

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

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FAO-5561-2015 (O&M)

Date of decision: 18.07.2018

RAJASTHAN STATE ROAD TRANSPORT CORPORATION AND ANR
... Appellants

Versus

KAMLA JOSHI AND ORS
... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Anil K. Gahlawat, Advocate for the appellants.

Mr. Suneet Kumar, Advocate for respondents No.1 to 3.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 01.05.2015 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been awarded on account of death of Vinod Kumar in a motor vehicular accident that took place on 26.03.2014.

Counsel for the appellant (Corporation) would urge that the appeal has been preferred to assail quantum of compensation assessed by the Tribunal. It has been argued that the Tribunal has applied deduction of 1/4th in place of 1/3rd admissible in the circumstances that application for compensation was filed by the widow and two children of the deceased. Compensation allowed under conventional heads needs to be restricted to Rs.70,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

Counsel for the claimants, on the other hand, has supported the assessment made by the Tribunal.

The application for compensation was filed by three claimants held entitled to loss of dependency. In the light of enunciation laid down in landmark judgment of Hon'ble the Supreme Court **Sarla Verma & Ors Vs**

Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77 and affirmed in later judgments, admissible deduction for personal expenses would be 1/3rd. Similarly, compensation awarded by the Tribunal under conventional heads needs modification in the light of latest judgment of Hon'ble the Supreme Court **Pranay Sethi and others's case (supra)**. In view of the above, loss of dependency is calculated at Rs.27,04,000/- [(Rs.20,000 x 12 x 13) + (30% future prospects) – (1/3rd 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.27,74,000/- and compensation awarded by the Tribunal is reduced to the extent of Rs.5,18,000/- (32,92,000 - 27,74,000). The appellants shall be entitled to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

18.07.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No