

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

Date of decision: 20.03.2019

FAO No.1262 of 2014 (O&M)

Smt. Monia and others

... Appellants

Versus

Ramphal and others

... Respondents

FAO No.1264 of 2014 (O&M)

Gian Singh

... Appellant

Versus

Ramphal and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashok K. Sharma, Advocate
for the appellants.

Mr. Rohit Choudhary, Advocate for
Mr. Vijay Saini, Advocate
for respondent No.2.

Mr. Vishal Sharma, Advocate
for respondent No.3.

Mr. Pradeep Kumar, Advocate
for respondent No.4.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.1262 and 1264 of 2014 as
these have emerged out of the same award dated 30.07.2012 passed by the
Motor Accidents Claims Tribunal, Jind whereby compensation has been

assessed on account of death of Naresh and injuries sustained by Gian Singh in a motor vehicular accident that took place on 15.03.2010.

FAO No.1262 of 2014 has been filed by Smt. Monia and others for enhancement of compensation whereas the other appeal has been preferred by injured Gian Singh for the same relief.

FAO No.1262 of 2014

The Tribunal has awarded Rs.5,96,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4000/-
2. Multiplier	18
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.5,76,000/-
5. Expenses on funeral	Rs.5000/-
6. Loss of estate	Rs.5000/-
7. Loss of consortium	Rs.10,000/-

The plea of claimants is that deceased was a skilled mason, milk supplier and agriculturist thereby earning Rs.10,000/- per month. However, claimants failed to adduce sufficient much less cogent evidence to establish their plea with regard to avocation and income of the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.4300/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.8,66,880/- [(4300 x 12 x 18) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed by the

Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.9,36,880/- and the additional amount is Rs.3,40,880/- (9,36,880 - 5,96,000), payable with interest @ 7.5% per annum from the date of petition till realization, to Sakshi @ Simran, minor daughter of the deceased, to be invested in fixed deposit till she attains the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

FAO No.1264 of 2014

The Tribunal has awarded Rs.5,25,700/-, detailed hereunder:-

1. Medical expenses	Rs.1,12,500/-
2. Conveyance charges	Rs.26,200/-
3. Special diet	Rs.5000/-
4. Special attendant	Rs.3000/-
5. Loss of earnings	Rs.90,000/-
6. Loss of future earnings	Rs.2,04,000/-
7. Pain and sufferings	Rs.45,000/-
8. Loss of amenities of life	Rs.30,000/-
9. Future medical expenses	Rs.10,000/-

Dr. Satish Verma PW9, a member of the medical board was examined to prove disability suffered by the victim and disability certificate Ex.P71. The Tribunal in para 21 of the award has noted in detail observation of the medical board on the basis whereof disability to the extent of 56% permanent and 3% temporary was assessed. Perusal of findings of the medical board would reveal that the appellant suffered

fracture of both bones right leg with deformity of right foot with shortening of lower limb by 2", stiffness of knee and amputation of third toe. The disability is qua particular limb and not qua whole body.

The plea of claimant is that the injured was a milk man, doing bee farming and running a karyana shop. He examined Sushil of village Pegan to prove that he had been selling milk. However, the injured did not produce any documentary evidence with regard to his income. Taking a clue from notification issued by the State of Haryana fixing minimum wage coupled with evidence on record, income of the injured is assessed at Rs.6000/- per month. Disability suffered by the victim would be taken as functional disability to the extent of 25%. Accordingly, the future loss of income on account of disability is assessed at Rs.3,06,000/- ($6000 \times 12 \times 17 \times 25/100$).

The Tribunal has awarded a sum of Rs.90,000/- for loss of earning from March, 2010 to September, 2011 @ Rs.5000/- per month. The same would be allowed for the aforesaid period @ Rs.6000/- per month and comes to Rs.1,08,000/- (additional amount Rs.18,000).

Compensation allowed by the Tribunal for special diet and services of an attendant is enhanced to Rs.15,000/- (additional sum of Rs.7000). Compensation for pain and sufferings, loss of amenities of life, future medical expenses, conveyance charges and medical expenses allowed by the Tribunal are affirmed. In this manner, total compensation is Rs.6,52,700/- and the additional amount is Rs.1,27,000/- (6,52,700 –

5,25,700), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

20.03.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No