

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2101 of 2013(O&M)

Date of decision: 3.5.2018

Dropti and othersAppellants

VERSUS

Om Parkash and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. J.S. Hooda, Advocate for the appellants.
Mr. Y.P. Khullar, Advocate for respondents No.1 and 2.
Mr. M.B. Jain, Advocate for respondent No.3.

REKHA MITTAL, J.

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Palwal (in short 'the Tribunal') on account of death of Ramji Lal in a motor vehicular accident that took place on 22.08.2009.

The Tribunal has awarded compensation of Rs.3,78,540/- detailed hereunder:-

Monthly income of the deceased	Rs.10,859/-
Deduction for personal expenses	1/4 th
Multiplier	14
Addition in income for future prospects	50%
Loss of dependency	Rs.20,52,544/-
Loss of consortium and loss of estate	Rs.10,000/-
Transportation and last rites	Rs.10,000/-
Deduction of financial assistance	Rs.16,94,004/-

Counsel for the claimants would argue that the Tribunal has deducted financial assistance available to family of the deceased under the

Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (in short 'Rules of 2006') by applying a multiplier of 13 but as the deceased was more than 45 years but less than 48 years of age under Rule 5(1) (b) of the Rules of 2006 the said benefit would be available for a period of 12 years or till the date of retirement on superannuation which is less and in the present case, the same should be 12 years in place of 13 years. Another submission made by counsel is that in view of the judgment passed by this Court **New India Assurance Co. Ltd. Vs. Ajmero and others, FAO No.2648 of 2016 decided on 31.07.2017,** deduction to the extent of 50% of compassionate assistance is to be made and accordingly claimants are entitled to higher compensation. In addition, it is argued that adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company would argue that as the deceased was 45 years old, admissible increase for future prospects would be 30%. For this purpose he has referred to judgments of Hon'ble the Supreme Court **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77** and **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270.**

The Tribunal has assessed loss of dependency to the tune of Rs.13,68,360/- by applying multiplier of 14 and deduction for personal expenses to the tune of 1/4th and same is liable to be affirmed. As has been rightly argued by counsel for the insurance company, admissible increase for future prospects would be 30% as against 50% allowed by the Tribunal. In this manner, loss of dependency comes to Rs.17,78,704/- i.e. Rs.13,68,234/- + Rs. 4,10,470/- (30% towards future prospects).

Under conventional heads, claimants shall be entitled to Rs.70,000/- detailed hereunder:-

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

Total compensation comes to Rs.18,48,704/-.

The family of the deceased shall be entitled to financial assistance at the rate of Rs.10,859/- per month for a period of 12 years in view of the aforesaid Rule quoted by counsel for the claimants. The total amount comes to Rs.15,63,696/- (Rs.10,859 x 12 x 12). In the light of judgment in Ajmero and others case (supra), only 50% of compassionate assistance is amenable to deduction out of compensation held to be payable to the claimants. After deducting 50% of the amount i.e. Rs.7,81,848/-, compensation payable to the claimants is calculated at Rs.10,66,856/- and the additional amount is Rs.6,88,316/- i.e. Rs.10,66,856 – Rs.3,78,540/- payable with interest at the rate of 7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in a Fixed Deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

May 3, 2018

(REKHA MITTAL)

‘D. Gulati’

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no