

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

Date of decision: 25.01.2019

FAO No.2398 of 2014 (O&M)

Karam Singh

... Appellant

Versus

Hardip @ Rajesh and others

... Respondents

FAO No.2399 of 2014 (O&M)

Karam Singh

... Appellant

Versus

Hardip @ Rajesh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Jasbir Mor, Advocate
for the appellant.

Mr. Eklavya Kumar, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.2398 and 2399 of 2014 as these have emerged out of the same award dated 04.01.2013 passed by the Motor Accidents Claims Tribunal, Jind, whereby compensation has been assessed in respect of injuries sustained by Karam Singh and death of mare and damage to cart.

FAO No.2398 of 2014 has been filed by Karam Singh claiming enhancement of compensation in respect of death of mare and damage to cart whereas the other appeal is in respect of injuries sustained by him.

FAO No.2398 of 2014

The Tribunal has awarded compensation of Rs.55000/-, detailed hereunder:-

- | | |
|-----------------------------------|-------------|
| 1. Compensation for death of mare | Rs.40,000/- |
| 2. Damage to cart | Rs.15,000/- |

The Tribunal, in para 27 of the award, has held that the mare of petitioner died and cart was damaged badly. Petitioner has been awarded Rs.15,000/- for damage to cart and Rs.40,000/- on account of death of mare as Kashmiri Lal himself pleaded that he could have sold mare for Rs.30,000/- to Rs.40,000/- after delivery. Moreover, petitioner failed to produce any document so as to prove source of payment of Rs.90,000/- for mare and Rs.22,000/- for cart.

Taking into consideration the materials on record coupled with facts elicited in cross examination of the witness, I do not find an error much less illegality in the compensation assessed by the Tribunal. That being so, there is no justification for allowing compensation more than what has been allowed by the Tribunal.

For the foregoing reasons, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

FAO No.2399 of 2014

The Tribunal has awarded compensation of Rs.70,500/-,

detailed hereunder:-

1. Pain and sufferings and special diet	Rs.10,000/-
2. Stay in hospital	Rs.8500/-
3. Bills	Rs.32,000/-
4. Disability	Rs.20,000/-

The claimant produced bills amounting to Rs.32,245/- but the Tribunal has allowed reimbursement of medical expenses to the tune of Rs.32,000/-. Claimant shall be entitle to a sum of Rs.32,500/- in respect of medical expenses.

The injured remained hospitalised from 14.12.2011 to 30.12.2011 namely 17 days. Claimant shall be entitle to a sum of Rs.5000/- for expenses on special diet and services of an attendant. Compensation allowed by the Tribunal for pain and sufferings and special diet is appropriated to pain and sufferings only. An amount of Rs.8500 in respect of stay in hospital is affirmed.

The injured suffered disability to the extent of 10%. As per the disability certificate, 10% disability is in relation to compound fracture left without neurological deficiency with pain. The claimant did not examine a doctor to prove the disability certificate nor there is any medical opinion as to how this disability is to be treated for the purpose of assessing functional disability. Perusal of findings incorporated in the disability certificate also does not make the picture clear to make assessment qua functional disability, if any, suffered in the given scenario. As such, compensation allowed by the Tribunal @ Rs.2000/- per percent for disability does not

warrant interference. The additional amount of Rs.5500/- shall be payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 289 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

25.01.2019

ashok

(REKHA MITTAL)
JUDGE

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