

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

FAO No.3400 of 2015 (O&M)

Date of decision: 09.03.2018

Parkash Kaur and others

... Appellants

Versus

Parminder Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ishan S. Cooner, Advocate
for the appellants.

Mr. Amit Gupta, Advocate
for respondents No.1 and 2.

Mr. Sukhdarshan Singh, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.10088-CII of 2015

Heard.

Allowed as prayed for. Delay of 58 days in filing the appeal
stands condoned.

Main Case

The claimants are in appeal seeking enhancement of
compensation on account of death of Lakhwinder Singh in a motor
vehicular accident that took place on 08.06.2013.

The Tribunal has awarded compensation of Rs.5,40,000/-,

detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Deduction for personal expenses	1/4 th
3. Multiplier	11
4. Loss of dependency	Rs.4,95,000/-
5. Loss of love & affection and funeral expenses	Rs.30,000/-
6. Loss of consortium	Rs.15,000/-

Counsel for the appellants would urge that income of the deceased assessed by the Tribunal is on lower side and needs enhancement. It is argued that the Tribunal has taken into consideration date of birth of the deceased as mentioned in his passport for determining his age and suitable multiplier accordingly. However, in passport of the deceased, he is stated to be a truck driver, therefore, income of the deceased may be determined being a skilled worker. Claimants are entitled to increase in income for future prospects @ 10%. Adequate compensation may be allowed under conventional heads.

The passport was issued on 02.07.2006, wherein the factum of deceased being a truck driver has been mentioned. However, the Tribunal in para 12 of the award has noticed that driving licence of the deceased has not been produced to prove that he was working as truck driver in UAE. No evidence regarding his employment in UAE was produced. The claimants have not produced driving licence possessed by the deceased. There is no evidence as to whose truck was being driven by the deceased. Under the circumstances, claimants cannot seek aid to their contention with regard to

avocation of the deceased from the fact recorded in his passport issued seven years prior to his death. Nevertheless, in view of the minimum wage fixed by the State of Punjab and available at the relevant time, income of the deceased is assessed at Rs.5700/- per month on the basis of wage of unskilled worker. Claimants shall be entitled to future prospects @ 10%. Multiplier and deduction applied by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.6,20,730/- (Rs.5700 x 12 x 11) + (10% future prospects) – (1/4th deduction for personal expenses).

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

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.6,90,730/- and the additional amount is Rs.1,50,730/- (6,90,730 – 5,40,000), payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

09.03.2018
ashok

(REKHA MITTAL)
JUDGE

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