

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 29.1.2018

FAO-1540 of 2014(O&M)

Chand Ram and another

---Appellants

versus

Swaran Ram and others

---Respondents

FAO- 4324 of 2014(O&M)

Deepanshu

---Appellant

versus

Sarvan Ram and others

---Respondents

FAO- 4335 of 2014(O&M)

Satish Kumar Gupta and others

---Appellants

versus

Sarvan Ram and others

---Respondents

FAO- 8636 of 2014(O&M)

Komal Gupta

---Appellant

versus

Sarvan Ram and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. G.C.Shahpuri, Advocate
for the appellants in FAO-1540 of 2014
Mr. Varun Katyal, Advocate
for the appellant(s) in FAO Nos. 4324, 4335 and 8636-2014

Mr. Suvir Dewan, Advocate,
for the insurance company

Rekha Mittal, J.

This order will dispose of FAO Nos. 1540, 4324, 4335 and 8636 of 2014 as these have emerged out of the same award dated 31.5.2013 passed by the Motor Accidents Claims Tribunal, Rohtak (hereinafter to be referred to as “the Tribunal”).

CM No. 12436-CII of 2014 in FAO No. 4324 of 2014

CM No. 12442-CII of 2014 in FAO No. 4335 of 2014

CM No. 23569 CII of 2014 in FAO No. 8636 of 2014

Prayer in these applications is for condoning delay of 149 days in filing the appeals.

In view of averments made in the applications coupled with that provisions of the Motor Vehicles Act for grant of compensation are meant to enhance social justice and save the victim family from the financial loss caused due to accident, the application is allowed, delay of 149 days in filing the appeals stands condoned subject however, to the condition that in case the compensation is enhanced, the applicant(s)-appellant(s) shall not be entitled to interest for the period of delay.

Disposed of accordingly.

CM No. 23570 CII of 2014 in FAO No. 8636 of 2014

Prayer in this application is for condoning delay of 50 days in filing the appeal.

Allowed as prayed for.

Delay of 50 days in refiling the appeal stands condoned.

Disposed of accordingly.

CM No.5231-CII of 2014 in FAO-1540 of 2014

Prayer in this application is for condoning delay of 108 days in filing the appeal.

In view of averments made in the application coupled with the factum that provisions of the Motor Vehicles Act for grant of compensation are meant to enhance social justice and save the victim family from the financial loss caused due to accident, the application is allowed, delay of 108 days in filing the appeal stands condoned subject however, to the condition that in case the compensation is enhanced, the applicant-appellant shall not be entitled to interest for the period of delay.

Disposed of accordingly.

FAO No. 1540 of 2014

The unfortunate parents of Sandeep are in appeal seeking enhancement of compensation.

The Tribunal has assessed compensation to the tune of Rs. 4,36,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6000/-
Deduction for personal expenses	50%
Multiplier	11
Mental pain, suffering, loss of love and affection	Rs. 20,000/-
Funeral expenses/transportation	Rs. 20,000/-

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects. Appropriate multiplier may be applied on the basis of age of the deceased in the light of judgment of Hon'ble the Supreme Court **Smt.Sarla Verma and others vs.**

Delhi Transport Corporation and another 2009 ACJ 1298. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported assessment made by the Tribunal with the submission that there is no justification for enhancement. However, it is argued that compensation under conventional heads is liable to be restricted to Rs. 30,000/- under two counts in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.**

The deceased was 24 years old unmarried son of the claimants. In the light of judgments **Smt.Sarla Verma and others' case (supra), Munna Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR(Civil) 447** and **Pranay Sethi and others' case (supra)**, multiplier is to be adopted on the basis of age of the deceased and accordingly, multiplier of 18 is liable to be applied. The claimants shall be entitled to increase in income @ 40%. Deduction for personal expenses allowed by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs. 6000 x12 x 18 = 12,96,000 + 5,18,400 (40%) = 18,14,400 – 9,07,200 (50%)= **Rs. 9,07,200/-**.

Under conventional heads, claimants shall be entitled to Rs. 30,000/- namely Rs. 15,000/- for expenses on funeral/last rites and another Rs. 15,000/- for loss of estate.

The total compensation comes to **Rs. 9,37,200/-** and the additiona amount is **Rs, 5,01,200/-** (9,37,200 - 4,36,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 108 days, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

FAO No. 4324 of 2014

With regard to injuries sustained by Deepanshu, the Tribunal has awarded an amount of Rs. 14,234/- i.e. Rs. 4234/- on account of medical expenses and Rs. 10,000/- as lumpsum amount for pain and sufferings, special diet, transpiration etc.

Counsel for the appellant would urge that many members of family of Sh. Satish Kumar Gupta sustained injuries in the occurrence, therefore, he might not have been able to maintain all the bills of medical expenses qua treatment of Deepanshu, his minor son.

The claimant examined Dr. B.L.Bagri, Medical Superintendent Sarvodaya Multi Specialty Hospital, Hisar. He deposed that Deepanshu was admitted in their hospital with the alleged history of sustaining injuries in a road side accident and was provided first aid at General Hospital, Bhiwani. However, Dr. B.L.Bagri did not produce medico legal report of the injured to know nature of injuries sustained by the child. The patient was treated by Dr. Umesh Kalra, Neuro Surgeon but the said doctor was not examined. The injured remained hospitalized for three days. Under the circumstances, it is difficult to accept plea of the appellant that compensation assessed by the Tribunal is not based upon materials on record or there is justification for enhancement of compensation,

For the foregoing reasons, the appeal fails and is accordingly dismissed.

FAO-4335 of 2014

In respect of injuries and death of Himanshu, the Tribunal has

awarded compensation to the tune of Rs. 7,09,068/-, detailed hereunder:-

Loss of dependency	Rs. 3,00,000/
Mental pain, suffering and love and affection	Rs. 20,000/-
Funeral expenses and transportation	Rs. 20,000/-
Medical expenses	Rs. 3,69,068/-

Counsel for the appellants would contend that the Tribunal reimbursed the medical bills marked as exhibits amounting to Rs. 3,69,068/-. It is argued that as members of family of Satish Kumar Gupta sustained injuries in the occurrence and Himanshu was one of them who remained admitted in Sarvodaya Multi Specialty Hospital, Hisar from 1.3.2011 to 15.3.2011, claimant was not expected to maintain bills of entire expenses incurred on treatment of Himanshu who eventually succumbed to injuries sustained in the occurrence. Another submission made by counsel is that Himanshu was 14 years old and a student of 8th standard, therefore, compensation awarded by the Tribunal in regard to death of Himanshu is on lower side and liable to be enhanced.

Counsel representing the insurance company has supported assessment of compensation by the Tribunal.

Perusal of findings of the Tribunal recorded in paras 22 to 24 makes it evident that the claimant examined various witnesses to prove records of treatment of Himanshu in Sarvodaya Multi Specialty Hospital, Hisar, Jindal Hospital, Model Town, Hisar and certain medical stores to prove purchase of medicines etc. during treatment of Himanshu. If the claimant can maintain series of documents produced before the Tribunal, it is difficult to accept his plea that he failed to maintain others qua expenses on medical treatment of Himanshu. Under the circumstances, there is no justification for enhancement of compensation qua medical expenses

incurred on treatment of Himanshu.

The Tribunal has awarded an amount of Rs. 3 lakh towards loss of dependency. In addition, an amount of Rs. 40,000/- has been allowed under conventional heads. The child was less than 15 years of age and a student of class 8th. Taking into consideration the ratio laid down by Hon'ble the Supreme Court in *Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR(Civil) 660* and *Puttamma and others vs. K.L.Narayana Reddy and another 2014(1)RCR (Civil) 443* I do not find any reason to interfere in assessment made by the Tribunal.

For the foregoing reasons, the appeal fails and is accordingly dismissed. No order as to costs.

FAO-8636 of 2014

The Tribunal did not award any compensation in respect of injuries sustained by Komal Gupta. In para 15 of the award, it has been noticed that claimant did not appear in the witness box to depose that she suffered any injury in the accident or any medico legal report was prepared in the hospital or she spent any amount on her treatment. Satish Kumar Gupta, husband of Komal Gupta produced bills Ex. P45 to P47, P56, P57, P267, P276, P278 and P435 amounting to Rs. 7415/-. Counsel has fairly informed that the claimant did not produce any prescriptions issued by a doctor on the basis whereof Komal Gupta spent any money for purchase of medicines etc.

As the claimant failed to adduce satisfactory much less cogent evidence that she sustained injuries in the occurrence and rather preferred to keep herself away from the witness box without any explanation, the Tribunal has rightly refused to rely upon the bills marked as exhibits in the

testimony of Satish Kumar Gupta to award any compensation in favour of Komal Gupta. In this view of the matter, Komal Gupta cannot claim any compensation.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

29.1.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No