

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

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Date of decision: 05.04.2019

FAO 7113 of 2016 (O&M)

Kiran Devi and others

.....*Appellants*

Versus

Shanam and another

.....*Respondents*

FAO 7114 of 2016 (O&M)

Ramesh Kumar alias Harmesh Kumar and others

.....*Appellants*

Versus

Shanam and another

.....*Respondents*

FAO 7133 of 2016 (O&M)

Veena Rani alias Mansi Devi and others

.....*Appellants*

Versus

Shanam and another

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Vivek Suri, Advocate
for the appellants

Mr. M B Jain, Advocate
for respondent – Insurance company

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Rekha Mittal, J. (Oral)

This order will dispose of aforesaid appeals as these have emerged out of the same accident dated 15.09.2014 in which Satish Kumar, Geeta Rani and Rakesh Kumar, occupants of Car No. PB-06P-1576, sustained injuries that proved fatal.

All the aforesaid appeals have been preferred by the claimants seeking enhancement of compensation.

FAO 7113 of 2016

Counsel for the appellants would state that as there does not appear possibility of enhancement of compensation over and above what has been allowed by the Tribunal when examined 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*, he has the instructions to withdraw the appeal

Ordered accordingly.

FAO 7114 of 2016

With regard to death of Geeta Devi, the Tribunal awarded Rs.11,25,000/-, detailed hereunder:-

-Monthly income of deceased	Rs.5,000/-
-Multiplier	15
-Loss of dependency	Rs.9,00,000/-
-Loss of consortium	Rs.1,00,000/-
-Loss of love and affection	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-

Application for compensation has been filed by the husband and two minor children of deceased. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time coupled with that a house maker cannot be equated with a casual labour as she has multifarious duties to perform and is available to the family round the clock, value of services of deceased is assessed at Rs.9,000.00 per month. Multiplier applied by the Tribunal is correct and affirmed. As such, loss of dependency is calculated at Rs.16,20,000/- (9,000x12x15).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that the claimants shall be entitle to Rs.55,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 for funeral expenses), in the light of judgments of Hon'ble the Supreme Court in ***Pranay Sethi's*** and ***Sebastiani Lakra's case (supra)***.

Total compensation is Rs.16,75,000.00 and additional amount is Rs.5,50,000/- payable with interest @ 7.5% per annum from the date of petition till realization to minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain age of majority or for a period of three years, whichever is later.

In view of the above, the appeal is partly allowed in the aforesaid terms.

FAO 7133 of 2016

The Tribunal has awarded Rs.22,37,040/- with regard to death of Rakesh Kumar, detailed hereunder:-

-Monthly income of deceased	Rs.16,767/-
-Deduction for personal expenses	1/3rd
-Multiplier	15
-Loss of dependency	Rs.20,12,040/-
-Loss of consortium	Rs.1,00,000/-
-Loss of love and affection	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-

The Tribunal has assessed income of the deceased on the basis of income tax returns, discussed at internal page 18 of the award. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed.

The Tribunal has assessed age of the deceased to be 40 years. Taking into consideration the date of birth of the deceased recorded in the matriculation certificate, the deceased was less than 40 years of age. Accordingly, addition in income for future prospects would be 40%. As such, loss of dependency is calculated at Rs.28,16,856/- (Rs.30,18,060 i.e. $16,767 \times 12 \times 15$ + Rs.12,07,224/- (40% addition) – Rs.14,08,428/- (1/3rd deduction)).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that the claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each for loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court in *Pranay Sethi's* and *Sebastiani Lakra's case (supra)*.

Total compensation is Rs.28,86,856/- and additional amount is Rs.6,49,819/- payable with interest at the rate of 7.5% per annum from the date of petition till realization to minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain age of majority or for a period of three years, whichever is later.

In view of the above, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

05.04.2019
Mohan Bimbura

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