

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

-.-

FAO 5437 of 2016 (O&M)

Date of decision: 08.04.2019

Rani Kaur and another

.....Appellants

Versus

Radha Krishan (Bisnoi) and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Naveen Sharma, Advocate
for the appellants

Mr. G L Bajaj, Advocate
for respondents No. 1 and 2

Mr. Suvir Dewan, 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 Balbir Singh in a motor vehicular accident that took place on 15.10.2013.

The Tribunal (MACT, Bathinda) has awarded Rs.5,31,000/- (rounded off to Rs.5,35,000/-), detailed hereunder:-

-Monthly income of the deceased	Rs.4,500/-
-Deduction for personal expenses	50%
-Multiplier	18
-Loss of dependency	Rs.4,86,000/-
-Funeral expenses	Rs.25,000/-
-Loss to estate	Rs.10,000/-
-Loss of love and affection	Rs.10,000/-

The plea of claimants is that the deceased was working as

Welder thereby earning Rs.30,000/- per month. The Tribunal, in para 13 of

the award, has noticed that the claimants failed to produce any record with regard to income of the deceased. However, the Tribunal has not rejected plea of the claimants that the deceased was working as Welder. 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.7,000/- per month. The claimants shall be entitle to increase in income for future prospects at the rate of 40%. Deduction for personal and living expenses and multiplier applied by the Tribunal are correct and affirmed. As such, loss of dependency comes to Rs.10,58,400/- (Rs.15,12,000/- *i.e.* 7000 x 12 x 18 + Rs.6,04,800/- (40% addition) – Rs.10,58,400/- (50% deduction))

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000.00 (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*.

Total compensation is Rs.10,88,400/- and additional amount is Rs.5,53,400/- 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 three years.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

08.04.2019
Mohan Bimbura

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