

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

Date of decision: 20.09.2018

FAO No.3933 of 2015 (O&M)

Smt. Laxmi Saund and others

... Appellants

Versus

Iliyas and others

... Respondents

FAO No.4084 of 2015 (O&M)

Gopal Saund and others

... Appellants

Versus

Iliyas and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashish Gupta, Advocate
for the appellants.

Mr. Sanjeev Kodan, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3933 and 4084 of 2015 as these have emerged out of the same award dated 22.04.2014 passed by the Motor Accidents Claims Tribunal, Mewat whereby compensation has been assessed on account of death of Bhanu Saund and Mata Devi in a motor vehicular accident that took place on 06.08.2012.

CM-12223-CII-2015 in FAO No.3933 of 2015

Prayer in this application is for condonation of delay of 266

days in filing the appeal.

In view of averments made in the application supported by an affidavit of Sh. Gange Saund, one of the claimants coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 266 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.

FAO No.3933 of 2015

Smt. Laxmi and others have filed the appeal for enhancement of compensation on account of death of Bhanu Saund.

The Tribunal has awarded compensation of Rs.6,32,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4000/-
2. Multiplier	17
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.6,12,000/-
5. Loss of consortium, love and affection	Rs.20,000/-
and expenses on last rites	

The plea of claimants is that the deceased was working as a driver and earning Rs.25,000/- per month. The Tribunal, in para 19 of the award, has noticed that the claimants have failed to adduce satisfactory much less cogent evidence to prove their plea with regard to avocation and income of the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wages, income of the deceased is assessed at

Rs.5000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. The deceased was 26 years old at the time of occurrence and accordingly, the Tribunal has rightly applied multiplier of 17.

The application for compensation has been filed by the widow, minor child and brothers of the deceased. The brothers of deceased shall not be entitle to loss of dependency. The Tribunal has wrongly applied deduction for personal expenses to the extent of 1/4th in place of 1/3rd. In this view of the matter, loss of dependency is calculated at Rs.9,52,000/- [(Rs.5000 x 12 x 17) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants No.1 and 2 shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.10,22,000/- and the additional amount is Rs.3,90,000/- (10,22,000 - 6,32,000), payable with interest @7.5% per annum from the date of petition till realization except for the period of delay of 266 days in filing the appeal, to be apportioned between Smt. Laxmi and Belu Saund in the ratio 30:70. The amount falling to share of minor shall be invested in fixed deposit payable on her attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

FAO No.4084 of 2015

With regard to death of Mata Devi, the Tribunal has awarded compensation of Rs.3,66,500/-, detailed hereunder:-

1. Monthly loss of services of the deceased	Rs.3500/-
2. Multiplier	11
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.3,46,500/-
5. Loss of consortium, love and affection	Rs.20,000/-
and expenses on last rites	

The application for compensation has been filed by the husband and three adult sons of deceased Mata Devi. Taking a clue from minimum wage available at the relevant time coupled with that a housewife has multifarious duties to perform, value of services of the deceased is assessed at Rs.5000/- per month. No deduction for personal expenses is to be made 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**. Multiplier adopted by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.6,60,000/- (Rs.5000 x 12 x 11).

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

Total compensation is Rs.7,15,000/- and the additional amount

is Rs.3,48,500/- (7,15,000 - 3,66,500), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 289 days in filing the appeal, to Sh. Gopal Saund, husband of the deceased. All other terms and conditions of the award shall remain intact.

The appeal is partly allowed in the aforesaid terms.

20.09.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No