

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

(1)

**FAO No.4247 of 2014
Date of decision : 09.02.2016**

Ashok Kumar and another

.....Appellants

Versus

Shivji Ram and others

...Respondents

(2)

**FAO No.4915 of 2014
Date of decision : 09.02.2016**

Chander Bhan alias Canderman

.....Appellant

Versus

Shivji Ram and others

...Respondents

(3)

**FAO No.4916 of 2014
Date of decision : 09.02.2016**

Rajender and another

.....Appellants

Versus

Shivji Ram and others

...Respondents

(4)

FAO No.5553 of 2014
Date of decision : 09.02.2016

Jagdish and another

.....Appellants

Versus

Shivji Ram and others

...Respondents

(5)

FAO No.5557 of 2014
Date of decision : 09.02.2016

Smt. Santosh

.....Appellants

Versus

Shivji Ram and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Sumit Sangwan, Advocate for
Mr. Rajesh K. Saheoran, Advocate for appellants
in all the appeals.

Respondent No.1 proceeded against *ex parte*
vide order dated 20.03.2015.

Mr. Manoj Dhankar, AAG, Haryana
for respondents No.2 & 3.

Mr. Lalit Garg, Advocate for
respondent-Insurance Company No.4.

Mr. Bharat Bhushan Azad, Advocate for
Mr. Sanjay Vashisth, Advocate for respondents No.5 & 6.

DARSHAN SINGH, J.

This judgment of mine shall dispose of all the five appeals mentioned above which have arisen out of the same award dated 04.03.2014 passed by learned Motor Accidents Claims Tribunal, Bhiwani, vide which the appellants of FAO No.4247 of 2014 Ashok Kumar etc. have been awarded the compensation to the tune of Rs.2,45,000/- on account of death of their son Mukesh, appellant of FAO No.4915 of 2014 Chanderbhan alias Canderman has been awarded compensation to the tune of Rs.4,20,000/- on account of the injuries suffered by him, appellants of FAO No.4916 of 2014 Rajender and another have been awarded compensation to the tune of Rs.6,11,120/- on account of death of their son Sonu, appellants of FAO No.5553 of 2014 Jagdish and another have been awarded the compensation to the tune of Rs.2,45,000/- on account of death of their son Virender and appellant of FAO No.5557 of 2014 Smt. Santosh and perform respondent Smt.Rachna have been awarded the compensation of Rs.7,29,344/- on account of death of Vijay in the motor vehicular accident which took place on 09.09.2011.

2. In all the appeals referred above the appellants-claimants have sought the enhancement of the amount of compensation.

3. Initiating the arguments, Mr. Sumit Sangwan, Advocate

for Mr. Rajesh Kumar Sheoran, Advocate for the appellants contended that the compensation has not been properly computed by the learned Tribunal as per the judicial precedents and provisions of law. He contended that in FAOs No.4247 and 5553 of 2014, only a sum of Rs.2,45,000/-, each, has been awarded as compensation on account of death of child i.e. non-earning person. He contended that the amount is on the lower side. He relied upon case ***Kishan Gopal and another Vs. Lala and others 2013(4) RCR (Civil) 276.***

4. He further contended that in FAOs No.4916 and 5557 of 2014, the future prospects have not been awarded. The compensation has also been awarded less under other conventional heads.

5. He further contended that appellant of FAO No.4915 has received severe injuries in the accident but less amount of compensation has been awarded to him.

6. On the other hand, learned counsel for the respondents contended that the learned Tribunal has awarded the compensation under all the heads, which is just and appropriate.

7. I have duly considered the aforesaid contentions.

8. The claimants of FAO No.4247 Ashok Kumar and another have sought the compensation on account of death of their son, who was a student of 10th Class. As per the postmortem report Ex.P6, the age of the deceased was 15 years. He was a non-earning member. The learned Tribunal has notionally determined the income of the deceased to be Rs.15,000/- per annum and applied the multiplier of 15. Rs.20,000/- were added towards funeral expenses etc. So, the compensation of

Rs.2,45,000/- was awarded. In ***Kishan Gopal and another Vs. Lala Ram and others*** (supra), 10 years old child has died in accident. The Hon'ble Apex Court had taken the notional income of the deceased child to be Rs.30,000/- and, thereafter the multiplier was applied as per the age of the parents. So, in the instant case also, the notional income of the deceased child shall be taken to be Rs.30,000/- per annum. The age of the claimant Ashok Kumar was 41 years and Maya Devi the mother of the deceased was 37 years. So, the multiplier of 14 shall be applicable. The multiplicand comes to Rs.4,20,000/-. In addition to that they will be entitled to Rs.50,000/- towards conventional heads i.e. loss of love and affection, funeral expenses and last rites etc. The total amount of compensation comes to Rs.4,70,000/-. Hence in FAO No.4247 of 2014, the amount of compensation is enhanced from Rs.2,45,000/- to Rs.4,70,000/-.

9. Chanderbhan alias Canderman, the appellant of FAO No.4915 has filed the claim petition for grant of compensation on account of the injuries suffered by him. The learned Tribunal has awarded the compensation to the tune of Rs.4,20,000/-. It was alleged that the claimant used to work as agriculturist and was also running the milk diary and was earning Rs.15,000/- per month. He has suffered 75% permanent disability as per the disability certificate Ex.P25 and was 51 years of age. As per the bills produced by the appellant, he has spent Rs.1,45,146/- on his treatment. He has further spent Rs.16,800/- on transportation and remained hospitalized for a period of 35 days. The learned Tribunal has awarded the compensation of Rs.4,20,000/- in lump sum. I have

calculated the compensation under all the heads with the able assistance of learned counsel for the appellant and learned counsel for the appellant has agreed that the compensation awarded to the appellant for the injuries suffered by him is just and appropriate. So, the award passed by the learned Tribunal does not require any interference qua the amount of compensation awarded to appellant Chanderbhan alias Canderman.

10. The claimants of FAO No.4916 Rajender and another have claimed the compensation on account of the death of their son. The learned Tribunal has taken income of the deceased as Rs.4926/- per month *i.e.* the wages of the skilled labourer. Thereafter, the amount of compensation has been calculated and the total amount of Rs.6,11,120/- has been awarded as compensation. Learned counsel for the claimant has contended that no addition to the income of the deceased has been made towards future prospects and less amount has been awarded towards conventional heads. As the income of the deceased has been taken to be of a skilled labourer, so the future prospects should have been granted towards the income of the deceased. The income of the deceased has been taken by the learned Tribunal to be Rs.4926/-. 50% of his income is to be added towards future prospects. Total income comes to Rs.7389/-. 50% of the income has to be deducted towards the personal and living expenses of deceased as he was a bachelor and the claimants are parents. So, the remainder comes to Rs.3694/- per month. The multiplier of 18 shall be applicable as per the age of the deceased. So, the multiplicand comes to Rs.7,97,904/- (3694 x 12 x 18). The claimants shall be further entitled to a sum of Rs.50,000/- as awarded by the Hon'ble Apex Court in

case ***Kishan Gopal and another Vs. Lala and others*** (supra) towards the conventional heads the total amount of compensation comes to Rs.8,47,904/-. Thus, the amount of compensation is enhanced to Rs.8,47,904/- from Rs.6,11,120/- as awarded by the learned Tribunal.

11. The appellants of FAO No.5553 of 2014 have sought the compensation on account of death of their son Virender who was the student of B.A. 1st year. The learned Tribunal has taken the age of the deceased as 15 years as per the postmortem report. He was a non-earning member. The learned Tribunal has notionally determined the income of the deceased to be Rs.15,000/- per annum and applied the multiplier of 15. Rs.20,000/- were added towards funeral expenses etc. So, the compensation of Rs.2,45,000/- was awarded. In ***Kishan Gopal and another Vs. Lala Ram and others*** (supra), 10 years old child has died in accident. The Hon'ble Apex Court had taken the notional income of the deceased child to be Rs.30,000/- and, thereafter the multiplier was applied as per the age of the parents. So, in the instant case also, the notional income of the deceased child shall be taken to be Rs.30,000/- per annum. The age of the claimant Jagdish was 50 years and claimant Smt. Santra the mother of the deceased was 45 years. So, the multiplier of 13 shall be applicable. The multiplicand comes to Rs.3,90,000/-. In addition to that, they will be entitled to Rs.50,000/- towards conventional heads *i.e.* loss of love and affection, funeral expenses, last rites etc. The total amount of compensation comes to Rs.4,40,000/-. Hence in FAO No.5553 of 2014, the amount of compensation is enhanced from Rs.2,45,000/- to Rs.4,40,000/-.

12. Smt. Santosh the appellant of FAO No.5557 and performa respondent Smt.Rachna have filed the claim petition for grant of compensation on account of death of Vijay. It was alleged that deceased was a student from Open University. He used to cultivate 4 acres of agricultural land and was also having 5 buffaloes and used to sell the milk. The learned Tribunal has taken the income of the deceased of the skilled daily wager at the rate of Rs.4926/- per month. Learned counsel for the appellant contended that the learned Tribunal has not awarded any future prospects and less amount has been awarded towards conventional heads. Deceased Vijay was a young man of 19 years of age. There were fair chances of progress in his life. So, certainly future prospects should have been awarded towards his income. In view of the age of the deceased 50% future prospects are required to be added to the income of the deceased which comes to Rs.7389/- (4926 + 2463). There were two dependents of deceased Vijay, so 1/3rd of his income is to be deducted towards his personal and living expenses. The remainder comes to Rs.4926/-. The multiplier of 18 shall be applicable as per the age of the deceased. The multiplicand comes to Rs.10,64,016/- (4926 x 12 x 18). The claimant will be further entitled to a sum of Rs.50,000/- towards conventional heads. The total amount of compensation comes to Rs.11,14,016/-. So, the amount of compensation in this case is enhanced from Rs.7,29,344/- to Rs.11,14,016/-.

13. Thus, keeping in view my aforesaid discussion, FAO No.4915 is without any merit and the same is hereby dismissed. However, FAOs No.4247, 4916, 5553 and 5557 are hereby partly

allowed. The amount of compensation in these FAOs is enhanced as under : -

FAO Nos.	Amount of compensation awarded by the Tribunal	Enhanced amount of compensation by this Court
4247 of 2014	Rs.2,45,000/-	Rs.4,70,000/-
4916 of 2014	Rs.6,11,120/-	Rs.8,47,904/-
5553 of 2014	Rs.2,45,000/-	Rs.4,40,000/-
5557 of 2014	Rs.7,29,344/-	Rs.11,14,016/-

14. The appellants shall also be entitled to interest at the rate determined by the learned Tribunal on the enhanced amount from the date of filing the claim petition till realization. The liability to pay the enhanced amount along with interest and mode of disbursement/ apportionment shall be as per the award passed by the learned Tribunal.

09.02.2016
sunil yadav

(DARSHAN SINGH)
JUDGE