

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

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FAO-691-2017 (O&M)

Date of decision: 29.04.2019

BHUSHAN VERMA AND ANR

... Appellants

Versus

SARWAN SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. IS Cooner, Advocate for the appellants.
None for respondent No.2.
Mr. Diwan S. Adlakha, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Ranjana Verma in a motor vehicular accident that took place on 29.07.2015.

Respondent No.2 has been served but remains unrepresented.

The Tribunal awarded Rs.5,79,000/-, detailed hereunder:-

1. Notional income of the deceased	Rs.3000/-
2. Multiplier	14
3. Loss of dependency	Rs.5,04,000/-
4. Expenses on last rites	Rs.25,000/-
5. Loss of love and affection to claimant No.2	Rs.50,000/-

The application for compensation has been filed by the husband and minor son of the deceased. The Tribunal has assessed notional income of the deceased at Rs.3000/- per month. The deceased was 45 years of age at the time of unfortunate occurrence. Taking a clue from notification issued by the State of Haryana fixing minimum wage coupled with that a house-maker has multifarious duties to perform and she is available to family round the clock, value of services of the deceased is assessed at Rs.8000/- per month.

The Tribunal has applied multiplier of 14 for computing loss of dependency. Counsel for the insurance company would apprise that in para 14 of the award, it has been recorded that counsel for the petitioners argued that the deceased was 47 years old, therefore, appropriate multiplier for computing loss of dependency should be 13.

Counsel for the claimants/appellants has supported multiplier of 14 in view of plea of the claimants and age of the deceased recorded in the postmortem report. Taking into consideration plea of the claimants, age

of the deceased recorded in the post mortem report and in absence of any counter by the insurance company, multiplier applied by the Tribunal is affirmed. In this manner, loss of dependency is calculated at Rs.13,44,000/- (8000 x 12 x 14).

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.55,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of consortium	Rs.40,000/-

The Tribunal has not awarded any compensation with regard to medical expenses incurred on treatment of the deceased. The deceased sustained injury on 29.07.2015 but succumbed to the injury when she was under treatment in PGI, Chandigarh till 19.08.2015. The Tribunal, in para 18 of the award, has noticed that claimants produced bills of the value of Rs.1,22,000/- as against claim of Rs.1,60,000/-. However, the Tribunal has not assigned any reason for rejecting claim qua medical expenses based upon bills, produced on record. Appellants shall be entitle to a sum of Rs.1,22,000/- with regard to medical expenses of the deceased. In this manner, total compensation is Rs.15,21,000/- and the additional amount is Rs.9,42,000/- (15,21,000 - 5,79,000), payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by the claimants in equal ratio.

The Tribunal has allowed right of recovery in favour of the insurance company against the driver and owner of offending vehicle i.e. tipper No.PB-13Q-6461 for want of producing permit. The right of recovery given against driver cannot be allowed to sustain for want of privity of contract between the insurer and driver. However, right of recovery given against the insured is kept intact.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

29.04.2019

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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No