

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

247 **Date of decision: 05.07.2019**
FAO No.3675 of 2017 (O&M)

The Oriental Insurance Co. Ltd. ... Appellant

Versus

Arashdeep Kaur and others ... Respondents

FAO No.3945 of 2017 (O&M)

The Oriental Insurance Co. Ltd. ... Appellant

Versus

Arashdeep Kaur and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. RC Gupta, Advocate for the insurance company.
None for the claimants.
Mr. Abhishek Sharma, Advocate for respondent No.7.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3675 and 3945 of 2017 as these have emerged out of the same accident that took place on 07.11.2015 in which Dalbir Kaur and Kashmir Singh sustained injuries that proved fatal.

Both the appeals have been preferred by Oriental Insurance Co. Ltd. (hereinafter referred to as 'the insurance company').

Counsel for the insurance company would inform that the appeals have been preferred to assail only quantum of compensation.

FAO No.3675 of 2017

The Tribunal awarded Rs.17,45,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.9000/-
2. Multiplier	15
3. Loss of dependency	Rs.16,20,000/-

4. Conventional expenses	Rs.25,000/-
5. Loss of consortium	Rs.1,00,000/-

There is no representation on behalf of the claimants, earlier being represented by Sh. Prateek Sodhi, Advocate.

The Tribunal has awarded Rs.1,25,000/- under conventional heads. When the case is examined in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Company Limited and another AIR 2018 SC 5034**, claimants shall be entitled to Rs.15,000/- only in respect of expenses on last rites. As a consequence, compensation allowed by the Tribunal is reduced to the extent of Rs.1,10,000/-. 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.

FAO No.3945 of 2017

The Tribunal awarded Rs.11,33,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.9000/-
2. Multiplier	14
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.10,08,000/-
4. Expenses on funeral	Rs.25,000/-
5. Loss of consortium	Rs.1,00,000/-

Counsel for the appellant would argue that income of the deceased assessed by the Tribunal is more than minimum wage of unskilled worker available at the relevant time. Conventional heads may be restricted to Rs.30,000/- as wife of the deceased also died in the same accident.

Counsel for respondent No.7 has not made any submission with regard to quantum of compensation.

The plea of claimants is that deceased was electrician and running a shop in his village and also binding electric motors thereby earning Rs.30,000/- per month. The claimants examined Harjit Singh PW3 Lambardar of the village to corroborate testimony of Arashdeep Kaur PW2,

one of the claimants that deceased was running shop of motor binding and electrical in the village. In the given circumstances, income of the deceased assessed by the Tribunal cannot be faulted with and the same is affirmed. Claimants shall be entitle to addition in income for future prospects @ 25%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.12,60,000/- [(9000 x 12 x 14) + (25% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

- | | |
|---------------------------|-------------|
| 1. Expenses on last rites | Rs.15,000/- |
| 2. Loss of estate | Rs.15,000/- |

Total compensation is Rs.12,90,000/- and the additional amount is Rs.1,57,000/- (12,90,000 – 11,33,000), payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by minor claimants Vijaypal Singh and Arpdeep Kaur, in the ratio 30:70, to be invested in fixed deposit till they attain the majority or for a period of three years, whichever is later.

The appeal stands disposed of in the aforesaid terms.

A copy of the order be sent to the claimants to enable them to realize the additional amount.

05.07.2019
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(REKHA MITTAL)
JUDGE

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