

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

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FAO No.4236 of 2016 (O&M)

Date of decision: 27.09.2019

RAM KALI AND ANR

... Appellants

Versus

VIJAY AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashok K. Sharma, Advocate for the appellants.
Mr. Punit Jain, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Devi Chand in a motor vehicular accident that took place on 15.11.2013.

The Tribunal awarded Rs.9,36,200/-, detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Addition in income for future prospects	30%
Multiplier	13
Deduction for personal expenses	1/3 rd
Loss of dependency	Rs.8,11,200/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is on lower side and age of the deceased has not been correctly assessed.

The plea of claimants is that deceased was a pujari and also doing agriculture work thereby earning Rs.2 lakh par annum. The Tribunal, in para 27 of the award, has noticed that claimants failed to produce any sufficient evidence to prove occupation and income of the deceased. They did not produce any document with regard to cultivation of land by the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage, there is no justification for allowing increase in income of the deceased.

As per the application for compensation, the deceased was 49 years old. However, in the postmortem report, his age has been mentioned

as 40 years. Taking into consideration age of the deceased mentioned by the claimants coupled with absence of evidence as to on what basis age of the deceased has been mentioned in the postmortem report, the Tribunal has rightly assessed age of the deceased at 49 years. The Tribunal has allowed addition in income for future prospects @ 30% as against 25% admissible in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. Even compensation under conventional heads allowed by the Tribunal is more than what can be assessed in view of judgment in **Pranay Sethi and others's case (supra)**. That being so, there is no justification for allowing additional compensation to the claimants.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs. As the appeal has been decided on merits, application for condonation of delay is of academic relevance.

27.09.2019

ashok

(REKHA MITTAL)
JUDGEWhether speaking/reasoned:
Whether reportable:Yes / No
Yes / No