

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 13.9.2018

FAO No. 5962 of 2017(O&M)

Amarjit Kaur and another

---Appellants

versus

Ram Pal Singh and others

---Respondents

FAO No.82 of 2018(O&M)

Harmit Kaur

---Appellant

versus

Ram Pal Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajbir Singh, Advocate
for the appellants in FAO- 5962 of 2017**

**Mr. A.K.Walia, Advocate
for the appellant in FAO No. 82 of 2018**

**Mr. Sandeep Suri, Advocate,
for the insurance company**

Rekha Mittal, J.

This order will dispose of FAO Nos. 5962 of 2017 and 82 of 2018 as these have emerged out of common award dated 13.10.2016 passed by the Motor Accidents Claims Tribunal, Sangrur (in short “the Tribunal”) whereby compensation has been awarded in regard to death of Malkiat Singh in a motor vehicular accident that took place on 16.11.2014.

FAO No. 5962 of 2017 has been filed by parents of deceased Malkiat Singh whereas FAO No. 82 of 2018 by widow of the deceased.

CM No. 19351-CII of 2017

Prayer in this application is for condoning delay of 98 days in filing the appeal.

Heard.

In view of averments made in the application supported by affidavit of Amarjit Kaur- appellant No. 1 coupled with that provisions of the Motor Vehicles Act for grant of compensation are benevolent social legislation to save the victim family from the financial loss caused due to accident, the application is allowed, delay of 98 days in filing the appeal stands condoned subject, however, to the condition that in case the compensation is enhanced, the applicants-appellants shall not be entitle to interest for the period of delay.

Disposed of accordingly.

Main cases

The Tribunal has awarded compensation of Rs. 11,03,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 8,000/-
Deduction for personal expenses	1/3 rd
Multiplier	17
Loss of dependency	Rs. 10,88,000/-
Funeral expenses	Rs. 10,000/-
Transportation	Rs. 5,000/-

Claimants shall be entitled to increase in income for future prospects @ 40% . Income of the deceased, multiplier and deduction for personal expenses allowed by the Tribunal are affirmed. In this manner,

loss of dependency is calculated at Rs. 15,23,200/- [8000 x 12 x 17=16,32,000 +6,52,800=22,84,800-7,61,600].

The Tribunal has denied loss of consortium with the findings that widow has performed second marriage. Even if widow under compelling circumstances has performed second marriage she cannot be denied loss of consortium. Compensation awarded under conventional heads is modified to the effect that the claimants shall be entitled to Rs. 70,000/-, detailed hereunder:-

Loss of consortium to widow	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs.15,93,200/- and the additional amount is Rs. 4,90,200/-(15,93,200- 11,03,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 98 days in filing FAO No 5962 of 2017. The additional amount shall be apportioned between the mother and widow of the deceased in the ratio 75: 25.

The appeals stand partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

13.9.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No