

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

Date of decision: 13.12.2017

FAO No.1876 of 2012 (O&M)

Bimal Rai Kaushal and another

...Appellants

Versus

Gurcharan Singh and others

...Respondents

FAO No.1877 of 2012 (O&M)

Anurag Randev

...Appellant

Versus

Gurcharan Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Eklavya K. Darshi, Advocate for
Mr. Jastej Singh, Advocate
for the appellants.

Mr. Arun Sharma, Advocate for
Mr. T.K. Joshi, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.1876 and 1877 of 2012 as these have emerged out of the same award dated 03.08.2011 passed by the Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri whereby compensation has been awarded in regard to death of Madhu and Anchla in

a motor vehicular accident that took place on 29.12.2009.

FAO No.1876 of 2012

CM No.7849-CII of 2012

Heard.

For the reasons stated in the application, same is allowed.

Delay of 02 days in re-filing the appeal is condoned.

CM No.7848-CII of 2012

Heard.

For the reasons stated in the application supported by affidavit of Mr. Bimal Rai Kaushal, one of the appellants, same is allowed. Delay of 58 days in filing the appeal is condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation in regard to death of Madhu aged 50 years.

The Tribunal has awarded compensation to the tune of Rs.3,27,000/-, detailed hereunder:-

1. Monthly value of services of the deceased	Rs.3000/-
2. Multiplier	13
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.3,12,000/- (24,000 x 13)
5. Expenses on transportation and last rites	Rs.10,000/-
6. Loss of love and affection	Rs.5000/-

Counsel for the appellants has submitted that value of services of the deceased assessed by the Tribunal is on lower side and liable to be

enhanced. Another submission made by counsel is that the Tribunal has wrongly allowed deduction of 1/3rd for personal expenses which is not permissible. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, has supported the assessment made by the Tribunal.

The occurrence in question took place in December, 2009. The deceased left behind her husband and minor son in a sudden shock. A house maker has to perform multifarious duties. She is to take care of emotional and other needs of the family. Taking a clue from minimum wage fixed by the State of Haryana and available at the relevant time, value of services of the deceased is assessed at Rs.4500/- per month. Deduction for personal expenses allowed by the Tribunal is set aside in the light of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730**. In this manner, loss of dependency comes to $\text{Rs.}4500 \times 12 \times 13 = \text{Rs.}7,02,000/-$.

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017 :-**

1. Loss of consortium to the husband	Rs.40,000/-
2. Expenses on funeral	Rs.15,000/-
Total	Rs.55,000/-

The total compensation comes to Rs.7,57,000/- and the additional amount is Rs.4,30,000/- (7,57,000 – 3,27,000) payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by the claimants in the ratio 40:60. The share of minor shall be deposited in FDR payable on his attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

FAO No.1877 of 2012

The claimant is in appeal seeking enhancement of compensation in regard to death of Anchla aged about 26 years. The Tribunal has awarded compensation to the tune of Rs.5,59,000/-, detailed hereunder:-

1. Monthly value of services of the deceased	Rs.4000/-
2. Multiplier	17
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.5,44,000/- (32,000 x 17)
5. Expenses on transportation and last rites	Rs.10,000/-
6. Loss of consortium	Rs.5000/-

Taking into consideration the discussion made hereinbefore while assessing value of services of Madhu aged about 50 years, value of services of deceased Anchla is assessed at Rs.5000/- per month. There would not be any deduction for personal expenses as discussed hereinbefore. In this manner, loss of dependency comes to Rs.5000 x 12 x 17 = Rs.10,20,000/-.

Under conventional heads, claimant shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court in **Pranay Sethi's case** (supra):-

1. Loss of consortium	Rs.40,000/-
2. Expenses on funeral	Rs.15,000/-
Total	Rs.55,000/-

The total compensation comes to Rs.10,75,000/- and the additional amount is Rs.5,16,000/- (10,75,000 – 5,59,000). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

13.12.2017
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No