

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 9521 of 2014 (O&M)

Date of Decision: 16.11.2017

Shri Ram General Insurance Company Limited

.....Appellant

Versus

Ram Kishan and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajbir Singh, Advocate
for the appellant.

Mr. Gautam Kaile, Advocate for
Mr. Ashwin Antil, Advocate
for respondents No. 1 to 4.
Respondents No. 5 and 6 ex parte.

ANITA CHAUDHRY, J

The insurance company has filed this appeal aggrieved by the amount awarded to the claimants.

Yashwanti @ Sabo was 40 years old and the claimants are the husband and three minor sons. The Tribunal assessed the income of the deceased at Rs. 4500/- and made an addition of 30% towards future prospects and made a deduction of 1/4th and applied the multiplier of 15 to calculate the compensation to be Rs. 7,89,750/-. A sum of Rs. 25,000/- was allowed for funeral expenses, Rs. 1,00,000/- for loss of love and care for the children, Rs. 1,00,000/- for loss of consortium and Rs. 25,000/- for pain and suffering. A total claim of Rs. 10,39,750/- was allowed.

The submission on behalf of the appellants is that there was no proof regarding income of the deceased and no addition towards future prospects should have been made.

On the other hand, the submission is that the larger Bench has held that the addition towards future prospects should be made even for the self employed.

The claimants did not lead evidence with respect to income of the deceased but I would not make any change on the assessment made by the Tribunal when it took the income to be Rs. 4500/-. The addition towards future prospects would be 25% only and with that addition the additional income would come to Rs. 5625/- and after deducting 1/4th, the amount available for the family would be Rs. 4219/-. The compensation would come to Rs. 4219 x 12 x 15 = 7,59,420/-. There can be no addition for loss of love and affection as it has been done away with in the latest judgment of the Apex Court in *National Insurance Company Limited versus Pranay Sethi and others, SLP (Civil) No. 25590 of 2014, decided on 31.10.2017*. The addition would be only Rs. 40,000/- for loss of consortium, Rs. 15,000/- for funeral expenses and Rs. 15,000/- for loss of estate. The total compensation payable would be Rs. 8,29,420/-. This is the amount which was payable to the claimant. The amount would be paid with interest as awarded by the Tribunal.

The award is modified. The appeal is allowed.

(ANITA CHAUDHRY)
JUDGE

November 16, 2017
Gurpreet

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