

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1319 of 2012 (O&M)

Date of Decision.21.04.2016

Santosh Kumari and others

.....Appellants

Vs.

Sohan Lal and others

.....Respondents

Present: Mr. Shrey Goel, Advocate
for the appellants.

Mr. Siddharth Sanwaria, DAG, Haryana
for respondent Nos.2 and 3.

Mr. Amrinder Singh Sidhu, Advocate
for respondent No.4.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

C.M. No.5363-CII of 2012

For the reasons stated in the application, delay of 1284 days
in filing the appeal is condoned.

Application is allowed.

FAO No.1319 of 2012

1. The appeal is for enhancement of compensation for death of a male aged 46 years who was a ASI. The claimants were widow, two minor children and parents. The parents appear to have died after the award, one on 17.02.2008 and another on 08.03.2011. There has been a delay of beyond three years in filing the appeal which is explained by the claimants saying that since the mother died immediately after the award and the father of the deceased was still ailing, she could not take

effective steps to prefer the appeal. The explanation is not enough but considering that it relates to claim for compensation, I condone the delay but I think this delay is required to be duly factored for an entitlement of interest during the time when the delay was caused.

2. The deceased was earning ₹11,451/- per month at the time of his death. I will make a provision for 30% increase as a prospect of future increase and take 1/3rd deduction particularly in view of the fact that the parents had already died and there were three dependents only. Applying a multiplier of 13 and providing for loss of consortium at ₹1 lac and loss of love and affection for ₹1 lac for the children, I will tabulate the various heads of claim as under:-

FATAL ACCIDENTS 11.02.2008			
Age	46 years		
Occupation	ASI in Police Department		
Claimants	Widow, 2 minor children and parents		
	Heads of claim	Tribunal	High Court
Sl. No.		Amount (Rs)	Amount (Rs.)
1	Income	11,451	11,451
2	Add, % of increase 30%		14,886.30
3	Less, Deduction 1/3 rd		9924
4	Multiplicand (annualized by multiplying 12)		1,19,088
5	Multiplier	13	13
6	Loss of dependence		15,48,144
7	Medical Expenses & Transportation		
8	Loss of Consortium		1,00,000
9	Loss of love and affection		1,00,000
10	Loss to estate		5000
11	Funeral expenses		25,000
	Total	12,36,900	17,78,144

3. The aggregate amount shall be ₹17,78,144/-. The amount will be distributed equally with interest @7.5% from the date of petition

till the date of award and when the appeal was filed till the date when the payment was made, meaning thereby that during the period of three years, there shall be no accrual of interest. The respective shares of the claimants shall be allowed to be paid to the extent of 75% to the widow and 25% to be retained in fixed deposit splitting the amount into three equal portions; first portion for a period of one year, second portion for a period of two years and third portion for a period of about three years when there was a delay. As regards the share of the minors, the entire amount shall be retained in fixed deposit with a nationalized bank, similarly allowing for withdrawal of 75% on attaining the age of majority and remaining 25% to be retained in fixed deposit splitting the amount into three equal portions in the manner indicated above. On the respective dates of maturity, the bank will make the disbursements directly to the respective claimants either by cheque or by electronic transfer to the accounts notified by the parties to the bank. All these disbursements will be made by the bank after due notice to the Motor Accident Claims Tribunal as well. The right of enforcement of the award will be made beyond an amount of ₹5 lacs which shall be absolved by the insurance company and the amount in excess shall be borne by the State as in conformity with the contractual obligation that has been brought about between the State and the insurer.

4. The award stands modified and the appeal is allowed to the above extent.

(K. KANNAN)
JUDGE

April 21, 2016
Pankaj*