

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

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FAO-1543-2016 (O&M)

Date of decision: 28.02.2019

ICICI LOMBARD GENERAL INSURANCE COMPANY ... Appellant

Versus

GIAN CHAND AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. AS Sidhu, Advocate for the appellant.
Mr. Punit Jain, Advocate for respondent No.8.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 28.10.2015 passed by the Motor Accidents Claims Tribunal, Jhajjar whereby compensation has been assessed on account of death of Somvir in a motor vehicular accident that took place on 03.10.2009.

Counsel for the insurance company would inform that the appeal has been preferred to assail only quantum of compensation assessed by the Tribunal.

The Tribunal has awarded Rs.12,74,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Addition in income for future prospects	50%
3. Multiplier	17
4. Deduction for personal expenses	1/3 rd
5. Loss of dependency	Rs.12,24,000/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of love and affection	Rs.25,000/-

The Tribunal has assessed income of the deceased on the basis of statement of Niranjana PW2 and the same is affirmed. Claimants shall be entitled to addition in income for future prospects @ 40%. The application for compensation has been filed by the parents and two adult brothers of the deceased. There is nothing on record suggestive of the fact that brothers of the deceased were dependent on his earning particularly in the lifetime of their father Sh. Gian Chand. The Tribunal has not assigned any reason for diverting from formula laid down by Hon'ble the Supreme Court in **Sarla**

Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77 to allow deduction for personal and living expenses to the extent of 1/3rd in place of 50%. Accordingly, deduction for personal and living expenses of the deceased would be 50%. The deceased was less than 26 years of age, therefore, admissible multiplier is 18. In this manner, loss of dependency is calculated at Rs.9,07,200/- [(6000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

- | | |
|---------------------------|-------------|
| 1. Expenses on last rites | Rs.15,000/- |
| 2. Loss of estate | Rs.15,000/- |

Total compensation is Rs.9,37,200/- and compensation allowed by the Tribunal is reduced to the extent of Rs.3,36,800/- (12,74,000 - 9,37,200). The insurance company shall be at liberty to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

28.02.2019
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