

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

FAO 1673 of 2014 (O&M)
Date of decision: 11.01.2019

Bassi and others

.....Appellants

versus

Sher Mohd. and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Chetan Kapoor, Advocate
for the appellants

Mr. Rajbir Singh, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

The appellants are in appeal seeking enhancement of compensation on account of death of Ayub alias Mohd. Ayub son of Nihal Khan in a motor vehicular accident that took place on 02.02.2011.

The Tribunal has awarded compensation of Rs.8,02,000.00, detailed hereunder :-

Monthly income of the deceased	Rs.5,000.00
Deduction for personal expenses	1/5 th
Multiplier	14
Loss of dependency	Rs.6,72,000.00
Loss of consortium to widow	Rs.20,000.00
Expenses of burial and last rites	Rs.20,000.00
Loss of love and affection to to claimants No. 2 to 8 and pro forma respondent 4 and 5	Rs.90,000.00

The Tribunal has assessed income of the deceased at Rs.5,000.00 per month. The plea of claimants is that the deceased was

Hafajat in the mosque of village and his income was Rs.10,000.00 per month. In para 14 of the award, the Tribunal has noticed that except bald statement of widow of the deceased, there is no evidence qua income of the deceased. However, the Tribunal has assessed his income at Rs.5,000.00 per month by treating him as a labour. Counsel for the insurance company would urge that minimum wage of an unskilled labour at the relevant time was approximately Rs.4,500.00 per month and the same may be modified.

The deceased has left behind a big family consisting of his widow and 7 minor children. Taking a clue from minimum wage available at the relevant time coupled with number of dependents upon the deceased, I do not find any reason to interfere in assessment of income made by the Tribunal.

Claimants shall be entitle to addition in income for future prospects @ 25%. 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.8,40,000.00 (Rs.8,40,000 i.e. 5,000 x 12 x 14 + Rs.2,10,000.00 (25% addition) – Rs.2,10,000.00 (1/5th 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*.

In view of the above, total compensation is Rs.9,10,000.00 and additional amount is Rs.1,08,000.00 (Rs.9,10,000.00 – Rs.8,02,000.00)

payable with interest at the rate of 7.5% per annum from the date of petition till realization. The additional amount shall be shared by the claimants, in terms of the award passed by the Tribunal.

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

(Rekha Mittal)
Judge

11.01.2019
mohan bimbura