

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

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Date of decision: 19.09.2018

FAO No. 1249 of 1993 (O&M)

Kamla

.....Appellant

Versus

Dharam Raj and others

.....Respondents

FAO No. 1250 of 1993 (O&M)

Mani Ram

.....Appellant

Versus

Dharam Raj and others

.....Respondents

FAO No. 1251 of 1993 (O&M)

Tarawati

.....Appellant

Versus

Dharam Raj and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. R S Bains, Advocate
for the claimants

Mr. Govind Chauhan, Advocate for
Mr. Vijay S Kajla, Advocate
for the owner and driver

Mr. Rajesh K Sharma, Advocate and
Mr. Neeraj Khanna, Advocate
for the insurance company

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Rekha Mittal, J. (Oral)

This order will dispose of aforesaid appeals as these have
emerged out of the same award dated 04.05.1993 passed by the Motor
Accidents Claims Tribunal, Hissar (hereinafter to be referred as 'the

Tribunal') whereby compensation has been assessed on account of injuries sustained by Kamla; death of Surinder and damage to the Scooter.

FAO No. 1251 of 1993

The Tribunal has assessed compensation of Rs.42,000.00, detailed hereunder:-

Annual income of the deceased	Rs.1,800.00
Monthly income of the deceased	Rs.300.00
Deduction for personal expenses	50%
Multiplier	22
Loss of dependency	Rs.39,600.00, rounded off Rs.40,000.00
Transportation expenses	Rs.1,000.00
Funeral charges	Rs.1,000.00

Counsel for the appellant would urge that the deceased was 18/19 years old and a student of 10+2 at the time of death. He was earning Rs.2000.00 per month as driver-cum-supervisor of agriculture. Claimant has sought adequate compensation qua loss of dependency by allowing addition in income for future prospects and appropriate multiplier.

Counsel representing the insurance company would urge that in absence of clear evidence with regard to income of deceased, notional income may be assessed by treating him as a non-earning person.

The Tribunal has noticed that the claimant did not place on record result card of 10+2 to show academic achievements of deceased. No evidence was adduced by claimant that family owned or possessed agricultural land in order to render necessary assistance to his family in agricultural operations. However, there is nothing on record suggestive of the fact that the deceased was suffering from any disability to impair his capacity to work and earn livelihood for himself and his family. Taking a clue from the notification issued by the State of Haryana fixing minimum

wage at the relevant time, income of the deceased is assessed at Rs.900.00 per month. Claimant shall be entitle to addition in income for future prospects at the rate of 40%. Deduction for personal expenses would be 50% as claim has been preferred by mother of the deceased. As the deceased was 18/19 years, admissible multiplier is 18.

In view of the above, loss of dependency is calculated at Rs.1,36,080.00 (Rs.1,94,400.00 *i.e.* Rs.900 x 12 x 18 + Rs.77,760.00 (40% addition) – Rs.1,36,080.00 (50% deduction)).

Under conventional heads, claimant shall be entitle to Rs.30,000.00, in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***, detailed hereunder:-

Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation is Rs.1,66,080.00 and additional amount is Rs.1,24,080.00 (Rs.1,66,080.00 – Rs.42,000) payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

FAO No. 1249 of 1993

With regard to injuries sustained by Kamla, the Tribunal has awarded Rs.16,695.00, rounded off Rs.17,000.00, detailed hereunder:-

Expenses of Medical treatment	Rs.6,455.00
Special diet	Rs.500.00
Pain and sufferings	Rs.10,000.00
Transportation expenses	Rs.500.00

Perusal of para 13 of the award would reveal that Kamla suffered fracture of both bones right fore-arm and she had undergone

operation on 11.06.1991. The Tribunal has allowed reimbursement of medical expenses based upon documents, besides Rs.500.00 in regard to which she was not able to retain the bills. There is no justification for enhancement of compensation qua medical expenses.

Compensation allowed by the Tribunal with regard to pain and suffering, special diet and transportation is correct and affirmed. However, as the injured sustained fracture of both bones of right fore arm, she must not have been able to perform her duties as a house-maker at least for a period of three months. Taking a clue from the minimum wage of an unskilled labour coupled with multifarious duties to be performed by a house hold lady, claimant is awarded a sum of Rs.3,000.00 qua loss of her services for a period of three months. She will be entitle to a sum of Rs.1,000.00 for services of an attendant. Additional amount of Rs.4,000.00 shall be payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

FAO No. 1250 of 1993

Mani Ram has preferred the claim with regard to damage to scooter bearing No. HR 20A/1266.

The Tribunal has awarded a sum of Rs.5,500.00 in view of discussion in para 14 of the award.

Scooter was purchased by Mani Ram in January 1991 for a sum of Rs.15,500.00 and the accident took place on 27.05.1991. The Tribunal has held by assuming that parts of the scooter which have not been damaged could be sold for Rs.8,000.00 and there is depreciation of Rs.2,000.00

during the course of use of the scooter for six months and accordingly,

claimant was awarded Rs.5,500/- as compensation.

The scooter was purchased on 30.01.1991 and the accident occurred on 27.05.1991. Meaning thereby that scooter was used just for a period of four months. In the given scenario, claimant shall be entitled to 50% of the original value of scooter i.e. Rs.7,750.00 towards damages. The additional amount of Rs.2,250.00 shall be payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

19.09.2018
mohan bimbura

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