

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

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FAO No. 415 of 2003 (O&M)

Date of decision: 10.01.2019

Kanwalpreet Kaur and others *Appellants*

Versus

Darshan Singh and others *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sanjeev Kodan, Advocate
 for the appellants

 Mr. Vishwajit Bedi, Advocate
 for the insurance company

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Shisha Singh in a motor vehicular accident that took place on 05.12.1999.

The Tribunal has awarded compensation of Rs.8,31,400.00, detailed hereunder:-

Monthly income of the deceased	Rs.6,346.00
Deduction for personal expenses	1/3 rd
Multiplier	16
Loss of dependency	Rs.8,06,400.00
Loss of consortium	Rs.15,000.00
Funeral expenses	Rs.10,000.00

The claimants examined Shashi Bhushan, Clerk Haryana Roadways, Kurukshetra Depot, Kurukshetra (PW3) to prove salary of

deceased and the fact that the deceased had been working overtime and was being paid for the same.

Counsel for the parties are not in a position to apprise the Court as to how much amount was paid to the deceased for overtime from April 1999 to December 1999 nor they are in possession of copy of ledger Ex.PW8/A regarding overtime payment to Shisha Singh.

Counsel for the appellants would pray that total income of the deceased inclusive of salary and overtime may be assessed at Rs.7,500.00 per month but counsel for the insurance company would state that the same may be taken at Rs.7,000.00 per month.

Taking into consideration the legislative intent behind the provisions allowing compensation coupled with the facts recorded in para 23 of the award, this Court assesses income of deceased at Rs.7,200.00 per month. The claimants shall be entitle to addition in income for future prospects @ 50%. Multiplier and deduction for personal expenses allowed by the Tribunal are correct and affirmed. In view of the above, loss of dependency is calculated at Rs.13,82,400.00 (Rs.13,82,400.00 i.e. 7,200.00 x 12 x 16 + Rs.6,91,200.00 (50% addition in income) – Rs.6,91,200.00 (1/3rd deduction).

Under conventional heads, claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), admissible in the light of judgments of Hon'ble the Supreme Court *National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270* and *Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR*

(SC) 5034.

Total compensation comes to Rs.14,52,400.00 and additional amount is Rs.6,21,400.00 (Rs.14,52,400.00 – Rs.8,31,400.00) payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by claimants in terms of the award.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

10.01.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No