

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

FAO No.2789 of 1999

Date of Decision:-19.3.2018

Salma Mahendru and others

...Appellants

Versus

Paramjit Singh and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE REKHA MITTAL

Present:- Mr. K.S. Chahal, Advocate
for the appellants.

Mr. V. Ramswaroop, Advocate
for respondent No.3-insurance company.

REKHA MITTAL J.(Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Mohd. Hanif Mohindru in a motor vehicular accident that took place on 03.7.1997.

The Tribunal has awarded compensation of Rs.4,46,400/- in addition to Rs.30,849/- for medical treatment, Rs.2000/- for funeral expenses and Rs.5000/- for loss of consortium. However, the claimants were held entitled to recover only 50% of compensation as 50% negligence in causing the accident has been attributed to the deceased.

Compensation of Rs.4,46,400/- has been allowed as detailed hereunder :-

Monthly salary of the deceased	Rs.9300/-
Deduction for personal expenses	1/3 rd
Multiplier	6

Loss of dependency Rs.4,46,400/-

Counsel for the appellant would argue that the deceased was 53 years old, therefore, appropriate multiplier would be 11 in the light of judgment of Hon'ble the Supreme Court **Smt. Sarla Verma v. Delhi Transport Corporation, 2009(3) R.C.R.(Civil) 77**. Claimants are entitled to addition in income for future prospects @ 10%. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported assessment made by the Tribunal.

The Tribunal has assessed income of the deceased on the basis of LPC (Ex.P-31). Perusal of Ex.P-31 would reveal that gross salary of the deceased was Rs.10,192/- per month, detailed hereunder :-

Basic Pay	Rs.8375/-
D.A.	Rs.1089/-
HR	Rs.628/-
MA	Rs.100/-

The deceased was a regular employee working as a Draftsman, PWD (B & R), Government of Punjab, Malerkotla. The gross salary is to be taken into account for computing loss of dependency. In this context, reference can be made to judgments of Hon'ble the Supreme Court **National Insurance Company Limited vs. Indira Srivastava and others 2008(1) RCR (Civil) 359** and **Manasvi Jain vs. Delhi Transport Corporation 2014(3) RCR (Civil) 313**.

However, after deducting liability to pay income tax of

Rs.14,460/-, net loss of income per annum is Rs. 1,07,844/-. Claimants shall be entitled to benefit of future prospects @ 15%. Admissible multiplier as per age of the deceased would be '11'. In this manner, loss of dependency comes to Rs.9,09,484/- [(Rs.1,07,844/- x 11) +(15%)-(1/3rd)].

Compensation of Rs.30,849/- for medical treatment awarded by the Tribunal is affirmed. Under conventional heads, claimants shall be entitled to Rs.70,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others, 2017 SCC 1270**, detailed hereunder :-

Loss of consortium	Rs.40,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-

Total compensation is Rs.10,10,333/-. Claimants shall be entitled to 50% of the amount (as 50% negligence has been attributed to the deceased) along with interest @ 7.5% per annum from the date of petition till realization. Any amount paid to the claimants in terms of Award of the Tribunal shall be liable to adjustment out of amount held payable by this Court.

The appeal is partly allowed in the aforesaid terms.

March 19, 2018
Vijay Asija

(**REKHA MITTAL**)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No