid judgment, the claimants are allowed increase in income for future prospects to the extent of 40%. The multiplier and deduction for personal expenses applied by the Tribunal are affirmed. In view of the above, loss of dependency comes to $\text{Rs.}3500 \times 12 \times 15 + 40\% \text{ (future prospects)} - \frac{1}{4}^{\text{th}}$ (deduction for personal expenses) = Rs.6,61,500/-.

As has been noticed hereinbefore, the Tribunal has awarded a

consolidated sum of Rs.50,000/- under conventional heads. In the light of judgment in Pranay Sethi's case (supra), the claimants shall be entitled to following compensation under conventional heads:-

Expenses on funeral	Rs.15,000/-
Loss of consortium to the widow	Rs.40,000/-
Loss of estate	Rs.15,000/-
Total	Rs.70,000/-

The total compensation comes to Rs.7,31,500/- and the additional amount is Rs.2,09,000/- (7,31,500 – 5,22,500). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization except for the period of delay.

The appeal is partly allowed in the aforesaid terms.

31.10.2017
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No