

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

FAO No.417 of 2002
Date of decision:-21.01.2015
- Amarjit Kaur

.....Appellant
- Vs.
- Chandi Ram and others

.....Respondents
2.

FAO No.387 of 2002
- Gurcharan Kaur and others

.....Appellants
- Vs.
- Chandi Ram and others

.....Respondents
3.

FAO No.388 of 2002
- Gurpreet Singh and anr.

.....Appellants
- Vs.
- Chandi Ram and others

.....Respondents
4.

FAO No.389 of 2002
- Bachan Kaur and others

.....Appellants
- Vs.
- Chandi Ram and others

.....Respondents
5.

FAO No.410 of 2002
- Surjeet Kaur

.....Appellant
- Vs.
- Chandi Ram and others

.....Respondents
6.

FAO No.413 of 2002
- Janpal Singh and others

.....Appellants
- Vs.
- Chandi Ram and others

.....Respondents

7.	FAO No.414 of 2002
Jatinder Kaur and others	Appellants
Vs.	
Chandi Ram and others	Respondents
8.	FAO No.415 of 2002
Harbans Kaur and others	Appellants
Vs.	
Chandi Ram and others	Respondents
9.	FAO No.416 of 2002
Jagir Singh	Appellant
Vs.	
Chandi Ram and others	Respondents
10.	FAO No.418 of 2002
Amrit Singh	Appellant
Vs.	
Chandi Ram and others	Respondents
11.	FAO No.419 of 2002
Gurcharan Kaur	Appellant
Vs.	
Chandi Ram and others	Respondents
12.	FAO No.420 of 2002
Gurpreet Singh and others	Appellant
Vs.	
Chandi Ram and others	Respondents

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

Present:- Mr.K.S.Dhanora, Advocate for the appellant(s).

Mr.Gaurav Goel, AAG Haryana,
for respondents No.2 and 3.

Mr.R.N.Singal, Advocate for
respondent No.4-Insurance Company.

MAHAVIR S.CHAUHAN, J.(ORAL)

This order being passed in FAO No.417 of 2002 shall dispose of this appeal and in addition to it, eleven other appeals also. All these appeals have arisen from a common award dated 01.06.2001 passed by learned Motor Accident Claims Tribunal, Kaithal ('Tribunal' for short). The claim applications have arisen from an occurrence that took place on 10.04.2000 on account of rash and negligent driving of a Haryana Roadways bus bearing registration No.HR45-3556 by Chandi Ram-respondent No.1. In the occurrence some deaths occurred and some persons received injuries/disabilities and in total 12 claim applications by legal representatives of the deceased and by injured were filed.

While factum and manner of occurrence are not in dispute the appeals under adjudication are brought by the claimants/applicants to seek modification of the impugned award and for award of just and adequate compensation.

FAO No.417 of 2002

In para 26 of the award, the learned Tribunal has awarded a compensation amounting to ₹15,000/- in favour of appellant-Amarjit Kaur. Even though the disability suffered by her is to the extent of 6%, she remained under treatment from 10.04.2000 to 19.04.2000 and medical bills

Exhibits P-60 to P-80 showing an expenditure amounting to between ₹30,000/- to ₹35,000/- on her treatment, were placed on record besides her medico legal report Exhibit PQ and discharge certificate Exhibit PR. She has also produced disability certificate Exhibit PL. In the absence of evidence to show loss of income on account of disability, the appellant is found entitled to an amount of ₹15,000/- on account of disability, ₹30,000/- on account of expenditure on her treatment and ₹5,000/- for attendant and special diet. So, the calculated total compensation payable to the applicant-appellant Amarjit Kaur comes to ₹50,000/-. Ordered accordingly.

FAO No.387 of 2002

This appeal pertains to death of Satnam Singh aged about 43 years and an agriculturist by profession. His income has been taken by the learned Tribunal as ₹2000/- per month and 1/3rd has been deducted as expenditure by the deceased upon himself. However, in view of number of dependents being more than three, deduction of 1/4th was to be made. So calculated loss of dependency comes to ₹1500/- per month as there is no dispute regarding the assessed income of the deceased. To the loss of dependency at ₹1500/-, 30% has to be added as future prospects of the deceased. It brings loss of dependency at ₹1950/- per month or say ₹23,400/- per annum. In terms of Sarla Verma Vs. Delhi Transport Corporation, 2009(3) RCR (Civil) 77, a multiplier of 14 has to be applied, the deceased being 43 years of age at the time of his death. This brings the compensation payable on account of loss of dependency to ₹3,27,600/-. To this amount, an amount of ₹1 lac has to be added on account of loss of consortium, ₹1 lac on account of loss of love and affection, ₹25,000/- as expenditure on last rites of the deceased and ₹5,000/- as loss of estate.

Thus, total compensation payable to dependents of the deceased Satnam Singh comes to ₹5,57,600/-. Ordered accordingly.

FAO No.388 of 2002

In FAO No.388 of 2002, Kashmir Singh aged 38 years and an agriculturist by profession is the deceased. Learned Tribunal has awarded compensation amounting to Rs.2,56,000/-. However, Rs.10,000/- only has been awarded for loss of consortium, funeral expenses and for expenses on the treatment of the deceased. This cannot be said to be a just and reasonable compensation. Income of the deceased has been assessed at ₹2,000/- per month and there is no dispute with regard to this aspect of the matter. After deduction of 1/3rd from the assessed income of the deceased, his dependents being two in number, loss of dependency comes to ₹1600/-. To it, 30% has to be added as future prospects. It brings dependency at ₹2080/- per month. Age of the deceased being 38-39 years, a multiplier of 15 has to be applied. This brings compensation payable on account of loss of dependency to ₹3,74,400/-. To it, an amount of ₹1,00,000/- has to be added on account of loss of love and affection, ₹25,000/- as expenses on last rites of the deceased and ₹5,000/- as loss of estate. It brings compensation payable to the dependents of Kashmir Singh to ₹5,04,400/-. Ordered accordingly.

FAO No.389 of 2002

The Tribunal has awarded a compensation amounting to ₹2,05,000/-. On account of funeral expenses, medical expenses and loss of consortium an amount of ₹13,000/- only has been awarded. A multiplier of 12 has been applied. There is no dispute with regard to income of the deceased assessed at ₹2,000/- per month. From it, an amount equivalent to

1/4th has to be deducted as expenses of the deceased upon himself as the number of dependents left behind is four. To the outcome, an amount equivalent to 30% has to be added as future prospects. It brings loss of dependency at ₹1950/- per month or say ₹23,400/- per annum. In view of the age of the deceased being 50 years, a multiplier of 13 has to be applied. This brings the compensation payable on account of loss of dependency at ₹3,04,200/-. The appellants are also entitled to ₹1 Lac on account of loss of consortium, ₹1 Lac on account of loss of love and affection, ₹25,000/- as expenditure on last rites of the deceased and ₹5,000/- on account of loss of estate. Thus, total compensation payable to the appellants comes to ₹5,34,200/-. Ordered accordingly.

FAO No.410 of 2002

This is an appeal by Surjeet Kaur. She has been awarded compensation amounting to ₹25,000/- for injuries sustained by her, expenditure on her treatment and for pain and suffering. As per case proved on behalf of the appellant herein, she remained admitted in the hospital from 10.04.2000 to 12.04.2000 as her ribs were fractured apart from other injuries and she remained confined to bed for two months. She has proved on record her medico legal report Exhibit P5, according to which there were two injuries on her person but she has not suffered any disability. The Tribunal has awarded her ₹25,000/- as compensation. In my view, the compensation deserves to be enhanced to ₹35,000/- as she must have experienced pain or suffering and must have taken special diet to make up the deficiency of body caused by the injuries. Accordingly, she is granted compensation to the tune of ₹35,000/- inclusive of what has been granted by the learned Tribunal.

FAO No.413 of 2002

This case pertains to compensation arising out of the death of Lakhwinder Kaur aged about 55 years and a house wife. Tribunal has assessed her income as ₹800/- per month. This in my view deserves to be taken at ₹1500/- per month. Out of it ¼th has to be deducted as expenditure of the deceased upon himself. This brings loss of dependency to ₹1125/- per months or to say ₹13,500 per annum. A multiplier of 11 has to be applied. This brings compensation payable on account of loss of dependency to ₹1,48,500/-. To it, another amount of ₹1,00,000/- has to be added for loss of love and affection and ₹25,000/- towards funeral expenses and ₹5,000/- for loss of estate. Total compensation payable to the appellants comes to ₹2,78,500/-. Ordered accordingly.

FAO No.414 of 2002

In this appeal, the deceased was a 9 years old class IV student named Komalpreet Kaur. Parents of the deceased are the claimants/appellants. Learned Tribunal has awarded a compensation amounting to ₹1,52,000/-. In view of age of the deceased and hope/ expectations that the appellants must have had upon her, I deem it appropriate to award compensation amounting to ₹2,50,000/- to the appellants. Ordered accordingly.

FAO No.415 of 2002

In this FAO, deceased was Gurcharan Singh aged about 55 years and an agriculturist by profession. He has left behind 4 dependents. Tribunal has assessed his income at ₹2,000/- and there is no dispute with regard to that. However, from the assessed income of the deceased an

amount of ₹500/- has to be deducted as expenditure of the deceased upon himself. This brings loss of dependency to ₹1500/- per month. To it, an amount of ₹450/- has to be added being 30% of the assessed income towards future prospects. This brings loss of dependency ₹1950/- per month or say ₹23,400/- per annum. By applying a multiplier of 11, compensation payable for loss of dependency comes to ₹2,57,400. To it, an amount of ₹1 Lac has to be added for loss of consortium, ₹1 Lac towards loss of love and affection, ₹25,000/- for funeral expenses and ₹5,000/- for loss of estate. It brings the total compensation payable to the appellants to ₹4,87,400/-. Order accordingly.

FAO No.416 of 2002

In FAO No.417 of 2002, appellant-Jagir Singh aged about 70 years incurred disability to the extent of 25% as evidenced by disability certificate ExhibitPJ. He remained admitted in the hospital from 10.04.2000 to 08.05.2000. He has also produced medical bills Exhibits P29 to 46. The learned Tribunal has awarded only ₹50,000/- This in my view is on the lower side. As there is no evidence with regard to income of the appellant and in view of the disability of 25%, a compensation amounting to ₹25,000/- is found to be just and equitable as compensation for disability. In view of the period of treatment it can be safely presumed that the appellant must have been paid an amount of ₹25,000/- on her treatment. He is also entitled to another amount of ₹10,000/- on account of pain and suffering and ₹10,000/- as expenditure on special diet etc. It brings total compensation payable to the appellant to ₹70,000/-. Ordered accordingly.

FAO No.418 of 2002

In FAO No.418 of 2002, Amrit Singh a minor child is stated to have received injuries and he has been awarded an amount of ₹40,000/- by the learned Tribunal as compensation with regard to his injuries. Without commenting any further in the matter, I deem it appropriate to enhance the compensation payable to him to ₹50,000/- on all counts. Order accordingly.

FAO No.419 of 2002

Gurcharan Kaur an injured having incurred disability of 10% has brought FAO No.419 of 2002. She has been awarded a compensation amounting to ₹25,000/- on all counts. She remained admitted in the hospital for about one month and has incurred expenditure between ₹70,000/- to ₹80,000/- on her treatment. She has proved medical bills Exhibits P81 to P104 amounting to ₹9578/-. There is no dispute as regards her age as also her income. She is not shown to be admitted in the hospital. In these circumstances, compensation payable to her is enhanced from ₹25,000/- to ₹30,000/- on all counts. Ordered accordingly.

FAO No.420 of 2002

In FAO No.420 of 2002, appellants Gurpreet Singh and Daler Singh, who are sons of Balwinder Kaur-deceased aged about 35 years have been awarded the compensation by the Tribunal amounting to ₹1,75,000/- Income of the deceased has been assessed at ₹1500/- per month. There is no dispute with regard to the income. From it, 1/3rd has to be deducted as expenditure of the deceased upon herself. This brings loss of dependency to ₹1000/- per month or say ₹12,000/- per annum. Age of the deceased being 35 years, a multiplier of 16 has to be applied. This brings compensation payable on account of loss of dependency to ₹1,92,000/-. To it, an amount

of ₹1 Lac for loss of love and affection and Rs.25,000/- towards funeral expenses and Rs.5000/- towards loss of estate has to be added. This brings compensation payable to the appellants to ₹3,22,000/-. Ordered accordingly.

The amount of compensation hereby awarded in the aforesaid appeals shall be inclusive of the amounts of compensation awarded by the learned Tribunal.

Interest awarded @ 9% per annum seems to be on the higher side. So, it is brought down to @ 7.5% per annum from the date of this order till the date of realization/payment of enhanced amount of compensation.

The appellants are also held entitled to costs of the appeal assessed at ₹1100/- per appeal.

All the appeals are disposed of, accordingly.

21.01.2015

anil

(MAHAVIR S.CHAUHAN)
JUDGE