

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

Date of decision: 08.08.2018

FAO No.3226 of 2016 (O&M)

Smt. Kavita Devi

... Appellant

Versus

Hasan Deen and others

... Respondents

FAO No.6076 of 2016 (O&M)

Smt. Ramgiri Devi and another

... Appellants

Versus

Hasan Deen and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. B.K. Bagri, Advocate
for the appellant in FAO No.3226 of 2016 and
for respondent No.4 in FAO No.6076 of 2016.

Mr. Mukesh K. Yadav, Advocate for
Mr. Arvind K. Yadav, Advocate
the appellants in FAO No.6076 of 2016 and
for respondents No.4 and 5 in FAO No.3226 of 2016.

Mr. Vishal Aggarwal, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3226 and 6076 of 2016 as
these have emerged out of the same award dated 05.05.2016 passed by the
Motor Accidents Claims Tribunal, Gurgaon whereby compensation has

been assessed on account of death of Rajbir Singh in a motor vehicular accident that took place on 25.10.2013.

FAO No.3226 of 2016 has been filed by Kavita Devi, widow of the deceased seeking enhancement of compensation whereas the other appeal has been preferred by parents of the deceased for the same relief and their entitlement to entire compensation, to the exclusion of widow of the deceased.

The Tribunal has awarded compensation of Rs.9,97,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.8100/-
2. Multiplier	15
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.9,72,000/-
5. Expenses on funeral	Rs.25,000/-

The Tribunal, in para 18 of the award, has held that the deceased was about 40 years as per pleadings and postmortem report Ex.P1. There is no clear evidence adduced by the claimants with regard to date of birth of the deceased. As such, claimants shall be entitled to addition in income for future prospects @ 25%. Deduction for personal expenses and multiplier adopted by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.12,15,000/- [(Rs.8100 x 12 x 15) + (25% future prospects) – (1/3rd 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.12,85,000/- and the additional amount is Rs.2,88,000/- (12,85,000 - 9,97,000), payable with interest @7.5% per annum from the date of petition till realization.

Indisputably, widow of the deceased has performed marriage after death of Rajbir Singh . The compensation assessed by the Tribunal has been allowed in favour of the claimants in equal share meaning thereby that the widow has been allowed 33% of compensation awarded by the Tribunal. Even if the widow has remarried, she cannot be denied due share of compensation. In this view of the matter, apportionment of compensation made by the Tribunal is not faulty and liable to be affirmed. The additional amount assessed by this Court shall also be paid to the claimants in equal ratio.

For the foregoing reasons, the appeals are disposed of in the aforesaid terms.

(REKHA MITTAL)
JUDGE

08.08.2018
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Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No