

FAO No. 1640 of 2014 (O&M)1

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 1640 of 2014 (O&M)

Date of decision : May 2, 2018

Asha Rani

..... Appellant

Versus

Daljit Singh @ Kalu and others

..... Respondents

CORAM:

HON'BLE MRS. JUSTICE REKHA MITTAL

Present:-

Mr. Vipin Mahajan, Advocate
for the appellant.

Mr. Vishal Munjal, Advocate
for respondent No.1.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

Mr. R. K. Bashamboo, Advocate
for respondent No.5.

Mr. R. K. Arya, Advocate
for respondent Nos. 6 and 7.

REKHA MITTAL J (Oral).

The claimant is in appeal seeking enhancement of compensation on account of death of Avtar Singh in a motor vehicular accident that took place on 20.8.2010. The tribunal has awarded compensation to the tune of Rs.41,43,260/-, detailed hereunder:-

S.No.	Heads of claim	Amount (Rs.)
1.	Annual loss of dependency	1,81,764/-
2.	Future prospects	50%
3.	Multiplier	15

4.	Loss of dependency	40,89,690/-
5.	Funeral expenses and loss of consortium	20,000/-
6.	Medical expenses	33,570/-
	Total	41,43,260/--

Counsel for the appellant submits that compensation under conventional heads allowed by the tribunal needs modification in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 SCC 1270.**

It is further argued that application for compensation was filed by the widow and parents of deceased-Avtar Singh. Out of compensation assessed by the tribunal, a sum of Rs. 10 lacs has been paid to father of the deceased by way of apportionment. According to counsel for the appellant, father of the deceased cannot be held to be dependent upon income of the deceased, therefore payment of Rs. 10 lacs to the father is not justified.

Counsel representing the Insurance Company (The Future General India Insurance Company Ltd.) has supported the award on the premise that claimants have been adequately compensated.

Counsel representing respondent Nos. 1 and 3 has supported apportionment of compensation with the plea that as widow and mother of the deceased are class-I heirs, had Rs. 10 lacs not been paid to Babu Ram, the same was liable to be paid to mother of the deceased. Vidya w/o Babu Ram has passed away and Babu Ram being class-I heir of deceased-Vidya is entitle to inherit estate left behind by Vidya.

Counsel for the appellant would inform that Asha Rani widow of Avtar Singh is no longer residing at her in-laws' house and she is

presently residing in Chandigarh but her in-laws are not aware whether she

has contracted second marriage or not.

Counsel for the appellant-claimant, in reply, has submitted that he has no instructions whether Asha Rani has performed second marriage.

A perusal of assessment made by the tribunal detailed in para 12 of the award makes it evident that there is no scope for enhancement of compensation except under conventional heads in the light of latest judgment of Hon'ble the Supreme Court in Pranay Sethi and others's case (supra). The claimant/appellant shall be entitled to additional amount of Rs. 50,000/- under the conventional heads.

So far as plea of the appellant that amount of Rs.10 lacs has been wrongly paid to father of the deceased and it should have been paid to widow of the deceased is not tenable. Had the father been paid small amount or no amount, mother was entitled to share compensation equal to widow of the deceased. In the given scenario, I do not find merit in contention of counsel that amount of Rs. 10 lacs paid to father of the deceased should have been paid to the widow. However, additional amount of Rs. 50,000/- allowed by this Court shall be paid only to widow of the deceased, 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

May 2, 2018
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No