

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

FAO No. 5166 of 2015(O&M)

Date of decision: 7.3.2018

Beena and anotherAppellants

VERSUS

Om Parkash and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Akash Vashisth, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Rewari (in short 'the Tribunal') on account of death of Jeet Ram in a motor vehicular accident that took place on 17.10.2013.

The Tribunal has awarded compensation to the tune of Rs.7,22,800/- detailed hereunder:-

Monthly income of the deceased	Rs.4800/-
Deduction for personal expenses	1/3 rd
Multiplier	17
Loss of dependency	Rs.6,52,800/-
Loss of consortium	Rs.30000/-
Transportation, Funeral and last rites expenses	Rs.20,000/-
Loss of love and affection	Rs.20,000/-

Counsel for the claimants would argue that the deceased was working as a Stone Cutter with M/s Globe Décor, Majra Mustil, Bhalkhi at a salary of Rs.8,400/- per month, evidenced by salary certificate Ex.PB and accordingly his income is liable to be assessed. Claimants are entitled to increase in income for future prospects at the rate of 40% as the deceased was 26 years old.

Counsel representing the insurance company has refuted contention of counsel for the claimants for assessing income of the deceased on the basis of salary certificate Ex.PB. It is argued that the claimants did not examine a witness from the aforesaid firm to prove employment and salary of the deceased, sufficient to negate plea of the claimants in this regard.

Though, the claimants have raised a plea that the deceased was working in the aforesaid firm but failed to produce substantial much less cogent evidence to prove employment of the deceased with the said firm much less at a salary of Rs.8,400/- per month. However, there is nothing on record suggestive of the fact that the deceased had any disability to impair his capacity to earn living for his family. Taking a clue from the minimum wage fixed by the State of Haryana and available at the relevant time, income of the deceased is assessed at Rs.5,350/-. Multiplier and deduction for personal expenses allowed by the Tribunal are affirmed. Claimants shall be entitled to increase in income for future prospects at the rate of 40% in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270**. In this manner, loss of dependency comes to Rs.10,18,640/- [Rs.10,91,400/- (Rs.5350/- x 12 x 17) + Rs.4,36,560/- (40% towards

future prospects) – Rs.5,09,320/- (1/3rd deduction towards personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that 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 of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.10,88,640/- and additional amount is Rs.3,65,840/- (Rs.10,88,640/- - Rs.7,22,800/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to be shared by the claimants in the proportion 30:70. The amount falling to share of the minor shall be deposited in a Fixed Deposit till she attains the age of majority or for a period of three years, whichever is later. Interest accruing on the FDR shall be paid to mother of the minor for meeting expenses on her living and education.

The appeal is partly allowed in the aforesaid terms.

MARCH 7, 2018

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no