

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

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FAO-7630-2015 (O&M)

Date of decision: 13.02.2019

RELIANCE GENERAL INSURANCE COMPANY LTD ... Appellant

Versus

HARJIT KUMAR AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Kodan, Advocate for the appellants.
Mr. RK Arya, Advocate for the claimant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 13.08.2015 passed by the Motor Accidents Claims Tribunal, Gurdaspur whereby compensation has been assessed on account of death of Savinder Kumar @ Kajal in a motor vehicular accident that took place on 05.05.2014.

Counsel for the insurance company would inform that the appeal has been preferred to assail quantum of compensation and entitlement of respondent No.1/claimant to seek loss of dependency as he is elder brother of deceased Savinder Kumar aged about 40 years.

The Tribunal has awarded compensation of Rs.8,00,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Addition in income for future prospects	50%
3. Multiplier	15
4. Deduction for personal expenses	50%
5. Loss of dependency	Rs.6,75,000/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of love and affection	Rs.1,00,000/-

Counsel for the insurance company would argue that as the claimant was not dependent upon earning of the deceased, he cannot be allowed compensation with regard to loss of dependency as has been computed by the Tribunal. Another submission made by counsel is that under conventional heads, claimant, at best, can be allowed a sum of Rs.15,000/- for expenses on last rites.

Counsel representing the claimant, on the contrary, would argue that as the claimant is one of the legal representatives of deceased Savinder

Kumar, he is competent to maintain an application for grant of compensation. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai and Prabhatbhai and another, AIR 1987 (SC) 1690**. He has further supported computation of compensation by the Tribunal.

Be that as it may, it is undisputed position of the case that Harjit Kumar, the only claimant in the case is the elder brother of deceased Savinder Kumar @ Kajal. There is nothing on record suggestive of the fact that claimant is afflicted with any impairment rendering him dependent upon earning of his younger brother. However, respondent/claimant shall be entitle to substantial amount of compensation with regard to loss of estate being legal representative of the deceased.

The Tribunal has assessed income of the deceased at Rs.5000/- per month and the same is less than minimum wage available at the relevant time. Addition in income for future prospects would be 40%. The multiplier applied by the Tribunal is correct and affirmed. However, deduction for personal and living expenses of the deceased would be 60%. In this manner, compensation qua loss of estate is calculated at Rs.5,04,000/- $[(5000 \times 12 \times 15) + (40\% \text{ future prospects}) - (60\% \text{ deduction for personal expenses})]$.

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimant shall be entitle to Rs.15,000/- for expenses on last rites.

Total compensation is Rs.5,19,000/- and compensation allowed by the Tribunal is reduced to the extent of Rs.2,81,000/- (8,00,000 - 5,19,000). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

13.02.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No