

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 24.05.2018

1. FAO No.234 of 2001

Ramesh

.....Appellant

versus

Ram Niwas and others

.....Respondents

2. FAO No.878 of 2001

Kiran and others

.....Appellants

versus

Ram Niwas and others

.....Respondents

3. FAO No.881 of 2001

Rajesh and others

.....Appellants

versus

Ram Niwas and others

.....Respondents

4. FAO No.882 of 2001

Ram Niwas

.....Appellant

versus

Ram Niwas and others

.....Respondents

5. FAO No.287 of 2001

Gurdev

.....Appellant

versus

Ram Niwas and others

.....Respondents

6. FAO No.286 of 2001

Kaushalya Devi (since deceased) through her LRs

.....Appellants

versus

Ram Niwas and others

.....Respondents

7. FAO No.879 of 2001

Jai Kishan

.....Appellant

versus

Ram Niwas and others

.....Respondents

8. FAO No.880 of 2001

Jai Lal

.....Appellant

versus

Ram Niwas and others

.....Respondents

9. FAO No.65 of 2002

Ramesh

.....Appellant

versus

Ram Niwas and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. S.K. Jain, Advocate, for the appellant(s)
in FAO Nos.878 to 882 of 2001.
Mr. Ram Bilas Gupta, Advocate, for the appellant(s)
in FAO Nos.234, 286, 287 of 2001 and 65 of 2002.
Mr. Paul S. Saini, Advocate for the Insurance Company.

RAMENDRA JAIN, J. (ORAL)

Above titled nine appeals for enhancement of compensation, are being disposed of by this common judgment having been arisen out of consolidated award dated 05.02.2000 of the Motor Accident Claims Tribunal, Jind (hereinafter referred to as the 'Tribunal').

Both the parties are *ad idem* that four appeals bearing FAO Nos.234, 878, 881 of 2001 and 65 of 2002 pertaining to the death of Mohan Lal, Vidya Devi w/o Jia Lal, Jog Dhian and his wife Krishna Devi have to be decided in accordance with the judgment of the Hon'ble Supreme Court

(4) *R.C.R.(Civil) 1009*. Calculations furnished by learned counsel for the appellants-claimant separately in each appeal, are taken on record as Mark 'A'.

According to calculations (Mark 'A'), the appellants-claimant in FAO No.878 of 2001, namely, Kiran and others, are held entitled to a total compensation of ₹12,69,520/-. The Tribunal has already awarded compensation of ₹6,58,000/- to them. Therefore, appellants-claimant are held entitled to enhanced compensation of ₹6,11,520/- over and above the amount already awarded to them by the Tribunal.

In FAO No.881 of 2001, Rajesh and others are held entitled to enhanced compensation of ₹2,55,600/- over and above the compensation already awarded to them by the Tribunal.

In FAO No.234 of 2001, total compensation to be awarded to appellant-claimant Ramesh comes to ₹2,95,200/- less ₹70,000/- already awarded to him by the Tribunal. Therefore, he is held entitled to enhanced compensation of ₹2,25,200/- over and above the amount already awarded by the Tribunal.

In FAO No.65 of 2002, appellant-claimant Ramesh is held entitled to compensation of ₹2,01,082/-, including medical expenses less ₹1,09,800/- already awarded by the Tribunal. The net amount payment to the appellant-claimant in this appeal comes to ₹91,282/-.

Ordered accordingly.

In the aforementioned cases, Insurance Company is directed to deposit the enhanced compensation along with interest @ 7.5% per annum before the learned Tribunal within two months from today for onward disbursement of the same to the appellants-claimant in proportion so arrived

FAO No.882 of 2001 has been filed by the appellant-claimant for grant of compensation against the damage to Canter bearing registration No.HR-39-1704, setting aside the impugned award, whereby his claim petition was dismissed for want of evidence. Since no evidence was led by the appellant qua damage to his Canter aforesaid, therefore, this Court is not inclined to differ with the decision of the Tribunal, dismissing his claim petition. More so, aforesaid Canter of the appellant-claimant was insured with the Oriental Insurance Company, to which the appellant-claimant applied for compensation against the alleged damage to his Canter, but the same was kept pending for want of furnishing of relevant document, including driving license of the appellant-claimant. Therefore, appellant-claimant can/could claim damages from Oriental Insurance Company with whom he had insured his Canter. Hence, the appeal is dismissed.

In FAO No.878 of 2001 appellant-claimant has been awarded a compensation of ₹75,000/-. Perusal of para 93 of the impugned award shows that appellant Jia Lal had suffered 15% permanent disability. He is a teacher by profession. Due to the injuries suffered, he remained admitted in the hospital for 20 days and took leave for six months as per deposition of PW21 Rajiv, Clerk of the school. Appellant-claimant had suffered fracture of left femur for which he was operated by fixing screws and nailing was done. His wife also died in the impugned accident. Taking leave of appellant-claimant Jia Lal for a span of six months in itself is sufficient to infer that he remained bed-ridden for recovery of his fracture for a sufficient long time. The Tribunal has not granted any compensation for future operation of the appellant-claimant for removal of his nail and screws. According to the medical bills produced by the appellant-claimant, he had spent ₹30,756/- towards his medical treatment. No compensation for pain and suffering separately was granted. Therefore, considering his 15%

permanent disability, aforesaid medical expenses, long leave from service, fracture of left femur and fixing of screws and nails therein, award of compensation of ₹75,000/- by the learned Tribunal in the opinion of this Court is quite inadequate. Taking into account the above factors, appellant-claimant Jia Lal is held entitled to a lump sum compensation of ₹2,50,000/-, which includes interest component, over and above the amount already awarded by the Tribunal.

In FAO No.879 of 2001, appellant-claimant Jai Kishan had suffered fracture shaft femur left with fracture clavicle right with fracture potts right side with shock. He had produced medical bill of ₹20,000/- spent on his medical treatment. He suffered 10% permanent disability. He was also advised vide medical slips Ex.P-56 to take complete rest for 3/4 months. He remained admitted for 20 days in the hospital. He was operated upon and plating was done. Considering all these factors, he is awarded a compensation of ₹2,25,000/- in lump sum, which includes interest component, over and above the compensation already awarded by the Tribunal.

In FAO No.286 of 2001, claimant Kaushalya Devi aged 28 years on the date of accident in question, remained admitted in hospital for 52 days and regained consciousness after 50 days. A sum of ₹56,536.60 was spent by her towards her medical treatment vide medical bills/receipts (Ex.P-76 to P-202). As per certificate (Ex.P-164), she suffered 10% permanent disability. PW28 Dr. Navneet testified that appellant-claimant-Kaushalya Devi could not be able to walk properly and do normal job. Her memory had also impaired due to accident in question. Her husband Subhash PW18 has testified that his wife Kaushalya Devi has become

totally incapacitated. She cannot take bath and even has lost her memory

The Tribunal has awarded a sum of ₹1,00,000/- as compensation, which in the considered opinion of this Court is inadequate. Considering her hospitalisation for 52 days, regaining consciousness after 50 days of the accident, medical bills of ₹56,535.60, permanent disability to the extent of 10%, loss of memory and decrease in her capacity to do household work, she is awarded a lump sum compensation of ₹2,50,000/-, which also includes interest component, over and above the compensation already awarded by the Tribunal is granted.

In FAO No.287 of 2001, appellant-claimant Gaurav, aged seven years at the time of accident in question, was operated for his eye in Jindal Hospital and CMC, Hisar. A sum of ₹4,330/- was spent on his medical treatment vide medical bills (Ex.P227 to P-232). The appellant had suffered fracture in his left arm. He has been awarded compensation of ₹8,000/-, however, he did not suffer any permanent disability. Considering overall facts and circumstances, appellant-claimant Gaurav is awarded a lump sum compensation of ₹35,000/-, which includes interest component, over and above the compensation already granted by the Tribunal.

All the appeals are disposed of accordingly.

May 24, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No