

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

-.-

FAO 6512 of 2015 (O&M)

Date of decision: 12.09.2019

Vaisha and others

.....Appellants

Versus

Sandeep Arora and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Mukesh Kumar Sharma, Advocate
for the appellants

Ms Priya Deep, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Javed in a motor vehicular accident that took place on 28.12.2013.

The Tribunal awarded Rs.6,88,000/-, detailed hereunder:

-Monthly income of the deceased	Rs.6,000/-
-Deduction for personal expenses	1/3 rd
-Multiplier	11
-Loss of dependency	Rs.5,28,000/-
-Funeral and transportation charges	Rs.25,000/-
-Loss of love and affection	Rs.25,000/-
-Medical expenses etc.	Rs.1,10,000/-

The plea of claimants is that deceased was engaged in business of treacle thereby earning Rs.30,000/- per month. The Tribunal has noticed that claimants failed to adduce any evidence to prove avocation and income

of deceased and accordingly, notional income has been assessed as Rs.6,000/- per month. When the case is examined in the light of notification issued by the State of Haryana fixing minimum wage, there is no scope for allowing additional compensation qua monthly loss of dependency. The claimants shall be entitle to addition in income for future prospects @ 40%.

The claim application has been filed by the mother and four siblings of deceased. Though in the case of unmarried person, admissible deduction is 50% but the Tribunal by taking a view from the observations made by Hon'ble the Supreme Court in ***Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77***, has allowed deduction to the tune of 1/3rd and the same is affirmed.

The Tribunal applied multiplier of 11 on the basis of age of mother of deceased. The admissible multiplier is 18, on the basis of age of the deceased. In this context, reference can be made to judgments of Hon'ble the Supreme Court ***Sarla Verma's case (supra)***, ***Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315*** and ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***.

In view of the above, loss of dependency is Rs.12,09,600/- [Rs.12,96,000/- i.e. 6,000 x 12 x 18 + Rs.5,18,400/- (40% addition) – Rs.6,04,800/- (1/3rd 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.***

The sum of Rs.1,10,000/- towards medical expenses etc. allowed by the Tribunal is affirmed.

Total compensation is Rs.13,49,600/- and additional amount is Rs.6,61,600.00 (Rs.13,49,600 – Rs.6,88,000), 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 three years.

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

(Rekha Mittal)
Judge

12.09.2019
Mohan Bimbura

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

