

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

FAO No.4089 of 2013 (O&M)
Date of decision : 06.02.2015

Sukhdev SinghAppellant

Vs.

Hardeep Singh and othersRespondents

FAO No.4092 of 2013 (O&M)
Date of decision : 06.02.2015

Mansa Ram and anotherAppellants

Vs.

Hardeep Singh and othersRespondents

Coram: Hon'ble Mr.Justice Mahavir S.Chauhan.

Present:- Ms.Shivya Sehgal, Advocate for the appellant.

Ms.Vandana Malhotra, Advocate for
respondent No.3-Insurance Company.

MAHAVIR S.CHAUHAN, J.(ORAL)

This order being passed in FAO No.4089 of 2013 shall dispose of in addition to this appeal, another appeal i.e. FAO No.4092 of 2013 also. Both the appeals have arisen from a common award dated 08.11.2012 passed by learned Motor Accident Claims Tribunal, Ludhiana ('Tribunal' for short).

In a motor vehicle accident caused on account of rash and negligent driving of a Mohindra Pick-Up Jeep bearing registration No.PB-10BR-2216 by Hardeep Singh-respondent No.1 on 08.08.2009, Swarn Kaur lost her life while her son Sukhdev Singh received multiple grievous injuries. Claim petition No.58

dated 26.09.2009 was brought by Sukhdev Singh to seek compensation on account of injuries suffered by him while claim petition No.59 dated 26.09.2009 was brought by legal representatives of deceased Swarn Kaur to seek compensation on account of loss of dependency.

Applications were contested by the respondents.

From the pleadings of the parties following issues were framed:

In MACT No.58 of 26.09.2009

1. Whether claimant Sukhdev Singh received injuries in the accident which occurred on 08.08.2009 at about 11.30 am in the area of village Nasrali on Khanna-Malerkotla Road due to rash and negligent driving of Mohindra Pick-Up bearing registration No.PB-10BR-2216 by respondent No.1? OPP
2. Whether the respondent No.1 was not holding a valid and effective driving license at the time of accident? OPR-3
3. To what amount of compensation, the claimant is entitled for and from which of the respondents? OPP
4. Relief.

In MACT No.59 of 26.09.2009

1. Whether claimants are legal representatives of Swarn Kaur deceased? OPP
2. Whether Swarn Kaur died in a motor vehicle accident, which occurred on 8.8.2009 at about 11.30 am, in the area of village Nasrali on Khanna-Malerkotla Road due to rash and negligent driving of Mohindra Pick-Up bearing registration No.PB-10BR-2216 by respondent No.1? OPP.

3. Whether the respondent No.1 was not holding a valid and effective driving license at the time of accident? OPR-3
4. To what amount of compensation, the claimant is entitled for and from which of the respondents? OPP.
5. Relief.

Both the sides adduced evidence and were heard by learned Tribunal. Issue pertaining to factum and manner of occurrence was decided in favour of the applicants and there is no dispute with regard to it. On the question of quantum of compensation learned Tribunal awarded compensation in favour of Sukhdev Singh-appellant as under:-

Medicines and Medical Treatment	₹1,13,377/-
Loss of Income	₹4050/-
Attendant Charges	₹4050/-
Conveyance & Special Diet	₹5000/-
Pain and Suffering	₹5000/-
Total	₹1,31,477/-

In respect of death of Swarn Kaur, learned Tribunal awarded a lump sum compensation amounting to Rs.65000/-. The two claim applications were accordingly disposed of vide award dated 08.11.2012.

Applicants/appellants have brought the instant two appeals i.e. FAO No.4089 of 2013 and FAO No.4092 of 2013 to seek modification of the award by appropriately enhancing the compensation payable to them.

I have heard learned counsel for the appellants.

There is no dispute as regards factum and manner of occurrence as also death of Swarn Kaur and receipt of injuries by Sukhdev Singh in the occurrence. The dispute is with regard to

quantum of compensation.

Coming to the case of Sukhdev Singh, there is no dispute with regard to compensation on account of expenditure on medicines and treatment etc. However, compensation awarded for loss of income, attendant charges, expenditure on conveyance, special diet and pain and suffering is found to be on the lower side because it has come on record that Sukhdev Singh remained admitted in the hospital for 27 days; was operated upon twice; and another operation was to be conducted. Further, in view of the extent of injuries and treatment it can be safely presumed that Sukhdev Singh must have remained confined to bed for a considerably long time and during this period of admission in hospital and the period for which he remained confined to bed, he must have suffered loss of income, loss of enjoyment of life and must have spent something towards special attendant, special diet and conveyance etc. to visit the hospital for follow up treatment.

In these circumstances, compensation payable to applicant/appellant Sukhdev Singh under the head of, loss of income is enhanced to ₹8100/-, attendant charges to ₹8100/-, conveyance charges to ₹10,000/-, Special diet to ₹10,000/- and loss of enjoyment of life to ₹20,000/-. It is in addition to ₹1,13,377/- awarded by the Tribunal towards expenditure on medicines and treatment. So, calculated total compensation payable to the applicant/appellant comes to ₹1,69,577/-. Ordered accordingly.

As regards Swarn Kaur, there is no dispute with regard to her age being 60 years. She being a house wife, her income is taken to ₹3,000/- in lieu of the contribution towards the

household . Thus loss of dependency comes to ₹3,000/- per month or say ₹36,000/- per annum. In view of **Sarla Verma Vs. Delhi Transport Corporation, 2009(3) RCR (Civil) 77,** a multiplier of 9 has to be applied. This brings the compensation payable to the applicants-appellants on account of loss of dependency of ₹3,24,000/-. Appellants are also entitled to compensation amounting to ₹1 Lac on account of loss of consortium and another amount of ₹25,000/- as expenditure on the last rites. Thus, total compensation payable on account of loss of dependency caused by death of Swarn Kaur comes to ₹4,49,000/-.

The amount of compensation as hereinbefore assessed in respect of applicants/appellants shall be inclusive of the amount of compensation awarded to them by the learned Tribunal .

Other terms of the impugned award shall remain unchanged.

The appellants shall also be entitled to the costs of the appeals which are assessed at Rs.1100/- in each appeal.

The appeals are disposed of in the above terms.

06.02.2015
anil

(Mahavir S. Chauhan)
Judge