

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

FAO 4857 of 2016 (O&M)
Date of decision : 13.02.2019

Gena Devi alias Gyanti Devi and others

.....*Appellants*

versus

Balwinder Singh and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. R K Shukla, Advocate
for the appellants

Mr. Abhimanyu Batra, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Raghu Nath son of Ram Kumar in a motor vehicular accident that took place on 18.07.2014 though Raghu Nath succumbed to injury on 23.07.2014.

The Tribunal has awarded compensation of Rs.9,04,744.00, detailed hereunder:-

Monthly income of the deceased	Rs.6,000.00
Deduction for personal expenses	1/4 th
Multiplier	14
Loss of dependency	Rs.7,56,000.00
Loss of consortium to widow	Rs.25,000.00
Funeral expenses	Rs.25,000.00
Loss of love and affection	Rs.50,000.00
Medical expenses	Rs.48,744.00

The plea of the claimants is that the deceased was working as Plumber and used to dig tube well bore thereby earning Rs.20,000.00 per month. The Tribunal has noticed that no documentary proof regarding monthly income and occupation of the deceased has been placed on file. However, there is no challenge to plea of claimants that the deceased was working as Plumber and as such digging tubewell bores.

Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.7,200.00 per month. The claimants shall be entitle to addition in income for future prospects at the rate of 25%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this view of the matter, loss of dependency is calculated at Rs.11,34,000.00 (Rs.12,09,600 *i.e.* 7,200 x 12 x 14 + Rs.3,02,400.00 (25% addition) – Rs.3,78,000.00 (1/4th deduction)).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court *National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270* and *Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034*. Medical expenses Rs.48,745.00 allowed by the Tribunal are correct and affirmed.

Total compensation is Rs.12,52,745.00 and additional amount is Rs.3,48,001.00 (Rs.12,52,745.00 – Rs.9,04,744.00) payable with interest @ 7.5% per annum from the date of petition till realization to widow of the

deceased, to be invested in FDR for a period of three years.

In view of the above, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

13.02.2019
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