

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

FAO No. 3049 of 2016(O&M)

Date of decision: 25.1.2019

Urmila and another

.....Appellants

VERSUS

Sandeep and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vivek Suri, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

Mr. Maninder Arora, Advocate has caused appearance on behalf of respondent No.3.

Respondent No.1 and 2 have been served but there is no representation on their behalf. However, Ms. Charu Sharma, Advocate is present in the Court and would state that she has appeared on behalf of Sh. Arun Kumar Singal, Advocate for respondent No.1.

The claimants are in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Rupnagar (in short 'the Tribunal') on account of death of Deepak in a motor vehicular accident that took place on 30.11.2014.

The Tribunal has awarded compensation of Rs.6,68,000/- detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Deduction for personal expenses	50%
Multiplier	18

Loss of dependency	Rs.6,48,000/-
Loss of love and affection	Rs.50,000/-
Funeral expenses	Rs.20,000/-

The deceased was stated to be student of +2. However, matriculation certificate of the deceased is on record. Taking a clue from the notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with educational qualification of the deceased, income assessed by the Tribunal is correct and affirmed, deduction for personal expenses and multiplier applied by the Tribunal are in consonance with the judgment **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77.**

However, claimants shall be entitle to addition in income for future prospects at the rate of 40%. In this context, reference can be made to judgment **National Insurance Company Ltd. Vs. Pushpa Singh Chauhan and others, FAO No.1502 of 2015, decided on 20.03.2015**

whereby this Court affirmed computation of compensation by the Tribunal whereby in regard to death of a student of B.Tech. Mechanical in Chander Mohan Jha University, Shilong (Meghalya) i.e. income assessed at Rs.10,000/- per month and benefit of future prospects @ 50%. The said judgment became subject matter of challenge before Hon'ble the Supreme Court in Special Leave Petition (C) S. No.19533 of 2015. Hon'ble the Apex Court dismissed the appeal with the findings that no legal and valid ground for interference is made out. In this manner, loss of dependency comes to Rs.9,07,200/- [Rs.12,96,000/- (Rs.6000 x 12x 18) + Rs.5,18,400/- (40% addition towards future prospects) – Rs.9,07,200/- (50% deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that appellant shall be entitled to Rs.30,000/- i.e. Rs.15000/- for funeral expenses and Rs.15000/- for loss to estate, in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034.**

In view of the above, total compensation comes to Rs.9,37,200/- and the additional amount is Rs.2,69,200/- (Rs.9,37,200/- - Rs.6,68,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization.

Perusal of the award would reveal that the insurance company has been given right of recovery against respondent No.1 and 2 before the Tribunal i.e. driver and owner of the alleged offending vehicle, as the vehicle is stated to be used for hire in violation of the policy conditions. In absence of any privity of contract between the insurer and the driver, recovery right given against the driver cannot be allowed to sustain and accordingly set aside.

In view of what has been discussed hereinabove, the appeal is partly allowed with modification in the aforesaid terms.

JANUARY 25, 2019

'D. Gulati'

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no