

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

240

FAO-1257-2017 (O&M)

Date of decision: 01.05.2019

SARASWATI & ORS

... Appellants

Versus

RAI SINGH & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Yash Pal Khullar, Advocate for the appellants.
Mr. Sukhdarshan Singh, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Virender in a motor vehicular accident that took place on 22.07.2014.

The Tribunal awarded Rs.9,25,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Multiplier	18
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.8,10,000/-
5. Expenses on funeral	Rs.10,000/-
6. Loss of estate	Rs.5000/-
7. Loss of consortium	Rs.1,00,000/-

The plea of claimants is that the deceased was working as salesman at a petrol pump and doing milk vending thereby earning Rs.16,000/- per month. The Tribunal, in para 28 of the award, has noticed that no witness was examined by the claimants to corroborate their plea that deceased was salesman at a petrol pump. No documentary evidence with regard to sale of milk by the deceased was produced. The Tribunal treated the deceased as a casual worker and assessed his income at Rs.5000/- per month. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with that the deceased had a large family to look after, income of the deceased is assessed at Rs.6000/- 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.13,60,800/- [(6000 x 12 x 18) + (40% future prospects) – (1/4th 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/-, 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.14,30,800/- and the additional amount is Rs.5,05,800/- (14,30,800 – 9,25,000), 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 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 minors for meeting their expenses.

The appeal is partly allowed in the aforesaid terms.

01.05.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No