

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

**FAO No.7332 of 2017
Date of Decision:14.11.2017**

State of Punjab ...Appellant

Versus

Kashmir Singh and others ...Respondents

FAO No.7333 of 2017

State of Punjab ...Appellant

Versus

Kashmir Singh and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Pawan Sharda, Sr. DAG, Punjab for the appellant.

ANIL KSHETARPAL, J. (ORAL)

By this order, I shall be disposing of two appeals bearing FAO Nos.7332 and 7333 of 2017 as both these appeals arise out of a common award passed by the Motor Accident Claims Tribunal, Patiala.

Unfortunately in a motor accident on 3.6.2014, two precious lives were lost. Smt.Jaswinder Kaur died on the spot, whereas her husband Kashmir Singh initially injured, however, later on, he was died, during the pendency of the claim petition.

It is the case of the claimant that deceased Jaswinder Kaur along with her husband Kashmir Singh were going to village Daun Kalan from village Rurka on motorcycle. They were hit by a Toyota Qualis Jeep, which came from opposite side. As a result of impact, Kashmir Singh and Jaswinder Kaur fell on the road and received multiple injuries. Jaswinder Kaur died at the spot, whereas Kashmir Singh received injuries on his right

leg and other parts of the body. Both were removed to A.P.Jain Hospital, Rajpura, where Jaswinder Kaur was declared brought dead and Kashmir Singh was found serious and hence referred to PGI Chandigarh. The respondents contested the claim petition and denied the accident.

The Motor Accident Claims Tribunal after appreciating the evidence available on the file held that the respondent-Pawan Kumar was driving the vehicle in a rash and negligent manner. Claimant also examined Rajinder Singh as PW-2, an eye witness of the occurrence.

Learned Motor Accident Claims Tribunal assessed the notional contribution of late Smt.Jaswinder Kaur at Rs.5,000/- per month. Taking the age of the deceased to be 40 years, the total compensation of Rs.9 lac was worked out after applying a multiplier of 15.

Learned counsel for the appellant has submitted that funeral expenses were awarded at Rs.25,000/-, whereas as per a recent judgment of the Constitution Bench of Hon'ble Supreme Court in **SLP (C) No.25590 of 2014 (National Insurance Company Limited Vs Pranay Sethi and others) decided on 31.10.2017**, the amount on account of funeral expenses can at the most be Rs.15,000/-.

Taking into consideration that no amount has been awarded on account of loss of estate, remaining amount of Rs.10,000/- can certainly be adjusted towards loss of estate. The accident took place on 3.6.2014. The notional contribution of the deceased lady has been assessed at Rs.5,000/-, which is not excessive. The details of the compensation awarded by the

Tribunal as well as by this Court are as under:-

<i>Heads</i>	<i>Awarded by MACT</i>	<i>Awarded by High Court</i>
Income Taken	Rs.5000/- per month	Rs.5000/- per month
Annual dependency	Rs.5000X12X15= Rs.9,00,000/-	Rs.5000X12X15=9,00,000/-
Funeral expenses	Rs.25,000/-	Rs15,000/-
Loss of estate	Nil	Rs.10,000/-
Total	Rs.9,25,000/-	Rs.9,25,000/-

In the second appeal bearing FAO No.7333 of 2017, Kashmir Singh filed a claim petition on account of permanent disability to the extent of 70%.

As noticed above, during the pendency of the claim petition before the Motor Accident Claims Tribunal, Kashmir Singh died.

Taking into consideration the facts available on the file, the court awarded a sum of Rs.44,000/- towards medical expenses, Rs.30,000/- on account of mental pain and suffering and Rs.20,000/- on account of special diet. The Court assessed the income of the deceased Kashmir Singh at Rs.7,500/- and considering that the functional disability of the claimant to be 50%, the court awarded an amount of Rs.6.30 lacs by applying multiplier of 14. This Court finds that the assessment made by the learned Motor Accident Claims Tribunal does not require any interference at the hands of this Court. The particulars of the compensation awarded by the Tribunal and by this Court are as under:-

<i>Heads</i>	<i>Awarded by MACT</i>	<i>Awarded by High Court</i>
Income Taken	Rs.7500/- per month (50% is the assessed disability) 7500X12x14x50% =Rs.6,30,000/-	Rs.7500/- per month (50% is the assessed disability) 7500X12x14x50% =Rs.6,30,000/-
Medical expenses	Rs.44,000/-	Rs.44,000/-

<i>Heads</i>	<i>Awarded by MACT</i>	<i>Awarded by High Court</i>
Pain and suffering	Rs.30,000/-	Rs.30,000/-
Special diet and attendant	Rs.20,000/-	Rs.20,000/-
Total	Rs.7,24,000/-	Rs.7,24,000/-

In view of the above, both these appeals are dismissed.

14.11.2017
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No