

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

FAO 2409 of 2005 (O&M)
Date of decision: 17.07.2018

Sheela Devi and others *Appellants*
Versus
Jaskaran Singh and others *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal
-.-

Present: None for the appellants

 Mr. Vinod Gupta, Advocate
 for respondent No. 3
 -.-

Rekha Mittal, J. (Oral)

 The claimants are in appeal seeking enhancement of compensation on account of death of Ram Bilas Garg in a motor vehicular accident that took place on 09.05.2003.

 The Tribunal has awarded compensation of Rs.3,30,000.00, detailed hereunder:-

Annual income of the deceased	Rs.60,000.00
Deduction for personal expenses	1/3 rd
Multiplier	8
Loss of dependency	Rs.3,20,000.00
Loss of consortium and last rites	Rs.10,000.00

 Amount of compensation is held to be payable with interest at the rate of 6% per annum from the date of application till realization but in case the amount is paid within three months from the date of award, interest would be calculated at the rate of 4% per annum from the date of application till realization.

Counsel for the insurance company has submitted that the Tribunal has rightly assessed income of the deceased at Rs.60,000.00 per annum. It is argued that application for compensation was filed by the widow and adult children of the deceased, therefore, admissible deduction for personal expenses should be 50%.

There is no representation on behalf of the claimants, earlier being represented by a counsel.

The Tribunal, in para 15 of the award has made reference to income tax returns marked as exhibit. The latest income tax return reflecting income of deceased to be Rs.1,95,000.00 was received by the department on 20.05.2003 i.e. after death of Ram Bilas Garg. However, in income tax return for the year 1999-2000, income of deceased is recorded to be Rs.1,43,320.00 per annum. In the earlier return, income of deceased is less than Rs.1,43,320.00 per annum. Taking into consideration the latest return filed by the deceased himself, income of the deceased is assessed at Rs.1,43,320.00 per annum. Claimants shall be entitled to addition in income for future prospects at the rate of 10% as the deceased was 55 years old. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. In this context, reference can be made to judgments of Madhya Pradesh High Court *Anurag Jain and others vs. Ranveer Singh and others, 2007 (4) TAC 279*; of Karnataka High court *Ningappa Ramanna Kori and another vs. Tamil Nadu State Transport (Madurai) Limited, 2016 AAC 1629* and judgment of this Court *Pawan Kumar and others vs. Ramesh Kumar and others, 2016 (1) Law Herald 758*. As the deceased was less than 56 years of age, to be precise, he was 54 years 04 months and 07 days old at the time of occurrence, admissible multiplier would be 11.

In view of the above, loss of dependency is calculated at Rs.11,56,115.00 (Rs.15,76,510.00 i.e. Rs.1,43,320 x 11 + Rs.1,57,652.00 (10% addition in income for future prospects) - Rs.5,30,724.00 (1/3rd deduction))

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court *National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270*, detailed hereunder:-

Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to Rs.12,26,115.00 and additional amount is Rs.8,96,115.00 (Rs.12,26,115.00 – Rs.3,30,000.00).

The Tribunal has allowed interest at the rate of 6% but reduced to 4% per annum in case the compensation is deposited within a period of three months. The Tribunal has not assigned any reason to give concession in interest to the insurance company. Claimants shall be entitled to interest at the rate of 6% per annum from the date of petition till realization on the amount assessed by the Tribunal. However, on the additional amount assessed by this Court, they shall be entitled to interest at the rate of 7.5% per annum from the date of petition till realization, payable to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

17.07.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No