In the High Court of Punjab and Haryana at Chandigarh

FAO No. 3558 of 2016(O&M)
Date of Decision: 21.1.2019

Munshi Ram and another

---Appellants

versus

Pritam Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. C.R.Olla, Advocate
for the appellants

Mr. R.N.Singal, Advocate,
for the insurance company

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Pahlad in a motor vehicular accident that took place on 22.8.2008.

The Motor Accidents Claims Tribunal, Hisar (in short "the Tribunal") has awarded compensation of Rs. 4,69,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4500/-
Deduction for personal expenses	50%
Multiplier	17
Loss of dependency	Rs. 4,59,000/-
Expenses on transportation and last rites	Rs. 10,000/-

Counsel for the appellant would urge that the Tribunal has wrongly applied deduction to the extent of 50% but the same should be 1/3rd as the deceased left behind two younger brothers. Adequate compensation may be allowed under conventional heads.

Counsel for the insurance company has supported assessment made by the Tribunal.

The plea of the claimants is that deceased was working as Cable operator and earning Rs. 20,000/- per month. The Tribunal, in para 34 of the award, has noticed that Munshi Ram father of the deceased admitted in his cross examination that he has no proof regarding running of city cable or earning Rs. 20,000/- per month by the deceased. In the given circumstances, no fault can be found in the order assessing income of the deceased at Rs. 4500/- per month. However, claimants shall be entitle to addition in income for future prospects @ 40%.

The claim application has been filed by parents of the deceased. The mere fact that the deceased has also left behind two brothers is not sufficient to accept contention of the appellants that deduction for personal expenses should be 1/3rd. The Tribunal has rightly allowed multiplier of 17 for computing loss of dependency. In this manner, loss of dependency is calculated at **Rs.6,42,600/-** [4500 x12 x17 = 9,18,000+3,76,200(40%) =12,85,200-6,42,600(50%).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 30,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance**

Company Limited and another AIR 2018 SC 5034, detailed hereunder:-

Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 6,72,600/-and the additional amount is Rs. 2,03,600/- (6,72,600-4,69,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 1739 days in filing the appeal, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

21.1.2019
PARAMJIT

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