

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

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FAO 5775 of 2016 (O&M)

Date of decision: 07.02.2020

Lakshay and another

.....Appellants

Versus

Hamid Mohmad Kathat and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Nishant Raj, Advocate
for the appellants
Mr. Subhash Goyal, Advocate
for respondent – Insurance Company

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking additional compensation on account of death of Sandeep in a motor vehicular accident that took place on 27.12.2012.

The Tribunal awarded Rs.8,26,000/-, detailed hereunder:-

-Monthly income of deceased	Rs.4,000/-
-Addition in income for future prospects	50%
-Deduction for personal expenses	1/3rd
-Multiplier	17
-Loss of dependency	Rs.8,16,000/-
-Transportation and last rites	Rs.10,000/-

The plea of claimants is that deceased was working as Electrician at R.K.Dying Industries Limited, Plot No. 262, Sector 24, HUDA, Panipat at salary of Rs.15,000/- per month. However, they did not examine the authorized representative of aforesaid industries to prove avocation and income of deceased. They also failed to substantiate their

plea that deceased was doing the business of sale of milk. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of deceased is assessed at Rs.5,000/- per month. The claimants shall be entitle to addition in income at the rate of 40%. Deduction for personal expenses and multiplier applied are correct and affirmed. In this manner, loss of dependency is Rs.9,52,000/- (Rs.10,20,000/- i.e. 5,000 x 12 x 17 + Rs.4,08,000/- (40% addition) – Rs.4,76,000 (1/3rd deduction)

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.30,000.00 (Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court *National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270* and *Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034*.

In view of the above, total compensation is Rs.9,82,000/- and additional amount is Rs.1,56,000/- payable with interest at the rate of 7.5% per annum from the date of petition till realization to Lakshay minor son of the deceased, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later.

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

(Rekha Mittal)
Judge

07.02.2020
Mohan Bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No