

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2662 of 2017(O&M)

Date of decision: 16.5.2019

RajbalaAppellant

VERSUS

Rashid and othersRespondents

CORAM: HON’BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sachin Kadyan, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Insurance company has been served but remains unrepresented.

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Panipat (in short ‘the Tribunal’) on account of death of Ishwar Singh in a motor vehicular accident that took place on 22.6.2014.

The Tribunal awarded Rs.6,52,080/- detailed hereunder:-

Monthly income of the deceased	Rs.6290/-
Medical expenses	Rs.26,460/-
Deduction for personal expenses	50%
Multiplier	13
Loss of dependency	Rs.4,90,620/-
Loss of consortium to widow	Rs.50,000/-
Expenses on last rites	Rs.25,000/-
Expenses on transportation	Rs.10,000/-

Loss of love and affection	Rs.50,000/-
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The plea of the claimant is that the deceased was doing the work of Mason thereby earning Rs.30,000/- per month. The Tribunal in para 19 of the award has noticed that except the bald statement of claimant Rajbala, there is no evidence to prove income of the deceased but the Tribunal has treated the deceased to be a skilled labour. 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 liable to be affirmed. However, appellant shall be entitle to addition in income for future prospects at the rate of 25%. Multiplier applied by the Tribunal is correct and affirmed but the Tribunal has allowed deduction of 50% for personal and living expenses of the deceased on the basis that there is only one claimant in the case. The claimant is the widow of the deceased. Deduction for personal expenses would be 1/3rd in the light of judgment of this Court **Pawan Kumar and others Vs. Ramesh Kumar and others, 2016(1) Law Herald 758**. Accordingly, loss of dependency comes to Rs.8,17,700/- [Rs.9,81,240/- (Rs.6290 x 12 x 13) + Rs.2,45,310/- (25% addition towards future prospects) – Rs.4,08,850/- (1/3rd deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimant shall be entitled to Rs.70,000/-, detailed hereunder:-

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

In view of the above, total compensation comes to Rs.8,87,700/- and additional amount is Rs.2,35,620/- (Rs.8,87,700/- - Rs.6,52,080/-) payable with interest at the rate of 7.5% per annum from the date of petition till realisation, to be invested in Fixed Deposit for a period of 3 years.

The appeal is partly allowed in the aforesaid terms.

MAY 16, 2019

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no