

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

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FAO-1842-2016 (O&M)

Date of decision: 25.09.2019

CHANDNI AND OTHERS

... Appellants

Versus

ANAND SINGH DECEASED THR LRS AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Viney Saini, Advocate for
Mr. GS Nagra, Advocate for the appellants.
Mr. Sahil Abhi, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Mithu Kumar in a motor vehicular accident that took place on 03.02.2014.

The Tribunal awarded Rs.5,80,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.4500/-
Multiplier	16
Deduction for personal expenses	1/3 rd
Loss of dependency	Rs.5,76,000/-
Expenses on funeral	Rs.2000/-
Loss of love and affection	Rs.2000/-

The plea of claimants is that deceased was vegetable seller on rehri and earning Rs.30,000/- per month. They could not produce sufficient much less cogent evidence with regard to avocation and income of the deceased. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.6400/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. The deceased was 29 years old, therefore, admissible multiplier is 17. In this manner, loss of dependency is calculated at Rs.12,18,560/- [(6400 x 12 x 17) + (40% future prospects) – (1/3rd deduction for personal expenses)].

The Tribunal has awarded a meager sum of Rs.4000/- under conventional heads. It is surprising that the Tribunal despite knowing that

claim has been filed under Section 166 of the Motor Vehicles Act, 1988 and there are series of judgments of Hon'ble the Supreme Court dealing with grant of compensation under conventional heads has proceeded to allow a paltry sum of Rs.4000/- under conventional heads that also does not take care of compensation for loss of consortium. This practice adopted by the Tribunal is totally unwarranted and shows in-different attitude of the Tribunal and its failure to discharge onerous obligation to assess just and reasonable compensation. Claimants shall be entitle to Rs.70,000/- under conventional heads, 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.12,88,560/- and additional amount is Rs.7,08,560/- (12,88,560 - 5,80,000), payable with interest @ 7.5% per annum from the date of petition till realization, to Sahibjot minor daughter of the deceased, to be invested in fixed deposit till she attains majority or for a period of three years, whichever is later. Even compensation assessed by the Tribunal shall carry interest @ 7.5% per annum from the date of petition till realization and the additional amount qua interest shall be payable to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

25.09.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No