

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

FAO No.9144 of 2014(O&M)

Date of decision: 18.1.2018

Kali Devi and othersAppellants

VERSUS

Desha Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Jaideep Kaur, Advocate for
Mr. J.S. Thind, Advocate for the appellants.

Mr. D.R. Bansal, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

Kali Devi and others filed the instant appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sirsa (in short 'the Tribunal') in regard to death of Kuldeep @ Kukki in a motor vehicular accident that took place on 04.07.2012.

The Tribunal has awarded compensation to the tune of Rs.9,34,000/- detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Multiplier	16
Deduction qua personal expenses	1/4 th
Loss of dependency	Rs.8,64,000/- (Rs.54000/- x 16)
Loss of consortium	Rs.25,000/-
Expenses on funeral	Rs.10,000/-
Loss of love and affection	Rs.20,000/-

Loss to estate

Rs.15,000/-

Counsel for the appellants has submitted that income of the deceased assessed by the Tribunal is on lower side. Claimants are entitled to increase in income for future prospects at the rate of 40%. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported the award. It is argued that in the grounds of appeal, no plea for giving benefit of future prospects has been raised.

Kali Devi, widow of the deceased appeared in the witness box and deposed that her husband was earning Rs.6000/7000/- per month. The Tribunal has assessed income of the deceased at Rs.6,000/- per month by taking into consideration wage of an unskilled labour. There is no justification for increase in income and accordingly findings of the Tribunal in this regard are affirmed. The mere fact that the claimants in the grounds of appeal did not raise a plea for grant of future prospects does not constitute a ground to deny this benefit. The Tribunal and Courts have the obligation to grant just compensation. Claimants are entitled to increase in income for future prospects to the tune of 40% in the light of latest enunciation by Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270.** Multiplier and deduction for personal expenses awarded by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.12,09,600/- [Rs.11,52,000/- (Rs.6000/- x 12 x 16) + Rs.4,60,800/- (40% towards future prospects) – Rs.4,03,200/- (1/4th deduction towards personal expenses).

Under conventional heads, the Tribunal has awarded an amount of Rs.70,000/- and even in view of the latest judgment in **Pranay**

Sethi and others' case (supra), claimants are entitled to Rs.70,000/- under conventional heads, therefore, compensation of Rs.70,000/- is affirmed. It is clarified that Rs.70,000/- are allowed under three heads in the light of aforesaid judgment.

In view of the above, total compensation comes to Rs.12,79,600/- and the additional amount is Rs.3,45,600/- (Rs.12,79,600/- - Rs.9,34,000/-). The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to the claimants in terms of award passed by the Tribunal.

The appeal is partly allowed in the aforesaid terms.

JANUARY 18, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no