

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

Date of decision: 07.09.2018

FAO No.5328 of 2013 (O&M)

Shubham and another

... Appellants

Versus

Avtar Singh @ Tara and others

... Respondents

FAO No.5329 of 2013 (O&M)

Shubham and another

... Appellants

Versus

Avtar Singh @ Tara and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. S.K. Biriwal, Advocate
for the appellants.

Mr. R.N. Singhal, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.5328 and 5329 of 2013 as these have emerged out of the same accident that took place on 16.04.2009 in which Anu @ Manu aged 8 months and Sukhwinder Kaur @ Bindiya sustained injuries and passed away.

CM No.22764-CII of 2013 in/and FAO No.5328 of 2013

Prayer in this application is for condonation of delay of 171

days in filing the appeal.

In view of averments made in the application supported by an affidavit of Sh. Laxman Sharma son of Sh. Dharamjit Sharma coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 171 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay in case compensation is enhanced.

The Tribunal has awarded compensation of Rs.1,05,000/- in view of discussion made in para 15 of the award but in the issue of relief, it has been held that claimants are entitled to compensation of Rs.78,750/- in the proportion i.e. Rs.47,250/- to claimant No.1 and Rs.31,500/- to claimant No.2.

The notional income of the deceased is assessed at Rs.15,000/- per annum and after applying multiplier of 15, loss of dependency is calculated at Rs.2,25,000/-.

Claimants shall be entitled to Rs.15,000/- qua expenses on last rites. Total compensation is Rs.2,40,000/- and the additional amount beyond the amount already paid to the claimants shall carry interest @7.5% per annum from the date of petition till realization except for the period of delay of 171 days in filing the appeal, to be paid to Shubham, minor sibling of the deceased, to be invested in fixed deposit till he attains the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

FAO No.5329 of 2013

With regard to death of Sukhwinder Kaur @ Bindiya, the Tribunal has assessed compensation of Rs.5,86,000/-, detailed hereunder:-

1. Monthly loss of services/income of the deceased	Rs.3000/-
2. Multiplier	16
3. Loss of dependency	Rs.5,76,000/-
4. Expenses on funeral	Rs.10,000/-

The occurrence in question took place on 16.04.2009. The deceased had been looking after family consisting of her husband and two minor children but unfortunately the youngest child of the family also died in the same accident. Taking into consideration the minimum wage available at the relevant time coupled with that a house maker has multifarious duties to perform, value of services of the deceased is assessed at Rs.5000/- per month. There would be no deduction for personal expenses in the light of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730**. The deceased was 32 years old, as per the post mortem report. Multiplier of 16 applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,60,000/- (Rs.5000 x 12 x 16).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitled to Rs.55,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.40,000/- for loss

of consortium.

Total compensation is Rs.10,15,000/- and the additional amount is Rs.4,29,000/- (10,15,000 – 5,86,000), payable with interest @7.5% per annum from the date of petition till realization except for the period of delay of 171 days in filing the appeal, to Shubham, minor son of the deceased, to be invested in fixed deposit till he attains the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

07.09.2018

ashok

(REKHA MITTAL)
JUDGE

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