

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

FAO-1091-2015 (O&M)
Date of decision: 14.11.2017

ROSHNI & ORS ...Appellants

Versus

UNITED INDIA INSURANCE CO LTD & ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. S.K. Tripathi, Advocate for the appellants.

Mr. R.C. Gupta, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Manohar Singh in a motor vehicular accident that took place on 14.10.2008.

The Tribunal has awarded compensation to the tune of Rs.15,61,608/-, detailed hereunder:-

1. Medical bills before death	Rs.6,10,008/-
2. Monthly income of Manohar Singh at the time of his death	Rs.4,000/-
3. Increase in the salary on account of future prospects @ 50% as per 'Sarla Verma & Ors Vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77'	Rs.2,000/-
4. Total monthly salary comes to	Rs.6,000/-
5. Monthly dependency after deducting 1/5 th amount towards personal living expenses of the deceased	Rs.4800/-

6. Annual income for the purpose of compensation	Rs.57,600/- (Rs.4800 x 12)
7. After applying the multiplier of 16, the compensation amount comes to	Rs.9,21,600/- (Rs.57,600 x 16)
8. Amount towards loss of consortium	Rs.10,000/-
9. Amount towards loss of estate	Rs.10,000/-
10. Amount towards last rites and transportation	Rs.10,000/-

Counsel for the appellants has submitted that the deceased was an agriculturalist and milk vendor who used to earn Rs.10,000/- per month but the Tribunal has wrongly assessed his income at Rs.4,000/- per month. Another submission made by counsel is that the Tribunal has deducted 1/5th towards personal and living expenses of the deceased but as the deceased left behind a large family consisting of his widow, six minor children and parents, deduction for personal expenses may be reduced to 1/10th. Adequate compensation may be awarded under conventional heads.

Counsel representing the insurance company, on the other hand, would urge that adequate compensation has been awarded by the Tribunal. It is argued that in the light of latest judgment 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, deduction towards personal and living expenses of the deceased as laid down in Sarla Verma's case (supra) has been affirmed.

I have heard counsel for the parties, perused the paper book particularly the award.

Roshni, widow of the deceased appeared in the witness box and tendered into evidence her affidavit Ex.PW1/A and reiterated plea of the claimants that Manohar Singh was earning an amount of Rs.10,000/- per month from agriculture and milk vending. Indisputably, the claimants failed to produce on record any document with regard to land cultivated by the deceased. Statement of Roshni with regard to income of the deceased does not find corroboration from any independent source much less documentary evidence. Under the circumstances, there is no justification for enhancement of income of the deceased. However, the claimants are entitled to increase in income for future prospects to the extent of 40%.

The Tribunal has applied multiplier of 16 and deduction for personal expenses to the extent of $\frac{1}{5}^{\text{th}}$, liable to be affirmed in view of judgment of Hon'ble the Supreme Court in Pranay Sethi's case (supra). As such compensation for loss of dependency comes to Rs.4000 x 12 x 16 +40% (future prospects) - $\frac{1}{5}^{\text{th}}$ (deduction for personal expenses) = Rs.8,60,160/-.

The Tribunal has allowed reimbursement of amount of Rs.6,10,008/- qua medical expenses in regard to treatment of the deceased before his death and the same is affirmed. The claimants are awarded an amount of Rs.10,000/- for miscellaneous expenses incurred in 14 days when the deceased remained alive.

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

1. Loss of consortium to the widow Rs.40,000/-

2.	Loss of estate	Rs.15,000/-
3.	Expenses on funeral and last rites	Rs.15,000/-
	Total	Rs.70,000/-

The total compensation comes to Rs.15,50,168/-. The Tribunal has awarded compensation of Rs.15,61,608/-. Under the circumstances, the award passed by the Tribunal is affirmed.

Disposed of accordingly.

14.11.2017
ashok

(REKHA MITTAL)
JUDGE

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