

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

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Date of decision: 07.09.2018

FAO 1265 of 2014 (O&M)

Kuldeep Kaur and another

..... Appellants

Versus

Rajwinder Singh alias Raju and others

..... Respondents

FAO 1269 of 2014 (O&M)

Jasbir Kaur and others

..... Appellants

Versus

Rajwinder Singh alias Raju and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Ms Amandeep Kaur, Advocate
for the claimants

Mr. Harmanjit Singh Jugait, Advocate
for the Driver and owner

None 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 occurrence dated 07.11.2009 in which Amarjit Singh alias Jitta and Karamjit Singh alias Karma sustained injuries that proved fatal.

CM 4179-CII of 2014

Prayer in this application is for condoning delay of 535 days in refiling the appeal.

In view of averments made in the application and arguments advanced by counsel for the parties, the application is allowed and delay of

535 days in refiling the appeal stands condoned, subject to condition that in case the appellants succeed in appeal, they will forgo interest for the period of delay.

CM 4180-CII of 2014

Prayer in this application is for condoning delay of 71 days in filing the appeal.

In view of averments made in the application supported by an affidavit and arguments advanced by counsel for the parties, the application is allowed and delay of 71 days in filing the appeal stands condoned.

FAO No. 1265 of 2014

The Tribunal has awarded compensation under Section 163 A of the Motor Vehicles Act, 1988 (in short, the Act) to the tune of Rs.3,84,600.00, detailed hereunder:-

Monthly income of the deceased	Rs.3,300.00
Deduction for personal	50%
Multiplier	14
Loss of dependency	Rs.3,69,600.00
Loss of love and affection	Rs.10,000.00
Funeral charges	Rs.5,000.00

As the application for compensation was filed under Section 163-A of the Act, compensation is required to be assessed in consonance with the structured formula laid down in the Second Schedule appended thereto. The deduction for personal expenses would be 1/3rd in place of 50%. In the post mortem report, age of the deceased is mentioned as 24 years, therefore, admissible multiplier is 17.

In view of the above, loss of dependency is calculated at Rs.4,48,800.00 (Rs.6,73,200.00 i.e. Rs.3,300 x 12 x 17 – Rs.2,24,400.00 (1/3rd deduction)).

The Tribunal has awarded a sum of Rs.15,000.00 under conventional heads. However, claimants shall be entitled to Rs.4,500.00 i.e. Rs.2,000.00 for funeral expenses and Rs.2,500.00 for loss of estate. Total compensation is Rs.4,53,300.00 and additional amount is Rs.68,700.00 (Rs.4,53,300.00 – Rs.3,84,600.00) payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 535 days in re-filing the appeal, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

FAO 1269 of 2014

In view of findings recorded in FAO No. 1265 of 2014, deduction for personal expenses would be 1/3rd but admissible multiplier is 18 as the deceased was above 25 years but less than 30 years of age. Accordingly, loss of dependency is calculated at Rs.4,75,200.00 (Rs.7,12,800.00 i.e. Rs.3,300 x 12 x 18 – Rs.2,37,600.00 (1/3rd deduction))

Similarly, claimants shall be entitled to Rs.4,500.00 under conventional heads in place of Rs.15,000.00 allowed by the Tribunal.

Total compensation is Rs.4,79,700.00 and additional amount is Rs.2,07,300.00 (Rs.4,79,700.00 – Rs.2,72,400.00) payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 535 days in re-filing the appeal, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

07.09.2018

mohan bimbura

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