

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

244

XOBJC-147-CII of 2018 (O&M) in/and
FAO No.7837 of 2016 (O&M)
Date of decision: 04.09.2018

ORIENTAL INSURANCE CO. LTD ... Appellant

Versus

MAMTA DEVI AND OTHERS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellant.

Mr. Ishan Cooner, Advocate for respondent No.1.

None for respondent No.4.

REKHA MITTAL, J. (Oral)

CM No.26452-CII of 2016

Heard.

Allowed as prayed for. Delay of 381 days in filing the appeal stands condoned.

XOBJC-147-CII of 2018 in/and FAO No.7837 of 2016

The present appeal directs challenge against award dated 31.08.2015 whereby compensation has been assessed on account of death of Vikas @ Banti in a motor vehicular accident that took place on 24.04.2011.

The Tribunal has awarded compensation of Rs.11,05,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Addition in income for future prospects	50%
3. Multiplier	18
4. Deduction for personal expenses	1/3 rd
5. Loss of dependency	Rs.10,80,000/-
6. Expenses on funeral/last rites and transportation of dead body	Rs.25,000/-

The Tribunal has assessed income of the deceased at Rs.5000/- per month by treating the deceased as a daily wager. The occurrence in question took place in April, 2011 and minimum wage of unskilled worker

was Rs.4500/- per month. Accordingly, income of the deceased is assessed at Rs.4500/- per month. Addition in income for future prospects would be 40% as against 50% allowed by the Tribunal. The deceased was 25 years of age and the Tribunal has rightly applied multiplier of 18 for computing loss of dependency.

The application for compensation has been filed by the widowed mother of the deceased whereas Somi Devi, widow of the deceased has been impleaded as proforma respondent. On the day of accident and death, the deceased left behind his widowed mother and widow who were dependent upon his income. Under the circumstances, deduction to the extent of 1/3rd allowed by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,07,200/- [(Rs.4500 x 12 x 18) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimant shall be entitled to Rs.30,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate.

Total compensation is Rs.9,37,200/- and compensation allowed by the Tribunal is reduced to the extent of Rs.1,67,800/- (11,05,000 - 9,37,200).

The appeal is partly allowed in the aforesaid terms. As a natural corollary, cross objections filed by the claimant is dismissed. As the cross objections have been decided on merits, application for condonation of delay is of academic relevance only.

04.09.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No