

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

225

FAO-2554-2016 (O&M)

Date of decision: 14.10.2019

ORIENTAL INSURANCE COMPANY LTD.

... Appellant

Versus

JASBIR KAUR & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Harsh Aggarwal, Advocate for the appellant.
Mr. Ishan Cooner, Advocate for respondents No.1 to 3 and 5.
Mr. Virender Kumar, Advocate for respondents No.6 (i to iii).

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 22.12.2015 passed by the Motor Accidents Claims Tribunal, Ambala whereby compensation has been assessed on account of death of Lakhwinder Singh in a motor vehicular accident that took place on 23.02.2015.

The Tribunal awarded Rs.4,72,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.3200/-
Multiplier	15
Deduction for personal expenses	1/4 th
Loss of dependency	Rs.4,32,000/-
Expenses on funeral and transportation	Rs.20,000/-
Loss of consortium	Rs.20,000/-

Counsel for the appellant would argue that as the claimants have filed claim application under Section 163-A of the Motor Vehicles Act, 1988, compensation awarded by the Tribunal may be modified in view of the structured formula laid down in Second Schedule appended thereto.

Counsel representing the respondents/claimants would argue that as the deceased was 38 years old, appropriate multiplier may be applied.

Income of the deceased assessed by the Tribunal is correct and affirmed. There will be 1/3rd deduction for personal expenses. The deceased is held to be 38 years old but multiplier of 15 has been applied. Singh Ram, father of the deceased appeared in the witness box. In cross examination, he would depose that deceased was 41 years old. Taking into consideration

statement of Singh Ram, age of the deceased was more than 40 years, therefore, admissible multiplier is 15. In this manner, loss of dependency is calculated at Rs.3,84,000/- $[(3200 \times 12 \times 15) - (1/3^{\text{rd}}$ deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.9500/-, detailed hereunder:-

1. Loss of consortium	Rs.5000/-
2. Loss of estate	Rs.2500/-
3. Funeral expenses	Rs.2000/-

Total compensation is Rs.3,93,500/- and compensation assessed by the Tribunal is reduced to the extent of Rs.78,500/- (4,72,000 - 3,93,500). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is disposed of in the aforesaid terms.

14.10.2019
ashok

(REKHA MITTAL)
JUDGE

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