

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

FAO No.750 of 2011

Date of Decision.10.02.2016

Smt. Krishana and others

.....Appellants

Vs.

Deepak Kumar and others

.....Respondents

2. FAO No.899 of 2011

M/s Dhallson Cycles (India) Pvt. Ltd.

.....Appellant

Vs.

Smt. Krishana and others

.....Respondents

Present: Mr. Sandeep Kotla, Advocate
for the appellants in FAO No.750 of 2011
and for respondents Nos.1 to 5 in FAO No.899 of 2011.

Mr. Kirpal Singh, Advocate
for the appellant in FAO No.899 of 2011 and
for respondent No.2 in FAO No.750 of 2011.

Mr. D.P. Gupta, Advocate
for respondent No.3 in FAO No.750 of 2011 and
for respondent No.7 in FAO No.899 of 2011.

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)

1. Both the appeals are connected arising out of the same accident. The appeal in FAO No.750 of 2011 is for enhancement of compensation for claim of compensation for death of a male aged 46 years and the appeal in FAO No.899 of 2011 is at the instance of the owner challenging the liability. The deceased was said to be employed in private company earning ₹5200/- per month. The claimants were widow and unmarried daughter aged 19 years, a major son aged 24 years

and minor son aged 14 years and the mother. The Tribunal provided ₹10,000/- as funeral expenses apart from calculating the dependence and assessed the compensation at ₹4,90,000/-.

2. The counsel for the appellants contends that the Tribunal has not properly assessed the component of loss of consortium to the wife, loss of love and affection to the children and the funeral expenses. Considering that one of the sons and daughter were major, I will provide for ₹50,000/- for each one of the major children and ₹1 lac for minor son and ₹50,000/- for the mother apart from ₹ 1 lac for loss of consortium to the wife. The various heads of claim are tabulated as under:-

FATAL ACCIDENTS 24.09.2004			
Age	46 years		
Occupation	Private Job		
Claimants	Widow, two sons, daughter and mother		
	Heads of claim	Tribunal	High Court
Sl. No.		Amount (Rs)	Amount (Rs.)
1	Income	5200	5200
2	Add, % of increase 30%		6760
3	Less, Deduction 1/4 th	1/3 rd	5070
4	Multiplicand (annualized by multiplying 12)		60,840
5	Multiplier	12	13
6	Loss of dependence	4,80,000	7,90,920
7	Medical Expenses & Transportation		
8	Loss of Consortium		1,00,000
9	Loss of love and affection		2,50,000
10	Loss to estate		5,000
11	Funeral expenses	10,000	10,000
	Total	4,90,000	11,55,920

3. The total compensation payable will be ₹11,55,920/-. The additional compensation shall be distributed in the ratio of 2:2:2:2:1 amongst the widow, children and the mother of the deceased with

interest @7.5% from the date of petition till the date of payment.

4. There is already a finding that the driver did not have a valid driving licence. Such finding has been subject of appeal in FAO No.899 of 2011. The counsel for the appellant in FAO No.899 of 2011 is not able to make out any case to displace the finding already rendered by the Tribunal. The appeal filed by the owner in FAO No.899 of 2011 is dismissed.

5. The liability shall be on the insurance company which sum can be recovered in execution proceedings against the owner and driver. The appeal filed by the claimants in FAO No.750 of 2011 is allowed but with right of recovery to the insurance company.

(K. KANNAN)
JUDGE

February 10, 2016
Pankaj*