

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

FAO No.6528 of 2011

Flt. Ltd. K.K.Sharma and another ... Appellants

Versus

Abdul Ghafoor and others ... Respondents

FAO No.6529 of 2011

Flt. Ltd. K.K.Sharma ... Appellant

Versus

Abdul Ghafoor and others ... Respondents

AND

FAO No.6530 of 2011

Flt. Lt. K.K.Sharma ... Appellant

Versus

Abdul Ghafoor and others ... Respondents

Date of Decision: March 14, 2016

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Ms.Shuchi Sodhi, Advocate for
Mr.Animesh Sharma, Advocate for
the appellants.

Mr.Pardeep Goyal, Advocate for
the respondents – Insurance Company.

HARINDER SINGH SIDHU, J.(ORAL)

This judgment shall dispose of FAO Nos.6528, 6529 and 6530 of 2011, as all these appeals have arisen out of the same award.

At the very outset, Ld. Counsel for the appellants states that as it

has not been possible to serve respondents No.4 and 5, driver and owner of Canter No.DL-1L-0664, he does not press for enhancement of compensation qua them.

Brief facts of the case are that on 30.5.1990, Flt.Lt.K.K.Sharma, his wife Smt.Kamlesh Sharma, aged 42 years, minor sons Anuraag aged 15 years and Ashish aged 13 years were coming from Delhi to Ambala in vehicle No.DL-1L-0664. Unfortunately, on the way, near Village Teora, it collided with a Truck bearing Reg.No.UGA-9161. In the accident, Kamlesh Sharma and Ashish lost their lives, while K.K.Sharma suffered injuries.

Three separate claim petitions were filed before Motor Accident Claims Tribunal, Kurukshetra (for short `the Tribunal'), wherein, the Tribunal awarded compensation as under:-

In case of death of Kamlesh Sharma (FAO-6528)	Rs.80,000/-
In case of injuries to K.K.Sharma (FAO-6529)	Rs.1,20,000/-
In case of death of Ashish (FAO-6530)	Rs.40,000/-

Feeling dissatisfied with the quantum of compensation, the claimants have approached this Court.

Having heard learned counsel for the parties and on consideration of decisions of the Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr**, 2009(6) SCC 121, **Rajesh and others vs. Rajbir Singh and others**, 2013 ACJ 1403, **Lata Wadhawa and others vs. State of Bihar and others** 2001(4) RCR(Civil) 673, **Kishan Gopal and another vs. Lala and others**, (2014)1 SCC 244, etc. this Court finds that the compensation awarded by the Tribunal is on lower side and it needs to be re-assessed as under:-

In Case of death of Kamlesh Sharma (FAO-6528-2011):

Sr.No.	Heads	Calculation (In Rs.)
(i)	Income (after 30% increase) (deceased was aged about 42 years)	3000+[3000x30/100] = 3900

(ii)	1/3 rd of (i) deducted as personal and living expenses of deceased	3900-[3900x1/3] 2600/-
(iii)	Loss of dependency after applying multiplier of 16	2600x12x14= 4,36,800/-
(iv)	Loss of Love and Affection to child	1,00,000/-
(v)	Loss of Love and Affection to husband	50,000/-
(vi)	Loss of consortium to husband	1,00,000/-
(vii)	Funeral Expenses	10,000/-
	Total Compensation awarded	6,96,800/-

In Case of injuries to K.K.Sharma (FAO-6529-2011):

He had suffered fracture of 3rd to 9th ribs of the right side as also bilateral olecranon fractures. He had to remain admitted from 2.6.1990 to 6.8.1990 and then again for 20 days in October, 1990. The doctors removed wire from left elbow in June, 1991, while nail in the right elbow were still intact. He was assessed permanently disabled to the extent of 30% and declared not fit for the active field duty, as he does not have complete grip of his left hand.

Sr.No.	Heads	Calculation (In Rs.)
(i)	Special diet	5,000/-
(ii)	Attendant charges at home	5,000/-
(iii)	Compensation for permanent disability	60,000/-
(iv)	Pain and sufferings	50,000/-
(v)	Loss of future enjoyment of life	50,000/-
	Total Compensation awarded	1,70,000/-

In Case of death of Ashish (FAO-6530-2011):

In view of the decision in **Kishan Gopal's** case (supra), an amount of Rs.5,00,000/- would be just as compensation on account of the death of child.

Accordingly, the Award of the Tribunal is liable to be modified by enhancing the compensation as under:-

Case No.	Amount awarded by the Tribunal	Amount awarded by this court	Enhancement

FAO-6528 (death of Kamlesh Sharma)	Rs.80,000/-	Rs.6,96,800/-	Rs.6,16,800/-
FAO-6529 (injuries to K.K.Sharma)	Rs.1,20,000/-	Rs.1,70,000/-	Rs.50,000/-
FAO-6530 (death of Ashish)	Rs.40,000/-	Rs.5,00,000/-	Rs.4,60,000/-

As specified in para 19 of the impugned award, only half of the compensation is payable by the insurer of vehicle No.UGA 9161 – respondent No.3, whereas, the remaining half is payable by the driver and owner of Canter No. DL-1L-0664 – respondents No.4 and 5 respectively. This apportionment has not been disputed in the appeal by any of the parties. Ld. Counsel for the appellants states that as respondents No.4 and 5, have not been served in this appeal, he would not press for enhancement of the compensation qua them.

In view of above, all three appeals are disposed of as not pressed against respondents No.4 and 5, but the same are allowed qua respondent No. 3.

Respondent No.3 – insurer of vehicle No.UGA-9161 will be liable to pay only half of the enhanced compensation amount along with interest @ 7.5% per annum from the date of filing of claim application till realisation.

March 14, 2016

(HARINDER SINGH SIDHU)
JUDGE

gian