IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 18.12.2019

1. **FAO No. 2635 of 2004(O&M)**

Mamta Devi and others …..Appellants

VERSUS

Pritam Singh and others .....Respondents

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2. **CM No.16901-CII of 2016 in**
FAO No. 2636 of 2004(O&M)

Shikhsha Devi and others …..Appellants

VERSUS

Pritam Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vipul Sharma, Advocate for
Mr. Nitin Mittal, Advocate for the appellants.

Mr. Gopal Mittal, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

CM No.16901-CII of 2016 in
FAO No.2636 of 2004

Prayer in this application is for fixing actual date of hearing in the appeal.

On joint request made by counsel for the parties, FAO No.2636 of 2004 and connected matter FAO No.2635 of 2004 are taken on board today itself for hearing and disposal.

Disposed of accordingly.

FAO No.2635 and 2636 of 2004

This order will dispose of FAO No.2635 and 2636 of 2004 as these have emerged out of the same award dated 15.01.2004 passed by the Motor Accidents Claims Tribunal, Ambala (in short 'the Tribunal') whereby compensation has been assessed on account of death of Balwant Singh and Kaka Ram @ Kaka Singh in a motor vehicular accident that took place on 29.07.2000.

FAO No.2635 of 2004 has been filed for grant of additional compensation with regard to death of Balwant Singh whereas the other appeal pertains to death of Kaka Ram @ Kaka Singh.

FAO No. 2635 of 2004

The Tribunal awarded Rs.4,04,000/- detailed hereunder:-

Monthly income of the deceased	Rs.2500/-
Multiplier	16
Deduction for personal and living expenses	$1/5^{th}$
Loss of dependency	Rs.3,84,000/-
Loss of consortium to widow	Rs.10,000/-
Funeral Expenses	Rs.10,000/-

Counsel for the appellants would argue that claimants may be allowed benefit of addition in income for future prospects and adequate compensation under conventional heads.

Counsel for the insurance company, on the other hand, would argue that claim has been filed by the widow, minor daughter and parents of the deceased, therefore, deduction for personal expenses should be $1/3^{rd}$.

There is no clear evidence on record with regard to income of the deceased. Taking a clue from the notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.2000/- per month. The claimants shall be entitle to addition in income for future prospects at the rate of 40%. The claim has been filed by the widow, minor daughter and parents of the deceased. The mother of deceased is stated to be 68 years old. There is nothing on record suggestive of the fact that father had any source of income. In the given circumstances, admissible deduction for personal expenses would be 1/4th. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency comes to Rs.4,03,200/- [Rs.3,84,000/- (Rs.2000 x 12 x 16) + Rs.1,53,600/- (40% addition towards future prospects) - Rs.1,34,400/-(1/4th deduction towards personal expenses)].

Under conventional heads, compensation awarded is modified to the effect that claimants shall be entitle to Rs.50,000/- detailed hereunder:-

Loss of consortium	Rs.30,000/-
Funeral expenses	Rs.10,000/-
Loss of estate	Rs.10.000/-

In view of the above, total compensation is Rs.4,53,200/- and additional amount Rs.49,200/- (Rs.4,53,200/- - Rs.4,04,000/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

FAO No. 2636 of 2004

The Tribunal awarded Rs.4,04,000/- detailed hereunder:-

Monthly income of the deceased	Rs.2500/-
Multiplier	16
Deduction for personal and living expenses	1/5th
Loss of dependency	Rs.3,84,000/-
Loss of consortium to widow	Rs.10,000/-
Funeral Expenses	Rs.10,000/-

In view of findings recorded in FAO No. 2635 of 2004, income of the deceased is assessed at Rs.2000/- per month and the claimants shall be entitle to addition in income for future prospects at the rate of 40%. The multiplier applied by the Tribunal is correct and affirmed. The claim has been filed by widow, four minor children and mother of the deceased. As such, deduction for personal expenses would be 1/4th. In this manner, loss of dependency comes to Rs.4,03,200/- [Rs.3,84,000/-(Rs.2000 x 12 x 16) + Rs.1,53,600/- (40% addition towards future prospects) - Rs.1,34,400/-(1/4th deduction towards personal expenses)].

Under conventional heads, compensation awarded is modified to the effect that claimants shall be entitle to Rs.50,000/- detailed hereunder:-

Loss of consortium	Rs.30,000/-
Funeral expenses	Rs.10,000/-
Loss of estate	Rs.10.000/-

In view of the above, total compensation is Rs.4,53,200/- and additional amount is Rs.49,200/- (Rs.4,53,200/- - Rs.4,04,000/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

DECEMBER 18, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no