

117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2973-2022 (O&M)

Date of Decision : July 08, 2022

Iffco Tokio General Insurance Company Limited

.....Appellant

Vs.

Santosh Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Yogesh Gupta, Advocate
for the appellant.

ARVIND SINGH SANGWAN, J. (Oral)

The present appeal has been filed by challenging the award dated 4.4.2022 vide which the respondent-claimants, being LR's of deceased Mange Ram, who died in a motor vehicle accident on 22.1.2019 were granted compensation to a tune of Rs.18,61,048/-, along with interest @ 6% per annum till its realization.

The Tribunal while assessing the just and fair compensation has made the following calculations :-

Sr.No.	Head of Compensation	Amount (Rs.)
01.	Income per month	11,371/-
02.	40% of above Income to be added as future prospects (11.371 x 25/100 = 2842.75	2,842.75p.
03.	Less deduction of ¼ on account of personal expenses of deceased 11,371+2842.75 (14,213.75 x ¼ = 3553.4375)	3553.4375/-

04.	Multiplicand (Income + Future prospects) – deductions [14,213.75-3553.4375) = Rs.10660.3125/-)Rs.10,660/-]	10,660/-
05.	Yearly Income (10,660 x 12 = 1,27,920/-)	1,27,920/-
06.	Multiplier as per Smt. Sarla Verma’s case	14
07.	Loss of dependency (Multiplicand x Multiplier) = 1,27,920 x 14 = 17,90,880/-	17,90,880/-
08.	Loss of estate	15,000/-
09.	Loss of consortium	40,000/-
10.	Funeral expenses	15,000/-
11.	Total (17,90,880/-+15,000 +40,000+ 15,000 = 18,60,880/-)	18,60,880/-

Counsel for the appellant has argued that the Tribunal has granted excessive compensation as the deceased was unskilled worker. The Tribunal fell in error by taking the monthly income of the deceased Rs.11,371/- p.m., whereas the minimum wages for the unskilled worker on the date were Rs.8,827/- p.m. It is next argued that the age of the deceased has been taken to be 45 years as per the post-mortem report, whereas the Aadhar Card reflects the age as 52 years and, therefore, the multiplier of 14 has been wrongly applied. It is also argued that the Tribunal has wrongly allowed 25% increase of the income with regard to future prospects of the deceased and instead of 1/4th taking the dependency, the Tribunal should have deduct 50% of the income assessed.

After hearing the counsel for the appellant, I find no merit in this appeal.

The Tribunal has recorded a finding that the deceased was working as a Halwai and the claimant placed on record document Ex.PA to show that his income was approximately Rs.2,50,000/- to Rs.3,00,000/- per annum.

The argument of the appellant that a Halwai is unskilled labourer do not find force as the Tribunal has rightly taken the income of the deceased as Rs.11,371/- by not treating him to be an unskilled worker. With regard to age, claimant Santosh Devi had filed her affidavit Ex.PW1/A which stands proved in the light of the document Ex.P5 and there was no rebuttal of the same. Therefore, the Tribunal by taking the age of the deceased as 45 years has rightly applied the multiplier of 14 in terms of the judgment of the Hon'ble Supreme Court passed in **Sarla Verma and others Vs. Delhi Transport Corporation and another**, 2009 (6) SCC 121 and **National Insurance Company Limited Vs. Pranay Sethi and other**, 2017 (4) RCR (Civil) 1009 and, therefore, this Court finds that the trial Court has assessed the just and fair compensation to the respondent-complainant.

The present petition is, therefore, stands dismissed.

July 08, 2022
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO