

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

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Date of decision: 09.01.2018

FAO 257 of 1995

Jatinderpal Singh*Appellant*

Versus

General Manager, HRTC Limited and others*Respondents*

FAO 258 of 1995

Sheena*Appellant*

Versus

General Manager, HRTC Limited and others*Respondents*

FAO 259 of 1995

Daljit Kaur and others*Appellants*

Versus

General Manager, HRTC Limited and others*Respondents*

FAO 572 of 1995

Satinderpal Singh*Appellant*

Versus

General Manager, HRTC Limited and others*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. D K Prajapati, Advocate for
Mr. J P S Sandhu, Advocate
for the appellants

Mr. Deepak Suri, Advocate
for respondent-HRTC

Mr. Neeraj Khanna, Advocate
for the driver

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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 21.07.1994 passed by the Motor Accidents Claims Tribunal, Ropar (in short, 'the Tribunal').

FAO No. 257 of 1995

The Tribunal has awarded compensation of Rs.5,000.00 for pain and suffering and mental shock to injured - Jatinderpal Singh.

Counsel for the appellant would submit that the Tribunal has not awarded any compensation for medical expenses, special diet etc.

Counsel representing the respondents-HRTC has supported the award passed by the Tribunal.

Jatinderpal Singh, aged about 10 years sustained three injuries as deposed by Dr. V K Goel (AW3), detailed hereunder:-

1. Superficial laceration .8x.08cm just above left eye brow on lateral margin;
2. Abrasion 0.6x.6cm under the chin; and
3. Swelling of right foot present and difficulty in movements was present. Advised X-ray.

The injuries were simple in nature. There was swelling on the right foot and difficulty in movements. It is not clear if X-ray was conducted qua swelling of the right foot as per medical advice.

Taking into consideration nature of injuries sustained by the victim coupled with that he was medico legally examined in the hospital, claimant is awarded additional amount of Rs.1,000.00 for medicines, diet etc., 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. 258 of 1995

With regard to injuries sustained by Sheena, the Tribunal has awarded Rs.10,000.00 *i.e.* Rs.5,000.00 for pain and sufferings and mental shock and Rs.5,000.00 for medicines, treatment and removal of disfigurement of the face.

Sheena sustained four injuries as deposed by Dr. V K Goel (AW3), detailed hereunder:-

1.

A cut injury at the base of none and upper lip injury measuring 1cm *i.e.* cutting through the upper lip and septum of nose is partially cut at the base.
2.

Multiple lacerated wound in an area of 2x2cm on right cheek just above lateral margin of lips. These were skin deep;
3.

Multiple small laceration on both the cheeks; and
4.

Abrasion 3x1/2 on the right parietal region of scalp about 3 cm from hair line. X-ray skull was advised.

Dr. V K Goel deposed that injury No. 1 can cause some disfigurement of the face. Taking a reasonable view in the light of injuries sustained by the victim coupled with injury No. 1 likely to cause disfigurement of the face, claimant is allowed additional compensation of Rs.5,000.00 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. 259 of 1995

The Tribunal has awarded Rs.5,67,600.00 in regard to death of Daljit Singh, Executive Engineer aged about 42 years, detailed hereunder:-

<i>Monthly income of the deceased</i>	<i>Rs.5,600.00</i>
Deduction for personal expenses	1/3 rd

Monthly income of the deceased	Rs.5,600.00
Multiplier	16
Cut imposed due to lump-sum payment	20%
Loss of dependency	Rs.5,67,600.00

Counsel for the appellants would urged that as per the documents on record, deceased was drawing salary of Rs.5,672.80 per month but the Tribunal has taken his income at Rs.5,600.00 per month in the process of rounding off, thus, denying benefit of Rs.72.80 per month to the claimants. As application for compensation was filed by the widow and three minor children of the deceased, admissible deduction for personal expenses would be 1/4th, cut to the extent of 20% imposed by the Tribunal is liable to be set aside. The claimants are entitled to increase in income for future prospects to the extent of 30% and adequate compensation under conventional heads.

Counsel representing the HRTC, on the contrary, has supported the award.

Indisputably, the deceased was working as an Executive Engineer in the Irrigation Department, Government of Punjab at a salary of Rs.5,672.80 per month at the relevant time. Accordingly, income of the deceased would be taken at Rs.5,680.00 per month. As application for compensation was filed by the widow and three minor children of the deceased, there would be deduction of 1/4th for personal expenses. The claimants are entitled to increase in income for future prospects to the extent of 30%. However, admissible multiplier would be 14 as deceased was in the age bracket of 41-45 years. After deducting tax liability to the tune of Rs.14,864.00, annual loss of dependency comes to Rs.53,296.00. In this

manner, loss of dependency comes to **Rs.7,27,491.00** (Rs.53,296.00 x 14 *i.e.* Rs.7,46,144 + Rs.2,23,843.00 (30% for future prospects) – Rs.2,42,496.00 (1/4th deduction).

Under conventional heads, claimants shall be entitled to following compensation in the light of latest judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others***, 2017 SCC 1270:-

Loss of consortium to widow	Rs.40,000
Expenses on funeral and last rites	Rs.15,000
Loss of estate	Rs.15,000

Total compensation comes to Rs.7,97,491.00 (Rs.7,27,491.00 + Rs.70,000) and additional compensation is Rs.2,29,891.00 (Rs.7,97,491.00 – Rs.5,67,600.00), payable along with interest @ 7.5% per annum from the date of the petition till realization to the widow, to be deposited in Fixed Deposit for a period of three years.

With regard to injury to Smt. Daljit Kaur, the Tribunal has awarded a sum of Rs.5,000.00 for pain and sufferings, mental shock and medicines etc.

Counsel for the claimants would urge that no compensation has been awarded for special diet, transportation and loss of income as the injured remained bed ridden for a period of two months.

Counsel for the respondents-HRTC, on the contrary, has refuted contention of the appellants with the submission that the injured failed to adduce satisfactory much less cogent evidence on record if she was given any treatment in the hospital or having suffered injury on her left arm.

Perusal of para 18 of the award would reveal that Dr. V K Goel (AW3) was examined and he deposed that Daljit Kaur was bleeding from the nostrils. She complained of pain in the right scapula region. On examination, no external injury was seen. X-ray of skull was advised. X-ray report was not produced. It is not certain if Daljit Kaur was X-ray examined. The very fact that no X-ray report was produced before the Tribunal leads to an inference that even if she was X-ray examined, there was no bony injury. There is no evidence that Daljit Kaur remained admitted in the hospital or incurred any expenses qua her treatment. Under the circumstances, compensation of Rs.5,000.00 allowed by the Tribunal is affirmed.

Disposed of accordingly.

FAO 572 of 1995

The Tribunal awarded Rs.6,000.00 in respect of injuries sustained by Satinderpal Singh i.e. Rs.5,000.00 for pain and sufferings and mental shock and Rs.1,000.00 for medicines, diet etc.

Counsel for the appellant has submitted that compensation assessed by the Tribunal is on lower side and needs enhancement.

Counsel representing the respondents-HRTC has supported the assessment made by the Tribunal with the plea that the injured suffered simple injury in the form of laceration and abrasion, detailed in para 19 of the award.

I have gone through findings of the Tribunal recorded in para 19 of the award. Dr. V K Goel (AW3) found four injuries on the person of Satinderpal Singh i.e. lacerated wound 2x.5cm on the forehead near hair line near the middle, small superficial laceration on the upper lip in the middle,

abrasion 3x1.6cm under the cheek on right side and abrasion 3x2cm just above the right knee. There is no evidence that the injured victim aged about 12 years remained hospitalized on account of sustaining of injuries. It is also not clear that due to sustaining of injuries, he missed his school or normal day-to-day activities. Under the circumstances, compensation assessed by the Tribunal does not warrant interference. Accordingly, the appeal filed by the injured is ordered to be dismissed.

(Rekha Mittal)
Judge

09.01.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No