

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

276

FAO-5675-2017 (O&M)

Date of decision: 06.02.2019

BIRO DEVI & ANR

... Appellants

Versus

JAGTAR SINGH & ORS

... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Darshan Gulati, Advocate for the appellants.  
Ms. Madhu Sharma, Advocate for the insurance company.

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**REKHA MITTAL, J. (Oral)**

The claimants are in appeal seeking enhancement of compensation on account of death of Jasbir Singh in a motor vehicular accident that took place on 11.05.2016.

The Tribunal has awarded compensation of Rs.8,05,400/-, detailed hereunder:-

|                                                           |               |
|-----------------------------------------------------------|---------------|
| 1. Monthly income of the deceased                         | Rs.8400/-     |
| 2. Addition in income for future prospects                | 50%           |
| 3. Multiplier                                             | 9             |
| 4. Deduction for personal expenses                        | 50%           |
| 5. Loss of dependency                                     | Rs.6,80,400/- |
| 6. Expenses on last rites and transportation of dead body | Rs.25,000/-   |
| 7. Loss of love and affection                             | Rs.1,00,000/- |

Counsel for the appellants would argue that the Tribunal has applied multiplier of 9 on the basis of age of mother of the deceased in place of an appropriate multiplier on the basis of age of the deceased who was 30 years old. Income of the deceased assessed by the Tribunal is also on lower side and needs enhancement as the deceased was a tractor driver and his driving licence had been produced on record.

Counsel representing the insurance company, on the contrary, would argue that addition in income for future prospects should be 40% in place of 50%. Compensation allowed under conventional heads needs to be restricted to Rs.30,000/- 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**.

The plea of claimants is that the deceased was a tractor driver. There is no clear much less cogent evidence available on record that the deceased was a professional driver. The Tribunal has rightly noticed that driving licence Ex.P3, at best, can be an evidence of the deceased knowing driving. The occurrence in question took place in May, 2016. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.8000/- per month. The Tribunal has allowed addition in income for future prospects @ 50% but the same would be 40% in the light of judgment of Hon'ble the Supreme Court **Pranay Sethi and others's case (supra)**. The deceased was 30 years old, therefore, admissible multiplier is 17. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 7, Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315 and Pranay Sethi and others's case (supra)**. In this manner, loss of dependency is calculated at Rs.11,42,400/- [(8000 x 12 x 17) + (40% future prospects) – (50% deduction for personal expenses)].

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

|                     |             |
|---------------------|-------------|
| 1. Loss of estate   | Rs.15,000/- |
| 2. Funeral expenses | Rs.15,000/- |

Total compensation is Rs.11,72,400/- and the additional amount is Rs.3,67,000/- (11,72,400 - 8,05,400), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

06.02.2019

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**(REKHA MITTAL)**  
**JUDGE**

Whether speaking/reasoned:  
Whether reportable:

Yes / No  
Yes / No