

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

FAO No. 5337 of 2019(O&M)

Date of decision: 30.8.2019

National Insurance Co. Ltd.

.....Appellant

VERSUS

Paramjit Kaur and others

.....Respondents

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

Present: Ms. Vandana Malhotra, Advocate for the appellant.

REKHA MITTAL, J.(Oral)

The present appeal directs challenge against award dated 13.05.2019 passed by the Motor Accidents Claims Tribunal, Moga (in short 'the Tribunal') whereby compensation has been assessed on account of death of Kulwinder Singh in a motor vehicular accident that took place on 28.06.2018 but the injured succumbed to injuries on 01.07.2018.

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

The Tribunal awarded Rs.20,43,036/-, detailed hereunder:-

Monthly income of the deceased	Rs.10277.52p
Addition in income for future prospects	50%
Deduction for personal expenses	50%
Multiplier	17
Loss of dependency	Rs.15,72,457/-
Loss of love and affection	Rs.40,000/-
Loss to estate	Rs.15,000/-

Funeral expenses	Rs.15,000/-
Reimbursement of medical expenses	Rs.4,00,578/-

Counsel for the appellant would argue that income of the deceased and addition in income for future prospects are liable to be modified. To bring home her contention, it is submitted that though as per notification issued by the State of Punjab fixing minimum wage at the relevant time, minimum wage per day for an unskilled labour is Rs.302.41p but a casual labour may not get work for all the days in a month and for that reason the monthly wage has been fixed at Rs.7852/-.

I have heard counsel for the appellant, perused the paper-book particularly the award.

The plea of claimants is that deceased was cultivating his own land as well as by taking land on lease thereby earning Rs.75,000/- per month. The claimants produced on record J. Form Ex.P4 in respect of sale of crop but the said J Form is in the name of claimant Paramjit Kaur. Husband of the claimant is not alive as he is sated to be wife of late Sh. Ranjit Singh. However, claimant- Paramjit Kaur did not produce on record any document with regard to land holding owned by her. Taking a clue from notification fixing minimum wage coupled with the factum that Paramjit Kaur was owning land which was looked after by her son, it would be in the fitness of things that income of the deceased is assessed at Rs.9000/- per month. The claimant shall be entitle to addition in income for future prospects at the rate of 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. Accordingly, loss of dependency is calculated at Rs.12,85,200/- [Rs.18,36,000/- (Rs.9000/- x 12 x 17) + Rs.7,34,400/- (40% addition

towards future prospects) – Rs.12,85,200/- (50% deduction towards personal expenses)].

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

In view of the above, total compensation is Rs.17,15,778/- and compensation awarded by the Tribunal is reduced to the extent of Rs.3,27,258/- (Rs.17,15,778/- - Rs.20,43,036/-). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention that compensation assessed by the Tribunal has been reduced without notice to the claimant. She would be at liberty to file an appropriate application if she has any grievance to express. It is further clarified that in case the claimant files an appeal for enhancement, any observation made for disposing of appeal filed by the insurance company would not cause prejudice to her right.

AUGUST 30, 2019
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no