

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

245

FAO-5608-2016 (O&M)

Date of decision: 07.03.2019

SONIYA AND OTHERS

... Appellants

Versus

BRIJ GOPAL AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashish Gupta, Advocate for the appellants.
None for respondents No.1 and 3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Ajay Devgan in a motor vehicular accident that took place on 18.12.2014.

The Tribunal has awarded Rs.12,05,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.7500/-
2. Multiplier	18
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.10,08,000/-
5. Expenses on funeral and transportation	Rs.25,000/-
6. Loss of consortium	Rs.1,00,000/-

The plea of claimants is that the deceased was earning Rs.18,000/- per month while working as mason (raj mistri). However, they failed to produce sufficient much less cogent evidence to establish their plea with regard to avocation and income of the deceased. When the case is examined in the light of notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.6000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.12,09,600/- [(6000 x 12 x 18) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court

National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270 and Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.12,79,600/- and the additional amount is Rs.74,600/- (12,79,600 - 12,05,000), payable with interest @ 7.5% per annum from the date of petition till realization, to Jivika minor daughter of the deceased, to be invested in fixed deposit till she attains the age of majority or for a period of three years, whichever is later. Interest accruing on FDR shall be payable to mother of the minor for meeting expenses on her education and living.

The appeal is partly allowed in the aforesaid terms.

07.03.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No