

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

FAO-8587-2014 (O&M)
Date of decision: 10.01.2018

PATASHO DEVI ...Appellant

Versus

ABHIMANUE & ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Gopal Sharma, Advocate
for the appellant.

Mr. R.C. Gupta, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The unfortunate mother of deceased Devi Parsan @ Kalu has filed the instant appeal seeking enhancement of compensation on account of death of her son in a motor vehicular accident that took place on 28.11.2011.

The Tribunal has awarded compensation to the tune of Rs.4,78,000/-, detailed hereunder:-

1. Annual income of the deceased	Rs.15,000/-
2. Multiplier	18
3. Deduction for personal expenses	50%
4. Expenses on medical treatment	Rs.2,67,470/-
5. Expenses on funeral	Rs.25,000/-
6. Loss of love and affection	Rs.50,000/-

Counsel for the appellant has submitted that the deceased was a motor vehicle mechanic and had income of Rs.15,000/- per month. The Tribunal has not allowed increase in income for future prospects.

Counsel representing the insurance company would urge that as the deceased was 17 years old, Tribunal has rightly assessed his income at Rs.15,000/- per annum.

The claimant appeared in the witness box and deposed that deceased was a motor vehicle mechanic. However, bald statement of the claimant does not find corroboration from any independent source much less documentary evidence. At the same time, there is nothing on record suggestive of the fact that deceased was suffering from any impairment rendering him unable to work and earn livelihood for himself and his family. Under the circumstances, taking a clue from the minimum wage available to an unskilled worker at the relevant time, income of the deceased is assessed at Rs.4650/- per month. Claimant shall be entitled to increase in income for future prospects to the extent of 40%. Deduction for personal expenses and multiplier adopted by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.7,03,080/- (Rs.4650 x 12 x 18 + 40% (future prospects) – 50% (deduction for personal expenses)).

The Tribunal has awarded compensation of Rs.75,000/- under conventional heads. In view of the latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**, claimant shall be entitled to compensation of

Rs.30,000/- under conventional heads namely Rs.15,000/- for expenses on funeral and another Rs.15,000/- for loss of estate. The total compensation comes to Rs.7,33,080/- and the additional amount is Rs.2,55,080/- (7,33,080 – 4,78,000), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

10.01.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No