

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

(1) **XOBJC-116-CII-2013 in/and
FAO No.2668 of 2013 (O&M)
Date of Decision: May 20, 2019.**

Dayanand and others

.....APPELLANT(s).

VERSUS

Narender and others

.....RESPONDENT(s).

(2) **FAO No.1915 of 2014(O&M)**

Narender

.....APPELLANT(s).

VERSUS

Dayanand and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Surinder Saini, Advocate
for the appellants in FAO-2668-2013.

Mr. Ashish Pannu, Advocate for
respondent No.1 in FAO-2668-2013 and
for appellant in FAO-1915-2014.

Mr. Navneet Singh, Advocate
for respondent No.3/cross-objector Shri Bhagwan
in FAO-2668-2013.

Mr. Manoj Chahal, Advocate
for respondent No.2 in FAO-2668-2013 and
for respondent No.5 in FAO-1915-2014.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Sonapat vide award dated

and Nirmala (appellants No.1 and 2 in FAO-2668-2013) for death of Madan, son of claimants No.1 and 2 and brother of claimants No.3 and 4, in a motor vehicle accident, which took place on 26.08.2008 due to rash and negligent driving of TATA-709 vehicle bearing registration No.HR-46B-1646 (later referred to as the offending vehicle).

Against the impugned award, claimants have filed appeal bearing FAO No.2668 of 2013, wherein alleged subsequent purchaser of the offending vehicle has filed cross-objections, seeking right to recover the amount of compensation paid to be claimants from registered owner of the offending vehicle. Driver of the offending vehicle has also filed another appeal FAO No.1915 of 2014 against the impugned award.

As the only issues pressed in these appeal as well as cross-objections, relate to quantum of compensation as awarded by tribunal, liability to pay the amount of compensation and grant of recovery rights, detailed facts of the case are being skipped for the sake of brevity.

FAO-2668-2013

The compensation awarded by the tribunal was computed as follows:-

(i)	Name of the deceased	Madan
(ii)	Date of accident	26.08.2008
(iii)	Age of the deceased	24 years
(iv)	Income of the deceased (assessed by the tribunal at DC rates)	₹6000 p.m.
(v)	Deduction towards personal expenses 1/2	₹6000-3000=₹3000 p.m. i.e. ₹36000 p.a.
(vi)	Multiplier applied 13	₹36000X13 = ₹468000/-
(vii)	Funeral expenses	₹5000
(viii)	Loss of estate	₹5000
<i>Total</i>		₹4,78,000/-

Learned counsel for the appellants has confined his submission for re-assessment of compensation awarded for the death of Madan as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009.***

Learned counsel for respondent(s) have no objections to the submissions of learned counsel for the appellants-claimants.

The deceased was 24 years of age. While computing the amount of compensation, the tribunal applied multiplier of 13, which is to be revised as 18. The claimants are also entitled to addition of 40% in the income of the deceased towards loss of future prospects in view of ratio of law laid down by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra).*** Keeping in view the money value at the relevant point of time, the claimants are also entitled to compensation of ₹20,000/- under the conventional heads.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹6000 per month
(ii)	40% of above (i) to be added as loss of future prospects	(₹6000+₹2400)= ₹8400 per month
(iii)	Deduction of 1/2 towards personal expenses of the deceased	(₹8400-₹4200)= ₹4200 per month
(iv)	Compensation after multiplier of 18 is applied	(₹4200X12X18)= ₹907200
(v)	Loss of estate	₹10000
(vi)	Funeral expenses	₹10000
<i>Total</i>		₹9,27,200/-

The appeal (FAO No.2668 fo 2013) has merits and is accepted.

The award of the tribunal is modified and the compensation allowed to the appellants-claimants No.1 and 2 is enhanced from ₹4,78,000/- to ₹9,27,200/- for death of Madan. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants as follows:-

- | | | |
|------|----------------------------------|-------|
| (i) | Appellant-claimant No.1-father | : 20% |
| (ii) | Appellants-claimants No.2-mother | : 80% |

Respondents will deposit the shares of appellants-claimants No.1 and 2 in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal.

In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be paid to other surviving claimant.

XOBJC-116-CII-2013 and
FAO-1915-2014

Appeal (FAO No.1915 of 2014) has been filed by Narender, driver of the offending vehicle against the award fixing his liability to pay the amount of compensation. Cross-objections (XOBJC-166-CII-2014) have been filed by Shri Bhagwan Dahiya, subsequent purchaser of the offending vehicle.

During the course of arguments, learned counsel for appellant Narender and cross-objector Shri Bhagwan Dahiya have submitted that amount of compensation has already been deposited before the executing

Court. They seek permission to withdraw the appeal (FAO-1915-2014) and

cross-objections with right to cross-objector to file suit to recover the amount of compensation paid by him from the registered owner of the offending vehicle.

In view of submission of learned counsel for appellant Narender and cross-objector Shri Bhagwan Dahiya, the appeal (FAO No.1915 of 2014) and cross-objections (XOBJC-116-CII-2013) are allowed to be withdrawn with liberty to the cross-objector to avail the remedy to recover the amount of compensation paid to claimants from the registered owner in accordance with law, subject to proof that the offending vehicle was not sold to cross-objector Shri Bhagwan Dahiya.

May 20, 2019.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***