

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 9713 of 2014(O&M)

Date of Decision: 26.4.2018

Jaswinder Kaur

---Appellant

versus

Tarlok Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Kushagra Mahajan Advocate
for the appellant**

**Mr. Sunil Agnihotri, Advocate
for respondent No. 1**

**Mr. Akhil Agnihotri, Advocate
for Mr. Dheeraj Mahajan, Advocate
for respondent No. 4**

Rekha Mittal, J.

CM Nos. 26835 and 26836-CII of 2014

Prayer in these applications is for condoning delay of 11 days
in filing and 115 days in refiling the appeal.

In view of averments made in the applications and arguments
advanced, applications are allowed and delay of 11 days in filing and 115
days in refiling the appeal stands condoned.

Disposed of accordingly.

FAO No. 9713 of 2014

The claimant is in appeal seeking enhancement of
compensation on account of death of Talwinder Singh in a motor vehicular

accident that took place on 14.2.2010.

The Motor Accidents Claims Tribunal, Amritsar (in short “the Tribunal”) has awarded compensation of Rs. 4,30,000/-, detailed hereunder:-

Notional income of the deceased	Rs. 15,000/- per annum
Multiplier	18
Loss of dependency	Rs. 2,70,000/-
Loss of expectancy of life, pain and suffering	Rs. 75,000/-
Future prospects	Rs. 75,000/-
Funeral expenses	Rs. 5,000/-
Loss of estate	Rs. 5,000/-

Counsel for the claimant would urge that the deceased was 24 years old and doing diploma in Plastics Mould Technology and his monthly income was Rs. 3,000/-. The claimant failed to adduce any evidence with regard to educational qualification of the deceased or doing diploma in Plastics Mould Technology. However, the deceased was 24 years old and there is nothing on record suggestive of the fact that he had any disability to impair his capacity to earn livelihood for himself or his family. The minimum wage at the relevant time was more than Rs. 3000/- per month, stated to be earned by the deceased. The Tribunal has grossly erred by holding that his notional income is to be assessed on the basis of non-earning person at Rs. 15,000/- per annum. In view of the above, income of the deceased is assessed at Rs. 3,000/- per month. Claimant shall be entitled to addition in income for future prospects @ 40%. Multiplier adopted by the Tribunal is affirmed. However, there would be deduction for personal expenses to the tune of 50%. In this manner, loss of dependency comes to Rs.4,53,600/- [3000 x12x18=6,48,000 + 2,59,200(40%)=9,07,200-4,53,600 (50%)].

Compensation awarded by the Tribunal under conventional heads by relying upon judgment of Hon'ble the Supreme Court **R.K.Malik and another vs. Kiran Pal and others, 2009 ACJ 1924** is modified to the effect that claimant shall be entitled to Rs. 30,000/- i.e. Rs. 15,000/- for expenses on funeral and Rs. 15,000/- for loss of estate.

Total compensation is Rs. 4,83,600/- and the additional amount is Rs. - 53,600/-(4,83,600- 4,30,000), payable with interest @ 7.5% per annum from the date of petition till realization. All other terms and conditions of the award shall remain intact.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

26.4.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No