# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 405 of 2014 (O&M)
Date of decision: 21.09.2018

*Baljinder Kaur and others* ........ *Appellants*

*Versus*

*Satnam Singh and others* .......*Respondents*

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

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Present: Mr. Rohit Verma, Advocate
for the appellants

Mr. R S Madaan, Advocate
for the insurance company

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**Rekha Mittal, J.** (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Sulakhan Singh in a motor vehicular accident that took place on 08.06.2012.

The Tribunal has awarded compensation of Rs.28,08,192.00, detailed hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.15,482.00 |
| Addition in income for future prospects | 50% |
| Deduction for personal expenses | 1/3rd |
| Multiplier | 14 |
| Loss of dependency | Rs.26,61,456.00 |

In para 14 of the award, the Tribunal has held to the following effect:-

"Thereafter, making deduction of 50% from Rs.1,90,104.00, multiplier of '2' has to be adopted. Doing that, the amount is arrived at Rs.1,90,104.00. Making a cut of one third on account of deduction towards personal and living expenses, the dependency of claimants is worked out to Rs.1,26,736.00. Thus, total compensation payable to the claimants comes to Rs.27,88,192.00".

Under conventional heads, a sum of Rs.20,000.00 has been allowed i.e. Rs.10,000.00 for loss of consortium, Rs,5000.00 each for funeral expenses and loss to estate.

Counsel for the claimants would argue that as the deceased was 33 years of age, admissible multiplier would be 16. The Tribunal has recorded contradictory findings in para 14 of the award. The claimants may be allowed adequate compensation under conventional heads.

Counsel representing the insurance company, on the contrary, would argue that as annual income of the deceased was taxable, income tax may be deducted for computing loss of dependency.

The Tribunal has rightly assessed income of the deceased at Rs.15,842.00 on the basis of salary certificate Ex.R2. The annual income would be Rs.1,90,104.00. As the income is not taxable, no deduction, in this regard, is to be made.

The Tribunal has rightly allowed benefit of addition in income for future prospects @ 50% and deduction for personal expenses to the tune of 1/3rd. Admissible multiplier, as per age of the deceased, would be 16. There is no question of applying any split multiplier, in view of judgment of this Court ***Oriental Insurance Company Limited vs. Maninder Kaur and others (FAO No. 2687 of 2017, decided on 28.08.2017)***. That being so, loss of dependency is calculated at Rs.30,41,664.00 (Rs.30,41,664.00 i.e. Rs.1,90,104.00 x 16 + Rs.15,20,832.00 (50% addition) – Rs.15,20,832.00 (1/3rd deduction)).

Under conventional heads, widow of the deceased shall be entitled to loss of consortium of Rs.40,000.00 and children of the deceased shall also be entitled to loss of consortium at the rate of Rs.40,000.00 each in the light of latest judgment of Hon'ble the Supreme Court '***Magma***

***General Insurance Co. Ltd. Versus Nanu Ram Alias Chuhru Ram & Ors. (Civil appeal No. 9581 of 2018 arising out of SLP (Civil) No. 3192 of 2018, decided on 18.09.2018)***. The claimants shall be entitle to Rs.30,000.00 i.e. Rs.15,000.00 for funeral expenses and Rs.15,000.00 for loss to estate.

Counsel for the appellants would apprise the Court that the Tribunal has allowed interest @ 6% per annum if the respondents before the Tribunal failed to make payment within a period of two months. The Tribunal has not assigned any reason to extend this concession to the respondents. Once the claimants have been held entitle to compensation from the date of petition, there is no reason to deny them interest @ 6% per annum from the date of petition till realization in respect of compensation assessed by the Tribunal. Accordingly, findings of the Tribunal in this regard are ordered to be modified.

In view of the above, total compensation is Rs.31,91,664.00 (Rs.30,41,664.00 + Rs.1,50,000.00) and additional amount is Rs.3,83,472.00 (Rs.31,91,664.00 – Rs.28,08,192.00) payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by minor claimants in equal ratio, to be invested in Fixed Deposits till they attain the age of majority or for a period of three years, whichever is later. However, interest accruing on FDRs shall be payable to their mother for meeting their expenses.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

21.09.2018
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Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No