

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

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FAO No.1247 of 2015 (O&M)

Date of Decision: 06.09.2019

KAMLESH & ORS

.....Appellants

Versus

RAJBIR & ORS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Arvind K. Yadav, Advocate for
Mr. JP Sharma, Advocate for the appellants.
Mr. Sukhdarshan Singh, Advocate for the insurance company.

Rekha Mittal, J.(Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Kuldeep in a motor vehicular accident that took place on 07.04.2013.

The Tribunal awarded Rs.6,24,800/-, detailed hereunder:-

Monthly income of the deceased	Rs.4200/-
Multiplier	16
Deduction for personal expenses	1/4 th
Loss of dependency	Rs.6,04,800/-
Expenses on funeral and transportation	Rs.10,000/-
Loss of consortium	Rs.10,000/-

The plea of claimants is that deceased was working at a shop namely Om Battery House, at Singhana road, Narnaul at monthly salary of Rs.11,500/- per month. They examined Rajpal Yadav PW4 to prove employment and income of the deceased. The Tribunal, in para No.21 of the award, has noticed that Rajpal Yadav did not bring any documentary evidence regarding his running the shop under name and style of M/s OM Battery House much less with regard to employment and income of the deceased, therefore, refused to rely upon his testimony with regard to employment and income of the deceased. I do not find any reasons to differ with findings of the Tribunal with regard to rejecting testimony of Rajpal Yadav qua income of the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income

of the deceased is assessed at Rs.5400/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.10,88,640/- [(5400 x 12 x16) + (40% future prospects) - (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Company Limited and another, AIR 2018 SC 5034**, detailed hereunder:-

- | | |
|-----------------------|-------------|
| 1. Loss of consortium | Rs.40,000/- |
| 2. Loss of estate | Rs.15,000/- |
| 3. Funeral expenses | Rs.15,000/- |

Total compensation is Rs.11,58,640/- and additional amount is Rs.5,33,840/- (11,58,650 – 6,24,800) payable with interest @ 7.5% per annum from the date of petition till realization, to minor claimants Prince and Lucky in equal ratio, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

06.09.2019
ashok

(REKHA MITTAL)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No