

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

258

FAO No.4778 of 2017 (O&M)

Date of decision: 24.01.2019

VIJAY KUMAR

... Appellant

Versus

SURINDER PAL KAUR @ SURINDER PAL SIDHU AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. N.S. Dandiwal, Advocate for the appellant.
Mr. Deepak Aggarwal, Advocate for the claimant(s).

REKHA MITTAL, J. (Oral)

CM No.14302-CII of 2017 (O&M)

Heard.

Allowed as prayed for. Delay of 15 days in filing the appeal stands condoned.

Main Case

The owner-cum-driver of Tata Sumo PB-03-R-6068 (alleged offending vehicle) is in appeal to assail award dated 31.01.2017 passed by the Motor Accidents Claims Tribunal, Bathinda whereby compensation has been assessed on account of death of Ranjit Singh Dhillon in a motor vehicular accident that took place on 30.10.2011.

Counsel for the appellant would inform that appeal has been preferred only to assail quantum of compensation assessed by the Tribunal.

The Tribunal has awarded compensation of Rs.17,25,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.35,000/-
2. Multiplier	5
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.14,00,040/-
6. Loss of consortium	Rs.1,00,000/-
7. Loss of love and affection to claimants No.2 and 3	Rs.2,00,000/-
8. Funeral and miscellaneous expenses	Rs.25,000/-

Counsel for the appellant would argue that income of the deceased assessed by the Tribunal is on higher side and needs reduction. To bring home his contention, it is argued that the Tribunal has

assessed age of the deceased to be 66 years. According to counsel, claimants can, at the most, assert for loss of dependency with regard to loss of managing capacity of the deceased qua land measuring 9 acres owned by him. He would further argue that even if the deceased has been looking after the entire land owned by him and claimants No.1 and 2, value of services cannot be assessed more than Rs.10,000/- per month. With regard to loss of pension, it is argued that widow of the deceased can only be allowed the benefit of difference of pension paid to the deceased and family pension allowed to her.

Counsel representing the claimant(s) has supported the award with regard to assessment for loss of dependency as well as under conventional heads.

The deceased is held to be 66 years old who was a pensioner from the Education Department. The land owned by the deceased would be available for the benefit of his family. Taking into consideration age of the deceased who was more than 65 years of age, value of his services to manage the land is assessed at Rs.10,000/- per month.

The Tribunal, in para 16, has noticed that as per testimony of RW4, the deceased had drawn pension to the tune of Rs.20,044/- for the month of October, 2011, recorded in the bank passbook Ex.C3. Jagdish Rai Garg RW4 has also revealed that as per Ex.RW4/C, Surinder Pal Sidhu has been granted pension of Rs.15,748/- per month, which is being increased from time to time. When the case is examined in the light of judgment of this Court **Charanjit Singh Vs. Harish Kumar Sachdeva and others, FAO No.10228 of 2014 along with connected cases, decided on 30.01.2018**, pension paid to widow of the deceased is to be deducted out of pension drawn by the deceased for computing loss of dependency qua loss of pension. Accordingly, claimant(s) shall be entitle to loss of pension @ Rs.4296/- per month (20,044 – 15,748). In view of the above, monthly loss of dependency is Rs.14,296/-. The Tribunal has rightly applied multiplier of 5. In this manner, loss of dependency is calculated at Rs.8,57,760/- (14,296 x 12 x 5).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to

Rs.70,000/- 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**, detailed hereunder:-

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

In view of the above, total compensation is Rs.9,27,760/- and compensation allowed by the Tribunal is reduced to the extent of Rs.7,97,240/- (17,25,000 - 9,27,760). The appellant 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.

24.01.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No