

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

**FAO No. 2426 of 2018(O&M)**

**Date of decision: 4.5.2018**

The New India Assurance Co. Ltd. ....Appellant

VERSUS

Ms. Sheela Devi and others .....Respondents

\*\*\*\*\*

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Vinod Gupta, Advocate for the appellant.

\*\*\*\*\*

**REKHA MITTAL, J. (Oral)**

The present appeal directs challenge against award dated 16.02.2018 passed by the Motor Accidents Claims Tribunal, Karnal (in short 'the Tribunal') whereby compensation has been assessed on account of death of Sanjay in a motor vehicular accident that took place on 05.02.2017.

Counsel for the appellant would inform that the appeal has been filed by the insurance company only to assail quantum of compensation assessed by the Tribunal.

The Tribunal has awarded compensation of Rs.21,90,900/- detailed hereunder:-

|                                 |                   |
|---------------------------------|-------------------|
| Monthly income of the deceased  | Rs.10,520/-       |
| Increase for future prospects   | 40%               |
| Deduction for personal expenses | 1/4 <sup>th</sup> |
| Multiplier                      | 16                |
| Loss of dependency              | Rs.21,20,832/-    |

Conventional heads

Rs.70,000/-

The sole submission made by counsel for the appellant is that Tribunal has assessed income of the deceased at Rs.10,520/- per month on the basis of Deputy Commissioner (in short 'DC') rates but the said rates are available for payment to the employees out of contingency fund. It is further argued that in absence of substantial much less cogent evidence with regard to income of the deceased, the Tribunal, at best, could rely upon minimum wage available at the relevant time for computing monthly loss of income as well as loss of dependency.

The Tribunal on a detailed consideration of materials on record has held in para 18 that claimants failed to adduce authentic evidence with regard to occupation and income of the deceased. By relying upon administrative order issued by the Deputy Commissioner, Karnal with regard to wages for the year 2016-17 (from 01.03.2016 to 28.02.2017), Tribunal assessed income of the deceased at Rs.10,520/- per month. I find merit in contention of the appellant that DC rates are available for payment to employees out of contingency fund created to meet exigencies. For computing loss of income in motor vehicular accident cases, the Tribunal may get a clue from the minimum wage fixed by the State and available at the relevant time. Taking a clue from the notification dated 02.03.2017 applicable w.e.f. 01.01.2017, income of the deceased is assessed at Rs.8,300/- per month. In this manner, loss of dependency is computed at Rs.16,73,280/- [Rs.15,93,600/- (Rs.8300 x 12 x 16) + Rs.6,37,440/- (40% future prospects) – Rs.5,57,760/- (1/4<sup>th</sup> deduction towards personal expenses).

Compensation awarded by the Tribunal under conventional heads is affirmed.

In view of the above, total compensation comes to Rs.17,43,280/- As such, compensation awarded by the Tribunal is reduced to the extent of Rs.4,47,620/- (Rs.21,90,900/- - Rs.17,43,280/-).

Perusal of the award would reveal that the Tribunal has allowed interest at the rate of 6% per annum from the date of petition till realization. However, claimants shall be entitled to interest on the amount of compensation payable at the rate of 7.5% per annum from the date of petition till realization.

For the foregoing reasons, the appeal stands disposed of in terms indicated hereinbefore.

Before parting with this order, it is pertinent to mention here that amount of compensation assessed by the Tribunal has been reduced without notice to the claimants. They would be at liberty to file an appropriate application if they have any grievance to express. It is further clarified that in case the claimants file an appeal for enhancement, any observation made for disposing of the appeal filed by the insurance company would not cause prejudice to their rights.

**MAY 4, 2018**

‘D. Gulati’

**(REKHA MITTAL)**

**JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no