

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

**FAO No.142 of 1994 (O&M)
Date of Decision: 25.07.2017**

Gurmit Kaur and others

..Appellant(s)

Versus

Balwant Singh and others

..Respondent(s)

with

FAO No.143 of 1994 (O&M)

Balwinder Singh

..Appellant(s)

Versus

Balwant Singh and others

..Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rishav Jain, Advocate (Amicus Curiae)
for the appellant(s)

Mr. Lalit Garg, Advocate for
Mr. Gopal Mittal, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

These are two appeals by the claimants dis-satisfied with
the award passed by the Motor Accident Claims Tribunal, Patiala.

An accident occurred on 28.07.1991 in which Inder Singh succumbed to the injuries and Balwinder Singh suffered injuries. A number of petitions were filed seeking compensation under Section 166 of the Motor Vehicle Act.

FAO No. 142 of 1994 has been filed by the legal heirs of Inder Singh. Inder Singh was posted as a permanent Beldar with PWD Department and was getting salary of Rs.1,897/- per month. His carried home salary was Rs.1,779/- per month. The Tribunal took the dependency to be Rs.1,000/- per month and applied the multiplier of 12 and calculated the compensation to be Rs.1,44,000/-. The claimants are seeking enhancement and their plea is that since the deceased was a permanent employee then there should have been an addition towards future prospects and separate amount should have been allowed for loss of consortium, funeral expenses, loss of estate, loss of love and affection for the minor children.

The second appeal (**FAO 143-1994**) has been filed by Balwinder Singh seeking enhancement and their plea is that there was a dislocation of the left hip and there was disability of 30% and the Tribunal had only allowed Rs.50,000/-, which included the bills and for pain and suffering.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only the copy of the award could be reconstructed. None of the parties could give any material for

reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

Nobody had appeared on behalf of the appellant(s) before the Lok Adalat nor before this Court and therefore, an Amicus Curiae was appointed who has assisted us.

I have heard counsel of both the sides.

The Amicus has urged that Inder Singh was a permanent employee and 50% addition should have been made towards future prospects and the claimants were also entitled to compensation for loss of consortium, funeral expenses and loss of estate loss of love & affection for the two minor children.

The award notices the fact that Inder Singh was a permanent Beldar. His salary slip was brought on record. He was getting total salary of Rs.1,897/- per month, which can be rounded to Rs.1,900/- per month. As per the decision laid down in ***Sarla Verma Vs. DTC, (2009) 6 SCC 121*** since the deceased was over 40 years i.e. the age indicated in the postmortem report there should have been an addition of 30% and the income would be Rs.2,470/-. Making a deduction of 1/3rd the amount available for the family would be Rs.1,647/- and the compensation would be Rs.1647 x 12 x 15 = Rs.2,96,460/-. To this a sum of Rs.25,000/- should be added for loss of consortium, Rs.25,000/- is added for loss of love and affection for

the children, Rs.5,000/- as funeral expenses. The total of this comes to Rs.3,51,440/-. The Tribunal had allowed Rs.1,44,000/-, which would be deducted and the remaining amount would be paid with interest from January, 1994 till realization in the same ratio as was allowed by the Tribunal with interest @ 6% from January 1995 till payment.

With respect to the compensation relating to the case of Balwinder Singh, the submission of the Amicus is that there was dislocation of the left hip and the claimant was entitled to higher compensation for the disability and some compensation for pain and suffering, loss of income, transportation physiotherapy and for the attendant.

The submission on the other hand is that there is no evidence that there was any disability and the judgment also does not refer to the amount spent for purchase of medicines and treatment and the Tribunal had allowed a lump sum amount of Rs.50,000/-.

The award does not refer to the disability certificate, therefore, I am not inclined to add anything for the disability, however, I find that no compensation had been awarded for some heads and I would modify the award and allow the following:-

Sr. No.	Head of Compensation	Amount
1.	Pain and suffering	Rs.15,000/-
2.	Transportation	Rs.5,000/-
3.	Physiotherapy (Rs.1000/- x 3)	Rs.3,000/-
4.	Attendant charges (Rs.1000/- x 3)	Rs.3,000/-
5.	Loss of income (Rs.2500/- x 3)	Rs.7,500/-
	TOTAL	Rs.33,500/-

Appellant Balwinder Singh would be entitled to Rs.33,500/- more and would be payable with interest @ 6% from January, 1995 till payment in the same ratio as was allowed by the Tribunal.

Both the appeals are partly allowed.

Fee of amicus curiae will be paid by the High Court Legal Services Committee.

July 25, 2017

sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No