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

220 FAO-4287-2015 (O&M)

Date of decision: 28.08.2019

BIMLA DEVI AND ANR ... Appellants

Versus

NARESH KUMAR AND ORS ... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Prashant S. Chauhan, Advocate for the appellants.
Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate for the insurance company.

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**REKHA MITTAL, J. (Oral)**

The claimants are in appeal seeking enhancement of compensation on account of death of Manoj Kumar in a motor vehicular accident that took place on 08.08.2012.

The Tribunal awarded Rs.9,45,000/-, detailed hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.10,000/- |
| Multiplier | 15 |
| Deduction for personal expenses | 50% |
| Loss of dependency | Rs.9,00,000/- |
| Expenses on funeral | Rs.25,000/- |
| Loss of estate | Rs.10,000/- |
| Pain and suffering | Rs.10,000/- |

Counsel for the appellants would argue that deceased was final year student of Electronic Instrumentation and Control Engineering of Rajasthan Technical University, Kota, evidenced by certificate Ex.P3 issued by St. Margaret Engineering College, Neemrana, Rajasthan. It is further submitted that claimants examined Dinesh-PW2 to prove that deceased was working as Manager workshop with Lokendra Automobile Mundawer, District Alwar, Rajasthan at salary of Rs.11,000/- per month. The Tribunal refused to rely upon testimony of Dinesh PW2 in view of the facts elicited in his cross examination. Counsel for the appellants has supplied copy of testimony of Dinesh PW2 for perusal and appreciation of the Court. A plain reading of the facts elicited in cross examination of Dinesh PW2 would reveal that his testimony is not worthy of credence and reliance as an evidence of employment and income of the deceased. Claimants have not produced any other document with regard to educational qualification of the deceased or his being a student of Engineering in a college. In the given scenario, there is no justification for assessing income of the deceased at a rate higher than that allowed by the Tribunal. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. However, the admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315**, **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** and **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.** In this manner, loss of dependency is calculated at Rs.15,12,000/- [(10,000 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.15,42,000/- and additional amount is Rs.5,97,000/- (15,42,000 - 9,45,000) payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

**August 28, 2019** **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No