

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

237

FAO-4007-2017 (O&M)

Date of decision: 28.11.2019

RAJESH KUMAR & ANR

... Appellants

Versus

VIJAY & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Susheel Gautam, Advocate for the appellants.
Mr. RC Kapoor, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Anju in a motor vehicular accident that took place on 01.04.2014.

The Tribunal awarded Rs.5,00,000/-, detailed hereunder:-

Notional income of deceased	Rs.30,000/-per annum
Multiplier	15
Loss of dependency	Rs.4,50,000/-
Loss of love and affection, funeral expenses and last rites	Rs.50,000/-

Counsel for the appellant would argue that deceased was born on 21.05.1998 and as such, she was approximately 16 years of age at the time of unfortunate occurrence. She passed her matriculation examination as student of Gyan Bharati Public School Kabri (Panipat) from Board of School Education Haryana in March, 2014 and accordingly income of the deceased may be assessed and additional compensation may be allowed by extending benefit of addition in income for future prospects.

Counsel representing the insurance company, on the contrary, would argue that in the grounds of appeal, appellants have raised the plea that notional income may be assessed at Rs.35,000/- per annum and compensation may be assessed accordingly.

There cannot be any dispute with regard to settled position in law that the Tribunal has an obligation to assess just and reasonable compensation. There is no legal bar to allow compensation more than what has been claimed. In this context, reference can be made to judgment of

Hon'ble the Supreme Court **Nagappa Vs. Gurudayal Singh and ors., 2003 (1) RCR (Civil) 258.**

Counsel for the appellants has produced the original matriculation certificate of Anju for perusal and appreciation and a copy whereof is taken on record. The deceased appeared in the matriculation examination in March, 2014 and passed the exam by getting good grades in Hindi, English, Social Science, Health and Physical Education. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with educational qualification of the deceased, monthly income of the deceased is assessed at Rs.5600/-. Claimants shall be entitle to addition in income for future prospects @ 40%. In this context, reference can be made to judgment of this Court **National Insurance Co. Ltd. Vs. Pushpa Singh Chauhan and others, FAO No.1502 of 2015, decided on 20.03.2015** affirmed by Hon'ble the Supreme Court in Special Leave Petition (C) S. No.19533 of 2015. As the claim has been made by parents of the deceased, admissible deduction for personal expenses would be 50%. Multiplier available in the given circumstances is 18. In this manner, loss of dependency is calculated at Rs.8,46,720/- [(5600 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded 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.8,76,720/- and additional amount is Rs.3,76,720/- (8,76,720 – 5,00,000), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased to be invested in fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

28.11.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No