

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

1. FAO No.3575 of 2001

Simarjit Kaur and others

... Appellants

Versus

Kaka Singh and others

... Respondents

2. FAO No.3576 of 2001

Sohan Singh

... Appellant

Versus

Kaka Singh and others

... Respondents

3. FAO No.2542 of 2002 (O&M)

Karamjit Kaur and others

... Appellants

Versus

Kaka Singh and others

... Respondents

Date of decision: 2nd February, 2015

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. G.S. Bawa, Advocate
 for the claimant/appellants.

Mr. R.C. Kapoor, Advocate
 for the insurer/respondent No.4.

Service of remaining respondents – dispensed with.

FATEH DEEP SINGH, J.

Learned Motor Accident Claims Tribunal, Sirsa through its consolidated Award dated 17.05.2000 disposed off six claim petitions bearing MACT Case Nos.109-14-MACT of 1997/98 out of which

claimants of Claim Petitions at serial numbers 1st, 3rd and 5th have invoked jurisdiction of this Court seeking enhancement of compensation. FAO No.3575 of 2001 concerns the death of Daljit Singh, FAO No.2542 of 2002 is regarding compensation for the death of Labh Singh, whereas FAO No.3576 of 2001 is regarding compensation for the damage to the vehicle in question.

The essential facts of the case are that on 20.10.1996 around 8.00/8.30 p.m. a jeep bearing registration No.HYF-8246 owned by Sohan Singh carrying Daljit Singh, Labh Singh, Jagrup Singh, Paramjit Kaur and Gurtej Singh met with an accident in the area of village Sawant Khera with truck bearing registration No.RNC-1423 and another truck No.RJ-13G-2745 on account of their rash and negligent driving.

Admittedly deceased Daljit Singh was aged around 28 years working in a private shop and deceased Labh Singh similarly is placed around 36 years with the same avocation. Since the manner and mode of the accident are not put to question and what is led in the evidence is that both the deceased were earning between ₹2,300 to ₹2,400 per month and which is a reasonable amount as has been considered by the learned Tribunal at the time of accident. Keeping in view the number of dependents and socio-economic status of the deceased Daljit Singh and Labh Singh, the Tribunal has wrongly deducted 1/3 of the income for own needs and maintenance which ought to be 1/4 and thus each of the deceased must be contributing ₹1,600 approximately to the running of the household and the annual

dependency thus, comes to ₹19,200. In view of the relative proven ages in the case of Daljit Singh multiplier of 17 and in the case of Labh Singh that of 15, which is the most appropriate, needs to be applied and thus, compensation comes to ₹3,26,400 and ₹2,88,000 respectively.

The learned Tribunal, while awarding compensation, has taken a pure lackadaisical approach. Since the Tribunal has lost sight of the fact that the widows have lost their husbands, children their fathers, parents their sons and must have suffered immense pain and agony besides spending money on the last rites and ceremonies and under all these conventional heads including loss of consortium taking a hypothetical view a sum of ₹2,00,000 each is awarded in the cases of deceased Daljit Singh and Labh Singh, and therefore, total compensation comes to ₹5,26,400 (rupees five lacs twenty six thousand four hundred) in the case of deceased Daljit Singh and ₹4,88,000 (rupees four lacs eighty eight thousand) in the case of deceased Labh Singh.

Having regard to the relative requirements of the claimants children, widow and parents, and that being young they have a long way to go and thus, in FAO No.3575 of 2001 pertaining to the death of Daljit Singh, the claimants who are widow and children each shall be entitled to 22% whereas parents shall be entitled to 6% each of the total amount of compensation, whereas in FAO No.2542 of 2002 concerning the death of Labh Singh the claimants widow and children

shall be entitled to 18% each and the parents 5% each of the total amount of compensation.

Besides this, the claimants in both the matters are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed. If any of the claimants is minor, his/her share shall be resorted to by way of FDR till he/she attains the age of majority.

As far as claim regarding enhancement of compensation for the damage to the jeep of Sohan Singh is concerned, though it is vehemently contended on behalf of the claimant/appellant that the Award of ₹20,000 towards damages is on the lower side and which has been hotly opposed on behalf of the other side. Appreciating these contentions, it is own case of the claimant that the vehicle was 1985 model make Mahindra and Mahindra. The accident has taken place in the year 1996, after eleven years of purchase of the vehicle and therefore, ought to undergo depreciation though the claimant has examined PW2 Satish Aggarwal diploma holder of Civil Engineering to prove his report Ex.P2, photographs of the jeep Ex.P3 to Ex.P10 and who has stated that the jeep required ₹37,575 for its repair, which on the face of it apparently does not convinces the Court and it has been rightly observed by the learned Tribunal that there has been no deduction on account of depreciation. When from the documentary evidence by way of Ex.P34 to Ex.P36, the Tribunal has evaluated

sale-purchase of the vehicle at the time of accident to be ₹90,000 and thus, after deducting depreciation, has rightly awarded compensation of ₹20,000 for this damage to the vehicle. Learned counsel for the appellant could not convince how the same was unjustified and on the lower side. Thus, the findings of the learned Tribunal to this effect are correct and legal and thus needs to be upheld.

In view of the foregoing discussions, FAO No.3575 of 2001 and FAO No.2542 of 2002 are allowed modifying the impugned Award in those terms whereas FAO No.3576 of 2001 stands dismissed with no order as to costs.

(FATEH DEEP SINGH)
JUDGE

February 2, 2015
rps