

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4710 of 2012(O&M)  
Date of Decision:4.4.2018

Manjit Kaur

---Appellant

vs.

Raj Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

\*\*\*

Present: Mr. Karan Nehra, Advocate  
for the appellant  
Mr. Sandeep Jain, Advocate  
for respondents No. 1 and 2  
Mr. Pardeep Goyal, Advocate  
for respondent No. 3

\*\*\*

Rekha Mittal, J.

Claimant Manjit Kaur is in appeal seeking enhancement of compensation on account of death of Manjit Singh Walia in a motor vehicular accident that took place on 15.2.2011.

The Motor Accidents Claims Tribunal, Kapurthala (in short “the Tribunal”) has awarded compensation of Rs. 2,23,000/-, detailed hereunder:-

|                                |                |
|--------------------------------|----------------|
| Monthly income of the deceased | Rs.6000/-      |
| Multiplier                     | 3              |
| Loss of dependency             | Rs. 2,16,000/- |
| Cremation charges              | Rs. 2000/-     |
| Loss of consortium             | Rs. 5000/-     |

Counsel for the appellant would argue that the deceased was a

pensioner and his last pension for the month of February 2011 was Rs. 18,360/- per moth. The widow of the deceased shall be entitled to family pension of Rs. 3192/-, therefore, loss of dependency is liable to be adjudged on the basis of difference of two pensions by applying appropriate multiplier and deduction towards personal expenses. Another submission made by counsel is that the deceased was the registered owner of truck bearing No. PB 07-Z- 7543 and had income from the transport business. It is further argued that though there is no clear evidence on record with regard to income from transport business but the claimant is entitled to get compensation with regard to loss of managing capacity of Manjit Singh Walia who handled that business. Adequate compensation may be allowed under conventional heads.

Counsel representing respondent Nos. 1 to 3 has supported assessment made by the Tribunal with the submission that the deceased was 68 years old and the claimant is the widow of deceased.

Perusal of para 16 of the award makes it evident that deceased was a pensioner and drawing pension @ Rs. 18,360/- per month. Manjit Kaur widow of the deceased shall be entitled to family pension of Rs. 3,192/-. Under the circumstances, there is loss of pension of Rs. 15,168/- per month and the same is taken into account for computing loss of dependency.

The deceased was 68 years old as he was born on 12.4.1943 and died in February 2011. In the light of judgment of Hon'ble the Supreme Court of India **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (3)RCR (Civil) 77**, appropriate multiplier is 5. Deduction for personal expenses would be  $\frac{1}{3}^{\text{rd}}$ . In this manner, loss of dependency qua pension comes to Rs.  $15,168 \times 12 \times 5 = 9,10,080 - 3,03,360 (\frac{1}{3}^{\text{rd}}) = \text{Rs. } 6,06,720/-$ .

Counsel for the respondent has not disputed that deceased was registered owner of the aforesaid truck which was plied for doing transport business. There is nothing on record suggestive of the fact that the deceased

himself was driving the said truck. At best, the claimant has suffered loss of managing capacity of the deceased in respect of transport business being carried on by him. Taking into consideration age of the deceased, loss of managing capacity qua transport business is assessed @ Rs. 2000/- per month. By applying multiplier of 5 and deduction for personal expenses of  $1/3^{\text{rd}}$ , in view of discussion made hereinbefore, loss of dependency in this regard comes to Rs.  $2000 \times 12 \times 5 = 1,20,000 - 40,000(1/3^{\text{rd}}) = \text{Rs. } 80,000/-$ . Total loss of dependency is Rs. 6,86,720/- (6,06,720 + 80,000).

Under conventional heads, claimant 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 to widow | <b>Rs. 40,000/-</b> |
| Expenses on funeral         | <b>Rs. 15,000/-</b> |
| Loss of estate              | <b>Rs. 15,000/-</b> |

Total compensation is Rs. 7,56,720/- and the additional amount is Rs. 5,33,720/- (7,56,720 - 2,23,000), payable with interest @ 7.5% per annum from the date of petition till realization. All other terms and conditions of the award shall remain intact.

The appeal is partly allowed in the aforesaid terms.

**(Rekha Mittal)**  
**Judge**

**4.4.2018**  
paramjit

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