

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

FAO-6344-2013 (O&M)

Date of decision: 17.04.2018

KAILASHI & ORS

... Appellants

Versus

INDER SINGH & ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ajit K. Sharma, Advocate for
Mr. R.D. Yadav, Advocate
for the appellants.

Mr. Aditya Partap Singh, Advocate for
Mr. S.S. Khurana, Advocate
for respondent No.1.

Mr. Sanjeev Kodan, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Radhey Shyam in a motor vehicular accident that took place on 27.07.2010.

The Tribunal has awarded compensation of Rs.8,15,964/-,
detailed hereunder:-

1. Monthly income of the deceased	Rs.4600/-
2. Multiplier	16
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.6,62,400/-

5. Loss of consortium	Rs.10,000/-
6. Loss of estate	Rs.10,000/-
7. Expenses on transportation and last rites	Rs.10,000/-
8. Loss of love and affection to children of the deceased	Rs.30,000/-
9. Medical expenses	Rs.93,564/-

Counsel for the claimants would pray for enhancement of compensation by enhancing income of the deceased, increase in income for future prospects and applying appropriate deduction for personal expenses in view of number of claimants held entitled to get compensation. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, has supported assessment made by the Tribunal.

Counsel for respondent No.1 has also supported the award.

The Tribunal has assessed income of the deceased at Rs.4600/- per month on the basis of notification issued by the Labour Commissioner, Haryana with regard to minimum wage of an unskilled person at Rs.4632.98. Plea of the claimants is that the deceased was a building contractor and had been earning Rs.20,000/- per month. Except bald statement of Mrs. Kailashi Devi, widow of the deceased there is no evidence that the deceased was working as a building contractor much less earning Rs.20,000/- per month. In the given scenario, the Tribunal has rightly relied upon notification with regard to minimum wage issued by the Labour Commissioner, Haryana. However, the minimum wage fixed by the State may not be criteria to determine income of the deceased in every case.

In the case at hand, the deceased left behind family consisting of his widow and six minor children aged 15 years to 5 years. There is nothing on record suggestive of the fact that family of the deceased had any other source of income except earning of the deceased. Taking a clue from the notification issued by the Labour Commissioner, Haryana coupled with number of dependents on earning of the deceased, interest of justice commands that income of the deceased is assessed at Rs.5000/- per month. Claimants shall be entitled to increase in income for future prospects @ 40%. The deduction for personal expenses would be 1/5th. Multiplier adopted by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs.10,75,200/- (Rs.5000 x 12 x 16) + (40% future prospects) – (1/5th deduction for personal expenses).

Compensation awarded by the Tribunal under conventional heads is modified to the effect that 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/-

The amount of Rs.93,564/- allowed towards medical expenses is ordered to be affirmed. In view of the above, total compensation is Rs.12,38,764/- and the additional amount is Rs.4,22,800/- (12,38,764 - 8,15,964), payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in fixed

deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

17.04.2018.
ashok

(REKHA MITTAL)
JUDGE

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