

204(3 cases)

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

1. **FAO-3942-2010**
Date of Decision: September 24, 2019

Vinod Kumar

.....Appellant

Versus

Paramjit Kaur and others

.....Respondents

2. **FAO-4292-2010**

Vinod Kumar

.....Appellant

Versus

Manpreet Singh and others

.....Respondents

and

3. **FAO-6723-2010**

Paramjit Kaur and others

.....Appellants

Versus

Vinod Kumar

.....Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Ranvir Singh Chauhan, Advocate
for the appellants in FAO Nos.3942 and 4292 of 2010

Mr.Chanchal K.Singla, Advocate
for appellants in FAO-6723 of 2010 and
for respondent Nos.1 to 4 in FAO-3942-2010 and
for respondent Nos.1 to 3 in FAO-4292-2010.

.....

NIRMALJIT KAUR, J. (ORAL)

All the above mentioned appeals shall stand decided by this
common order.

FAO Nos.3942 of 2010 has been filed by appellant-Vinod

Kumar against Ms.Paramjit Kaur and others, who are the claimants in FAO No.6723 of 2010. FAO No.4292 of 2010 is also filed by claimant Vinod Kumar, who is also a respondent in FAO No.6723 of 2010 on the following grounds:-

Firstly, the respondents are liable for contributory negligence and secondly he too was entitled to compensation as he has suffered 50% disability, whereas, his claim was rejected. It is contended that claim was rejected simply on the ground of delay, whereas, he could not file his claim early because of the injuries having been suffered by him and being under constant treatment.

The said argument deserves to be rejected outrightly. A perusal of the Award shows that claim of the appellant-Vinod Kumar was rejected not on account of delay but because of a specific finding that the death of deceased Ranjit Singh was on account of rash and negligent driving of motor-cycle PB-70-6297 being driven by Vinod Kumar. Vinod Kumar produced no evidence to prove the negligence of driver Ranjit Singh. Even before this Court, no argument has been raised, which may enable this Court to conclude that there was contributory negligence on the part of Ranjit Singh. Having failed to prove any negligence of Ranjit Singh, appellant-Vinod Kumar is not entitled to any compensation.

Accordingly, FAO No. 4292 of 2010 deserves to be dismissed.

FAO No.6723 of 2010 is filed for enhancement of compensation by appellant-claimants-Paramjit Kaur and others, who are legal heirs of Ranjit Singh. While praying for enhancement, learned counsel for the appellant-claimants-Paramjit Kaur and others submitted that they were entitled to the enhancement towards future prospects and that the

multiplier should have been 14 instead of 13. Further, nothing has been awarded towards consortium and loss of estate etc.

There may be some scope of enhancement, but this Court is not inclined to enhance the same in view of the fact that respondent in the present case is Vinod Kumar, who too had suffered 50% disability in the same accident and has not received any compensation at all. Moreover, the said Vinod Kumar has also since died on 03.11.2011 and appellant-claimants-Paramjit Kaur and others are already struggling for recovery of the amount already awarded against the legal heirs of said Vinod Kumar. In the circumstances, neither any useful purpose will be served nor anything really survives in the present appeal. The same too is dismissed.

FAO No.3942 of 2010 filed by Vinod Kumar, in any case, stands abated because Vinod Kumar has since died and no legal heir has been impleaded. Even if, the legal heirs are impleaded, the same still deserves to be dismissed for the same reasons as recorded in FAO No.4292 of 2010.

In view of the above, all the appeals stand dismissed.

September 24, 2019
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(NIRMALJIT KAUR)
JUDGE

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|---------------------------------------|---------------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |