

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

Date of decision: 29.11.2018

FAO No.2892 of 2013 (O&M)

National Insurance Company Ltd.

... Appellant

Versus

Kiran Devi and others

... Respondents

FAO No.5443 of 2017 (O&M)

Kiran Devi and others

... Appellants

Versus

Jaswant Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Neeraj Khanna, Advocate
for the insurance company.

Mr. Ashok K. Sharma, Advocate
for the claimants.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.2892 of 2013 and 5443 of 2017 as these have emerged out of the same award dated 13.03.2013 passed by the Motor Accidents Claims Tribunal, Patiala whereby compensation has been assessed on account of death of Murari Lal in a motor vehicular accident that took place on 02.02.2011.

FAO No.2892 of 2013 has been filed by the insurance

company whereas the other appeal has been preferred by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that the appeal has been preferred to assail quantum of compensation assessed by the Tribunal.

The Tribunal has awarded compensation of Rs.5,86,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Multiplier	12
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.5,76,000/-
5. Expenses on funeral	Rs.5000/-
6. Loss of consortium	Rs.5000/-

Counsel for the insurance company would urge that income of deceased assessed by the Tribunal is on higher side and needs reduction. It is argued that the minimum wage even of a skilled worker at the relevant time was approximately Rs.4000/- per month.

Counsel for the claimants, on the contrary, would pray for enhancement of compensation by extending benefit of addition in income for future prospects and applying proper deduction for personal expenses and multiplier as per age of the deceased and adequate compensation under conventional heads.

The plea of claimants is that deceased was labourer at brick kiln and earned Rs.10,000/- per month. In para 24 of the claim application,

it has been pleaded that on 02.02.2011, Murari @ Pandit along with Satpal Singh driver of tractor bearing No.PB-23-B-2205 was coming to brick kiln at village Jakhwali, Tehsil and District Fatehgarh Sahib after unloading the bricks at Thermal Plant. Meaning thereby that the deceased was stated to be working on a brick kiln for the purpose of loading and unloading bricks. The claimants placed on record certificate Ex.C3 issued by Dashmesh Gram Udyog Samiti which is running brick kiln to the effect that deceased was paid Rs.10,000/- per month. Rajinder Singh PW3 was examined to prove avocation and income of deceased Murari Lal son of Ramji Lal. He tendered into evidence his affidavit PW3/A by way of examination in chief. The witness was subject to cross examination at length. He did not produce any document in order to prove that Murari was working at the brick kiln much less at a salary of Rs.10,000/- per month. Name of Murari Lal does not figure in information sent by the brick kiln to the Industries Department. Rajinder Singh did not produce any document even to prove that he is owner of brick kiln i.e. M/s Dashmesh Gram Udyog Samiti. Taking into consideration the materials on record coupled with the minimum wage available at the relevant time, income of the deceased is assessed at Rs.4200/- per month. Claimants shall be entitle to addition in income for future prospects @ 25%.

The application for compensation has been filed by widow and three minor children of the deceased, therefore, deduction for personal expenses would be 1/4th. The deceased was in the age bracket of 46 to 50

years and accordingly admissible multiplier is 13. In this manner, loss of dependency is calculated at Rs.6,14,250/- [(4200 x 12 x 13) + (25% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, claimants shall be entitle to Rs.1,90,000/-, detailed hereunder:-

1. Loss of consortium to the claimants	Rs.1,60,000/- (Rs.40,000/- each)
2. Expenses on last rites	Rs.15,000/-
3. Loss to estate	Rs.15,000/-

Total compensation is Rs.8,04,250/- and the additional amount is Rs.2,18,250/- (8,04,250 – 5,86,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 1503 days in filing the appeal by claimants, in terms of the award.

The appeals are disposed of in the aforesaid terms.

29.11.2018
ashok

(REKHA MITTAL)
JUDGE

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