

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4048-2002(O&M)

Date of decision: 17.07.2019

Amardeep Kaur and others

.....Appellants

versus

Sarwan Kumar and others

.....Respondents

FAO No.4049-2002(O&M)

Ishan Singh

.....Appellant

versus

Sarwan Kumar and others

.....Respondents

FAO No.4050-2002(O&M)

Amardeep Kaur

.....Appellant

versus

Sarwan Kumar and others

.....Respondents

FAO No.4047-2002(O&M)

Amardeep Kaur

.....Appellant

versus

Sarwan Kumar and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Kulwant Singh Dhanora, Advocate for the appellant(s)
Mr.Vinod Chaudhary, Advocate for the Insurance company

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

By this common judgment, I shall dispose of FAO Nos.4047,

4048, 4049 and 4050 of 2002, filed against the award dated 14.2.2002

passed by the Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal'). Facts are being extracted from FAO No.4048-2002.

On the fateful day of 21.11.1999, Satinderjit Singh, since deceased along with his wife Amardeep Kaur, minor daughter Gurjot Kaur, since deceased and minor son Ishan Singh were returning to their house from the house of one Gurshan Pal Singh on a scooter bearing Registration Number HR-03-A-4555. Two minor children and wife were riding pillion. When they reached on G.T.Road near T point and were waiting to cross the road, the offending truck bearing Registration Number MP-23D-5345 driven by its driver in rash and negligently manner struck against the scooter and dragged the scooter to the distance of 25-30 yards. Satinderjit Singh was crushed under the tyre of the said truck. Gurjot Kaur minor died at the spot, whereas Amardeep Kaur and his minor son Ishan Singh aged about 5/6 years received injuries.

Claimants are not satisfied with the quantum of compensation awarded by the Tribunal.

Firstly, this Court will take up FAO No.4050-2002 filed by appellant Amardeep Kaur regarding injuries suffered by her.

It comes out that following compensation has been awarded by the Tribunal:-

a)	<i>For medicines</i>	<i>Rs.25,000/-</i>
b)	<i>For permanent disability to extent of 9%</i>	<i>Rs.22,000/-</i>
c)	<i>For dislocation three teeth of the lower jaw</i>	<i>Rs.6000/-</i>
d)	<i>For pain and suffering, amenities</i>	<i>Rs.20000/-</i>
e)	<i>For special diet</i>	<i>Rs.10000/-</i>
f)	<i>For attendant, transportation, etc.</i>	<i>Rs.5000/-</i>

	<i>Total</i>	<i>Rs.88,000/-</i>

Admittedly, in this case, claimant Amardeep Kaur remained admitted in PGI for three weeks. There is shortening of her right leg by one inch. Her mandible was put under wire for six months.

Learned counsel for the appellant states that compensation awarded to Amardeep Kaur is on the lower side. Learned counsel for the appellant presses for enhancement of compensation under the head of permanent disability and dislocation of three teeth.

On the other hand, learned counsel for the insurance company contends that the accident is of the year 1999 and considering the value of rupee at that time, already sufficient compensation has been awarded.

I am of the view that on account of shortening of leg, the claimant will have to walk with limp which will continue for whole of her life. There is also dislocation of three teeth of lower jaw. Therefore, compensation awarded for 9% disability and dislocation of teeth is bit on the lower side. As such, compensation for permanent disability is enhanced from Rs.22,000/- to Rs.50,000/- and for dislocation of teeth from Rs.6,000/- to Rs.25,000/-. The enhanced compensation is ordered to be paid with interest @ 7.5 per annum from the date of filing of claim petition till realization.

FAO No.4049-2002

It comes out that Ishan Singh minor suffered fracture of left clavical with fracture of mandible. He remained admitted in PGI for two weeks and also visited PGI for follow up treatment. The Tribunal awarded lump sum compensation of Rs.10,000/- on account of the injuries sustained by him, including pain and suffering.

I am of the view that the compensation awarded by the Tribunal

is on the lower side. On account of the fracture of mandible, there is discomfort which continues for months together and for the fracture of clavical, same is the position. One has to spend on medicines, transportation on account of repeated visits to the hospital. For pain and suffering, the minor child also requires attendant. As such, compensation of Rs.10,000/- is enhanced to Rs.50,000/-. The enhanced compensation is ordered to be paid with interest @ 7.5 per annum from the date of filing of claim petition till realization.

FAO 4048-2002

On account of death of Satinderjit Singh, the Tribunal has awarded compensation to the tune of Rs.3,49,000/-, which includes Rs.10,000/- for the last rites and Rs.15,000/- for loss of consortium to the widow.

It is proved on record that the deceased was working in Krishna Rice Mill and as per record, he was getting carry home salary of Rs.2700/- per month. Since, the deceased was 36 years of age at the time of accident, 40% i.e. Rs.1080/- are to be added on account of future prospects. Total income comes to Rs.3780/-. Since, there are four dependents, 1/4th is deducted as personal expenses i.e. Rs.945/-. Dependency of the claimants comes to Rs.2835/-. Considering the age of the deceased as 36 years, multiplier of 15 is to be applied. Therefore, amount of compensation comes to Rs.2835x12x15= Rs.5,10,300/-. Rs.70,000/- under the conventional head to the widow i.e. loss of estate, loss of consortium and loss of love are allowed. As per judgment in the case of Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram, 2018(4)R.C.R. (Civil) 333, Rs.40,000/- to the minor child for loss of love and affection are

allowed. Total compensation comes to Rs.6,20,300/-. The enhanced compensation is ordered to be paid with interest @ 7.5 per annum from the date of filing of claim petition till realization.

FAO No.4047-2002

For the death of Gurjot Kaur, compensation of Rs.80,000/- has been allowed and Rs.5000/- have been allowed on account of transportation and last rites.

I am of the view that for the death of minor, compensation awarded by the Tribunal is on the lower side. Deceased was aged about 6 years at the time of accident. When she had grown up, she was likely to look after her mother. There is loss of support also.

In these circumstances, I am of the view that in place of Rs.85,000/-, lump sum compensation of Rs.3,50,000/- will meet the ends of justice. Accordingly, the compensation is enhanced from Rs.85,000/- to Rs.3,50,000/-. The enhanced compensation is ordered to be paid with interest @ 7.5 per annum from the date of filing of claim petition till realization.

A photocopy of the order be placed on the file of connected cases.

17.07.2019*gk***(Kuldip Singh)****Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No