

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

Date of decision: 20.08.2018

FAO No.4018 of 2015 (O&M)

HDFC ERGO General Insurance Company Ltd. ... Appellant

Versus

Roma and others ... Respondents

FAO No.6775 of 2016 (O&M)

Roma and others ... Appellants

Versus

Madan Lal and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Goyal, Advocate
for the insurance company.

Mr. Vipul Sharma, Advocate for
Mr. Nitin Mittal, Advocate
for the claimants.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.4018 of 2015 and 6775 of 2016 as these have emerged out of the same award dated 11.10.2013 passed by the Motor Accidents Claims Tribunal, Ferozepur whereby compensation has been allowed on account of death of Aman @ Amandeep son of Barkat in a motor vehicular accident that took place on 24.07.2011.

FAO No.4018 of 2015

Dasti notice issued for service of respondents No.7 and 8 has not been received back served or otherwise. The appellant-insurance company has failed to comply with order dated 07.03.2018. A relevant extract therefrom reads as follows:-

“Counsel for the appellant has not taken any steps to serve unserved respondent Nos.7 and 8.

Last opportunity is provided to serve respondent Nos.7 and 8 failing which appeal against respondent Nos.7 and 8 shall be deemed to be dismissed.

Adjourned to 20.08.2018.

Process dasti only.”

As a result, appeal against respondents No.7 and 8 is dismissed.

Counsel for the insurance company would inform that the appeal has been preferred to assail the award as well as order Annexure A1 whereby ex parte proceedings were initiated against the insurance company. It is further argued that the insurance company has filed the appeal to challenge quantum of compensation and prays for right of recovery against the insured for want of permit.

As the appeal against respondents No.7 and 8 has been dismissed, in view of the discussion made hereinbefore, the appeal to challenge order Annexure A1 is not sustainable.

So far as plea of the insurance company with regard to quantum of compensation, the same would be considered while deciding

the appeal filed by the claimants.

Disposed of accordingly.

As the appeal has been decided on merits, applications for condonation of delay are of academic relevance only. Statutory amount of Rs.25,000/- deposited by the insurance company be remitted to the Tribunal for payment to the claimants.

FAO No.6775 of 2016

The Tribunal has awarded compensation of Rs.8,36,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Multiplier	17
3. Deduction for personal expenses	1/5 th
4. Loss of dependency	Rs.8,16,000/-
5. Expenses on funeral	Rs.5000/-
6. Loss of estate	Rs.5000/-
7. Loss of consortium	Rs.10,000/-

Counsel for the parties have not made any submission qua income of the deceased assessed by the Tribunal. The deceased was 27 years old at the time of occurrence. Claimants shall be entitled to addition in income for future prospects @ 40%. The multiplier adopted by the Tribunal is correct and affirmed. The application for compensation has been filed by the widow, three minor children and parents of the deceased. Even if father of the deceased is held to be dependent, admissible deduction for personal expenses would be 1/4th in place of 1/5th allowed by the Tribunal. In this manner, loss of dependency is calculated at Rs.10,71,000/-

[(Rs.5000 x 12 x 17) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, claimants shall be entitled 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.11,41,000/- and the additional amount is Rs.3,05,000/- (11,41,000 – 8,36,000), payable with interest @7.5% per annum from the date of petition till realization, except for the period of delay of 957 days in filing the appeal, to be paid to minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later.

Disposed of accordingly.

20.08.2018
ashok

(REKHA MITTAL)
JUDGE

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