

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

Date of decision: 26.03.2019

FAO No.9390 of 2014 (O&M)

Baljit Kaur minor thr. her mother ... Appellant

Versus

Dilbagh Singh and another ... Respondents

FAO No.10195 of 2014 (O&M)

Amarjit Kumar and another ... Appellants

Versus

Dilbagh Singh and another ... Respondents

FAO No.10196 of 2014 (O&M)

Jaspal Kaur ... Appellant

Versus

Dilbagh Singh and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Amardeep Singh, Advocate
for the appellants.

Mr. Amit Gupta, Advocate
for respondent No.1.

Mr. Aditya Sharda, AAG, Punjab.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.9390, 10195 and 10196 of
2014 as these have emerged out of the same accident that took place on

25.11.2012 in which Baljit Kaur minor, Jaspal Kaur and Ekta Rani sustained injuries but Ekta Rani succumbed to injuries.

FAO No.9390 of 2014 is filed by Baljit Kaur for enhancement of compensation whereas the other two appeals have been preferred for the same relief qua death of Ekta Rani and injuries of Jaspal Kaur.

FAO No.10195 of 2014

The Tribunal has awarded Rs.2,34,000/-, detailed hereunder:-

1. Notional income of the deceased	Rs.3000/-
2. Multiplier	13
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.2,34,000/-

The plea of claimants is that the deceased was doing nursing course and had been earning Rs.5000/- per month by doing tuition work. The Tribunal has assessed notional income of the deceased at Rs.3000/- per month, in view of services rendered by her to her parents. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, interest of justice commands that income of the deceased assessed by the Tribunal is accepted and accordingly loss of dependency is computed. Claimants shall be entitle to addition in income for future prospects @ 40%. In this context, reference can be made to judgment of this Court **National Insurance Co. Ltd. Vs. Pushpa Singh Chauhan and others, FAO No.1502 of 2015, decided on 20.03.2015**, affirmed by Hon'ble the Supreme Court in Special Leave Petition (C) S. No.19533 of 2015. The Tribunal has rightly deducted 50% for personal and living

expenses of deceased. However, the admissible multiplier, as per age of the deceased, would be 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77, Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315 and National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. In this manner, loss of dependency is calculated at Rs.4,53,600/- [(3000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.4,83,600/- and the additional amount is Rs.2,49,600/- (4,83,600 – 2,34,000). The issue with regard to adjustment of amount already paid by the State Government and driver of offending vehicle would be decided in the other appeals.

FAO Nos.9390 and 10196 of 2014

Counsel for the appellant would state that there does not appear any possibility of allowing additional compensation in respect of injuries sustained by Baljit Kaur minor and Jaspal Kaur. However, he has submitted that the Tribunal has deducted a sum of Rs.4,75,000/- out of compensation awarded qua death of Ekta Rani and injuries sustained by the

aforesaid victims.

Counsel for the appellants would inform that a sum of Rs.4,75,000/- has already been paid to the claimants in all the three cases and the Tribunal by calculating the compensation allowed in all the three cases and adjusting the sum of Rs.4,75,000/- already received by the claimants had held that nothing is payable to the claimants as they have already received amount more than what is assessed by the Tribunal. He would argue that since compensation in respect of death of Ekta Rani has been enhanced by this Court, claimants in FAO No.10195 of 2014 are entitle to the amount which is in excess of Rs.4,75,000/- after taking into consideration compensation assessed in the three cases, subject matter of the appeals.

Counsel for the respondents do not dispute that after calculating the compensation payable in all the three cases and adjustment of sum of Rs.4,75,000/- already received by the claimants, the remaining amount is payable to Amarjit Kaur and another in regard to death of Ekta Rani. Accordingly, claimants in FAO No.10195 of 2014 shall be entitle to additional sum of Rs.2,11,322/- $(4,83,600 + 96,448 + 1,06,274 - 4,75,000)$ payable with interest @ 7.5% per annum from the date of petition till realization.

The appeals are disposed of in the aforesaid terms. All other terms and conditions of the award shall remain intact.

26.03.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No