

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

FAO No. 2245 of 2018(O&M)

Date of decision: 22.1.2019

Simran and others

.....Appellants

VERSUS

Karamvir Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: None for the appellants.

Mr. Sanjeev Kodan, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Kurukshetra (in short 'the Tribunal') on account of death of Rinku Kumar in a motor vehicular accident that took place on 21.05.2016.

The Tribunal has awarded compensation of Rs.19,19,200/- detailed hereunder:-

Monthly income of the deceased	Rs.11400/-
Deduction for personal expenses	1/4 th
Multiplier	17
Loss of dependency	Rs.17,44,200/-
Loss of consortium & loss of estate	Rs.1,00,000/-
Loss of love and affection to claimants No.2 to 4	Rs.50,000/-
Funeral expenses	Rs.25,000/-

The Tribunal has assessed income of the deceased by treating him as an unskilled labour by relying upon order dated 01.03.2016 passed by the Deputy Commissioner, Kurukshetra fixing wages for unskilled labour at the rate of Rs.11,424/- from 01.03.2016 to 28.02.2017. The plea of the claimants is that deceased was working on a brick kiln and earning Rs.20,000/- per month. They did not produce a representative of the said brick kiln to prove employment and income of the deceased. The Deputy Commissioner's rates are meant for payment to employees out of contingency fund. As the claimants failed to adduce any evidence to prove income of the deceased and Deputy Commissioner's rates cannot be the basis for assessing income of deceased, taking a clue from the notification issued by the State of Haryana fixing wage at the relevant time, income of the deceased is assessed at Rs.8000/- per month. Claimants shall be entitle to addition in income for future prospects at the rate of 40%. The Tribunal has rightly applied multiplier of 17 and deduction of 1/4th for personal expenses.

The claimants shall be entitle to a sum of Rs.70,000/- under conventional heads in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034.**

If the compensation is assessed in view of the discussion made hereinbefore, compensation payable to the claimants would be less than what has been assessed by the Tribunal. That being so, there is no justification for allowing compensation more than what has been assessed by the Tribunal.

For the foregoing reasons, finding no merit, the appeal fails
and is accordingly dismissed.

JANUARY 22, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no