

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

FAO. No.336 of 2000 (O&M)

Date of decision: 15.01.2016

Smt. Chetan Kaur and others ... Appellants

versus

Darshan Singh and others Respondents

2. FAO. No. 337 of 2000 (O&M)

Niranjan Singh ... Appellant

versus

Darshan Singh and others Respondents

3. FAO No. 338 of 2000 (O&M)

Lachhman Dass Modi ... Appellant

versus

Darshan Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vivek Suri, Advocate for the appellants.

Mr. Vinod Arya Advocate for respondent No.4.

Mr. Mukesh Kaushik, Advocate for respondent No.5.

K.Kannan, J. (ORAL)

All the appeals are connected and they seek for enhancement of compensation awarded in case of death and injuries respectively in FAO Nos. 336 to 338 of 2000.

In FAO No. 336 of 2000, the deceased was 52 years of age and was an Assistant in Food and Supplies Department. The deceased was earning Rs.5,635/- and the Court has provided for the compensation of Rs. 5, 63,000/-.

The grievance is that the Tribunal has not provided for the increase which was a sure prospect to happen since he had service till 58 years and the Court must have provided for higher sums for loss of consortium and loss of love and affection.

The issue of whether there could be a further increase after 50 years must be seen in the context of nature of employment, and the multiplier that is applied. It is perhaps most likely that he would have earned higher income than what he was doing at that time but we invariably treat a person as worthy of contribution even beyond the age of retirement and provide for multiplier which is larger than the number of years of service left. That takes care of certain approximations made that the income is not frozen beyond the age of 50 and averaged out for the rest of life at the amount which he was earning at 50 years. I will make, therefore, no particular modification as regards the prospect of increase and take Rs. 5,635/- as the monthly income and rework the compensation for Rs. 1,00,000/- for loss of consortium and Rs. 1,00,000/- towards loss of love and affection for the sons, considering the fact that the case was before the year 2000 and the component of interest for all these years will itself take care of the present rates of compensation awarded for love and affection.

The various heads are tabulated as under:

<u>Fatal</u>	Date of accident	26.03.1995	
Age	52		
Occupation	Assistant in		

	Food & Supplies Department		
Claimants	Widow, 2 sons		
SR. No.	Heads of claim	Tribunal Amount (Rs.)	High Court Amount (Rs.)
1	Income	5,635/-	5,635/-
2.	Add, % of increase, 30%/50%		-
3.	Deduction, 1/2, 1/3, 1/4,		3.756.66
4.	Multiplicand		45080
5.	Multiplier		11
6.	Loss of dependence		4,95,880/-
7.	Medical Expenses		-
8.	Loss of Consortium		1,00,000
9.	Loss of love and affection		1,00,000
10.	Loss to estate		10,000/-
11.	Funeral Expenses		10,000/-
	Total	5,63,000/-	6,95,895/-

There shall be an award for round of figure of Rs. 7,00,000/- with interest @ 6% from the date of petition till the date of payment. The amount will be distributed equally amongst the widow and the children. The liability shall be on the insurer. The award is modified and the appeal is allowed to the above extent.

In FAO No. 337 of 2000, the claimant was an Inspector in Food and Supplies Department aged 52 years. The claimant suffered injuries and he was unable to rejoin duty from the date of accident on 26.03.1995 till he was statutorily retired on 05.03.1998 as unfit for duty. A person from the Accounts Department from the place of his working gave evidence to the effect that he was on earned leave upto 07.08.1997 and was on a half pay from 08.08.1997 to 06.10.1997 and was allowed to be retained in service without pay from 07.10.1997 to 04.03.1998. He was declared unfit and retired from service. This according to the learned counsel must be taken as 100% disability. The Tribunal has awarded Rs. 3, 02,600/- without addressing the amounts under various heads.

Admittedly, the medical expenses had been taken care of and if other expenses must be provided for, they should be under the heads of special diet and transportation. His case was that he had undertaken several visits to the hospital and spent considerable sums. Though no document was made available, I will make an approximation and take expenses for transportation at Rs. 10,000/- considering that he had a head injury and required to be constantly taken care of. He had also lost his job in the process and he would required to be attended to by nurse or by someone who can attend to his immediate needs. Assuming that it will cost about Rs. 10,000/- per year and considering the longevity of life, I will allow for Rs. 1,00,000/- as attendant charges. I will also make a relatively higher sum for special

diet for Rs. 25,000/-. The loss of income must be considered for two different periods when he was on earned leave. It is the amount which he could have encashed it not for the injury and therefore, I will take the entire period as a period when he ought to be provided for the amount equivalent to the leave which he had to encash. Consequently, I will take the period from 26.03.1995 to 05.08.12997 as a period for which he should be provided for the actual income earned. He has admittedly be on off pay from 08.081997 to 06.10.1997, I will provide for an amount lost at Rs. 4,800/- and he had been wholly without pay from 07.10.1997 to 04.03.1998. Considering he had also lost his job for the rest of his life, I will it that there is a complete loss of earning for the rest of period of his active service and considering that he had been provided for the monetary loss upto the period 04.03.1998 i.e. for the period of 3 years, I will reduce the multiplier by 4 units and take 7 as the multiplier for the loss of future income on account of his disability suffered. The aggregate of loss of income shall, therefore, be taken as Rs. 4,03,200/- (4,800 x 12 x 7) + 24,000/- i.e. the loss of full pay + Rs. 4,800/- i.e. the loss of half pay + leave encashment of Rs. 76, 800/-, total comes to Rs. 5, 08, 800/-. I will add the component of pain and suffering for the person who had suffered head injury at Rs. 1,00,000/- and also provide for another 1 lac for the disability incurred. The overall compensation shall be Rs. 8,43, 800/-. The amount in additional to what has been assessed already will attract interest @ 6% from the date of the petition till the date of payment. The various heads are

tabulated as follows:

<u>Injury Case</u>	Date of accident 26.03.1995		
Age	52		
Period of hospitalization			
Occupation/ Income	Inspector in Food and Civil Supplies Department		
SR. No.	Heads of claim	Tribunal Amount (Rs.)	High Court Amount (Rs.)
1	Loss of Income from: to: 4,800/-		
2.	Medical Expenses:		
	(i) Medicines		
	(ii)Hospital charges		
	(iii)Attendant charges		1,00,000/-
	(iv)Special diet		25,000/-
	(v)Transportation		10,000/-
3	Pain and suffering		1,00,000/-
4	Disability (100%)	1,00,000/-	1,00,000/-
5	Loss of earning capacity		
	(i)Income		
	(ii)Multiplier		5,08,800/-
	(iii)5 % of loss of earning capacity		
6.	Loss of amenities		
7.	Reduction in life expectancy		
8.	Loss of prospect of marriage		

9	Total	3,02,600/-	8,43,800/-
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The order is modified and the appeal is allowed to the above extent.

In FAO No. 338 of 2000, it was a case of a fracture of the right arm and the appellant claimed that he had been in the hospital for 55 days. The Insurance Company stoutly denied that there was long period of hospitalization as contended. The Tribunal provided for Rs. 10,000/- for pain and suffering for the fracture that he suffered surgical intervention that was made for correction of the fracture. The injury was reported to have also caused injuries of internal organs like liver. I will enhance the component for the pain and suffering for the fracture suffered, pain due to surgical intervention and for the pain in liver due to internal injuries at Rs. 25,000/- and also enhance the disability caused which was assessed at Rs.20,000/- to Rs. 25,000/-. I will make further provision for transportation, special diet and attendant charges at Rs. 10,000/- and increase the compensation to Rs. 60,000/- against Rs. 30,000/-. The additional compensation will also attract interest @ 6% from the date of the petition till the date of payment. The various heads of compensation are tabulated as under:

<u>Injury Case</u>	Date of accident		
Age			
Period of hospitalization	55 days		
Occupation/ Income			

SR. No.	Heads of claim	Tribunal Amount (Rs.)	High Court Amount (Rs.)
1	Loss of Income from: to:		30,000/-
2.	Medical Expenses:		
	(i) Medicines		
	(ii)Hospital charges		
	(iii)Attendant charges		
	(iv)Special diet		10,000/-
	(v)Transportation		
3	Pain and suffering	10,000/-	25,000/-
4	Disability (10%)	20,000/-	25,000/-
5	Loss of earning capacity		
	(i)Income		
	(ii)Multiplier		
	(iii)5 % of loss of earning capacity		
6.	Loss of amenities		
7.	Reduction in life expectancy		
8.	Loss of prospect of marriage		
9	Total	30,000/-	60,000/-

All the appeals are allowed to the above extent as mentioned. In all the appeals the liability shall be on the Insurance Company.

(K.KANNAN)
JUDGE

15.01.2016
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