

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

FAO No. 5354 of 2012(O&M)

Date of decision: 5.9.2019

Vandana Kohli and others

.....Appellants

VERSUS

Gurjit Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Manjinder Saini, Advocate for the appellants.

Mr. Rajesh Bhateja, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

Claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Moga (in short 'the Tribunal') on account of death of Pardeep Kohli in a motor vehicular accident that took place on 16.04.2010.

The Tribunal awarded Rs.5,43,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Deduction for personal expenses	1/3 rd
Multiplier	11
Loss of dependency	Rs.4,80,000/-
Funeral expenses	Rs.5000/-
Loss of consortium to the widow	Rs.5,000/-
Medical expenses	Rs.5,000/-

The plea of claimants is that deceased was working as Manager of Deep Bus Service (Regd.), Moga owned by Kirpal Singh at a salary of Rs.9000/- per month. Kirpal Singh, owner of Deep Bus Service (Regd.), Moga was examined. He tendered into evidence his affidavit

Ex.PW2/A to state on oath that deceased was working as Manager in his bus service at salary of Rs.9000/- per month. The witness also produced salary register for the years 2009-10 and 2010-11 and attested copies thereof are Ex.P3 and P4, respectively. The witness was cross examined by counsel for the respondents before the Tribunal wherein he admitted that original record brought by him is not in his handwriting but denied the suggestion that false registers have been prepared. There is no challenge to testimony of Kirpal Singh that he is owner of Deep Bus Service (Regd.), Moga or the deceased was not working with him as a Manager. The mere fact that original records had not been maintained in the handwriting of Kirpal Singh, owner of Deep Bus Service (Regd.), Moga is not sufficient to discard or disbelieve his testimony and documents produced by him. The proceedings before the Tribunal are summary in nature and do not admit strict principles of law of evidence to be applied. In this view of the matter, testimony of Kirpal Singh is sufficient to establish that deceased was working with Deep Bus Service at salary of Rs.9000/- per month. Accordingly, income of the deceased is assessed at Rs.9000/- per month. Claimants shall be entitle to addition in income for future prospects at the rate of 10%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed as Vikramjit Kohli – claimant No.2 was not dependent upon income of the deceased. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.8,71,200/- [Rs.11,88,000/- (Rs.9000 x 12 x 11) + Rs.1,18,800/- (10% addition towards future prospects) – Rs. 4,35,600/- (1/3rd deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/- detailed hereunder:-

Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

Medical expenses allowed by the Tribunal are affirmed.

In view of the above, total compensation is Rs.9,46,200/- and additional amount is Rs.4,03,200/- (Rs.9,46,200/- - Rs.5,43,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

SEPTEMBER 5, 2019

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no