

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

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Date of decision: 28.08.2019
FAO No.225 of 2015 (O&M)

Ram Narayan @ Kamal Narayan

... Appellant

Versus

Tejpal and others

... Respondents
FAO No.693 of 2015 (O&M)

Vijay Paswan @ Vijay Ram and others

... Appellants

Versus

Tejpal and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Baljinder Singh, Advocate for
Mr. Vishal Nehra, Advocate for the claimants.
Mr. Neeraj Khanna, Advocate for the insurance company.
Ms. Kamlesh, Advocate for
Mr. Parminder Singh, Advocate for owner.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.225 and 693 of 2015 as these have emerged out of the same award dated 31.01.2012 whereby compensation has been assessed on account of death of Viphya wife of Vijay Paswan and injuries sustained by Ram Narayan @ Kamal Narayan in a motor vehicular accident that took place on 19.08.2009.

FAO No.225 of 2015

CM No.652-CII of 2015

Prayer in this application is for condonation of delay of 934 days in filing the appeal.

In view of averments made in the application supported by an affidavit of the appellant coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 934 days in filing the appeal is condoned subject to the condition that the claimant shall forgo interest for the period of delay, in case compensation is enhanced.

Main Case

The Tribunal awarded Rs.16,400/-, detailed hereunder:-

FAO Nos.225 and 693 of 2015**-2-**

Compensation for pain and agony	Rs.2000/-
Compensation for better diet & convalescence	Rs.1000/-
Transportation	Rs.5000/-
Loss of income	Rs.8400/-

The Tribunal has noticed that the injured remained hospitalised in PGIMS, Rohtak from 19.08.2009 to 24.08.2009. He produced treatment record Ex.P124, copy of voter card Ex.P131 and copy of medico legal report Ex.P125. The Tribunal has accepted contention of the claimant that right arm of the victim was fractured for which he was operated upon and rod was inserted during his hospitalisation in PGIMS, Rohtak. The Tribunal has not allowed adequate compensation for pain and sufferings. Claimant is awarded Rs.7500/- for pain and sufferings (additional amount of Rs.5500/-).

The Tribunal has awarded Rs.8400/- for loss of income during the period of treatment and recovery and the same is affirmed. He is awarded additional amount of Rs.5000/- under the heads special diet and services of an attendant. Since the injured remained hospitalised for a period of 6 days and had suffered fracture on right arm that required surgery, he is awarded Rs.5000/- for medical expenses. In this manner, the claimant shall be entitled to additional amount of Rs.15,500/-, payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 934 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

FAO No.693 of 2015

The Tribunal awarded Rs.5,05,400/-, detailed hereunder:-

Monthly income of the deceased	Rs.4200/-
Multiplier	14
Deduction for personal expenses	1/3 rd
Loss of dependency	Rs.4,70,400/-
Expenses on funeral	Rs.10,000/-
Loss of estate	Rs.10,000/-
Loss of consortium	Rs.5000/-
Loss of love and affection	Rs.10,000/-

The plea of claimants is that the deceased was doing labour work thereby earning Rs.4500/- per month. The Tribunal has assessed her income at Rs.4200/- per month with the observation that there is nothing on record to refute the fact that deceased doing labour work and even if she was a housewife, she is to be treated as daily wage earner. There is no clear

evidence on record with regard to the deceased doing any labour job. In the given circumstances, value of services of the deceased would be assessed as a housemaker. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with that a house-maker has multifarious duties to perform, value of services of the deceased is assessed at Rs.6000/- per month. No deduction for personal expenses would be made in the light of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730**. The admissible multiplier is 15. In this manner, loss of dependency is calculated at Rs.10,80,000/- (6000 x 12 x 15).

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.55,000/-, detailed hereunder:-

- | | |
|---------------------------|-------------|
| 1. Expenses on last rites | Rs.15,000/- |
| 2. Loss of consortium | Rs.40,000/- |

Total compensation is Rs.11,35,000/- and additional amount is Rs.6,29,600/- (11,35,000 - 5,05,400), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 934 days in filing the appeal, to minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

28.08.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No