

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

**228**

Date of decision: 27.02.2019

XOBJC-281-CII of 2016 in/and

FAO No.9429 of 2014 (O&M)

Pooja Devi and others

... Appellants

Versus

Dhola Ram and others

... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Sanawar Ali, Advocate for  
Mr. Manoj K. Tanwar, Advocate for the appellants.  
Mr. SK Yadav, Advocate  
for cross objectors/respondents No.1 & 2.  
Mr. Satpal Dhamija, Advocate for the insurance company.

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**REKHA MITTAL, J. (Oral)**

This order will dispose of FAO No.9429 of 2014 and cross objections No.281-CII of 2016 as these have emerged out of the same award dated 02.09.2014 passed by the Motor Accidents Claims Tribunal, Narnaul whereby compensation has been assessed on account of death of Satish Kumar in a motor vehicular accident that took place on 26.06.2013.

FAO No.9429 of 2014 has been filed by the claimants seeking enhancement of compensation whereas cross objections have been filed by respondents No.1 and 2 to assail recovery right given in favour of the insurance company.

The Tribunal has awarded Rs.7,26,200/-, detailed hereunder:-

|                                           |                   |
|-------------------------------------------|-------------------|
| 1. Monthly income of the deceased         | Rs.4800/-         |
| 2. Multiplier                             | 18                |
| 3. Deduction for personal expenses        | 1/3 <sup>rd</sup> |
| 4. Loss of dependency                     | Rs.6,91,200/-     |
| 5. Expenses on funeral and transportation | Rs.10,000/-       |
| 6. Loss of consortium                     | Rs.25,000/-       |

The plea of claimants is that deceased was earning Rs.15,500/- per month by doing the work of selling newspaper and clerk with an advocate. The claimants examined Suresh Lawania PW2 to prove that deceased was working with GM News Agency, Gandhi Market, Mohindergarh for sale of newspaper. The Tribunal has noticed that Suresh Lawania did not produce any document in respect of his agency. To prove that the deceased was working as a clerk with an advocate, the claimants

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examined Karni Singh Rathore PW3 and he would depose that the deceased was working as a clerk on monthly salary of Rs.5000/- paid without any receipt. The claimants also examined certain other witnesses to prove income of the deceased.

Taking into consideration the minimum wage available at the relevant time coupled with oral and documentary evidence available on record, income of the deceased is assessed at Rs.7000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.14,11,200/-  $[(7000 \times 12 \times 18) + (40\% \text{ future prospects}) - (1/3^{\text{rd}} \text{ deduction for personal expenses})]$ .

Under conventional heads, claimants shall be entitle to Rs.70,000/-, 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.14,81,200/- and the additional amount is Rs.7,55,000/- (14,81,200 - 7,26,200), payable with interest @ 7.5% per annum from the date of petition till realization, to 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.

So far as plea of cross objectors against recovery right given in favour of the insurance company, perusal of the award would reveal that insurance company has been given recovery right on the ground of non-production of driving licence. The cross objectors filed an application for additional evidence in order to place on record driving licence of Dhola Ram. On verification of said licence, it has been informed to the Court by Sh. Satpal Dhamija, Advocate representing the insurance company that same was found to be valid and verification report filed in the Court, is taken on record. Taking into consideration that licence possessed by the driver was found to be valid, recovery right given in favour of the insurance company cannot be allowed to sustain and accordingly set aside.

In view of what has been discussed hereinabove, the appeal is

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partly allowed in the aforesaid terms. The cross objections are partly allowed with the observations that all the respondents before the Tribunal shall be jointly and severally liable to pay compensation to the claimants.

27.02.2019  
ashok

(REKHA MITTAL)  
JUDGE

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