

FAO-1720-2016(O&M) &
FAO-5736-2016(O&M)

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

(1) FAO-1720-2016(O&M)

Smt.Kamla Devi and another

...Appellants

Versus

Jagir Singh and others

...Respondents

(2) FAO-5736-2016(O&M)

Smt.Krishna Devi and another

...Appellants

Versus

Jagir Singh and others

...Respondents

Date of Decision:-30.9.2019

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.P.C. Chaudhary, Advocate
for the appellants in FAO-1720-2016.

Mr.Ravindra Jain, Advocate
for the appellants in FAO-5736-2016.

Ms.Rajvinder Kaur, Advocate
for the respondent No.1 in both appeals.

Mr.Harkesh Kumar, AAG, Haryana
for respondents No.2 and 3 in both appeals.

Mr.Gulshan Mehta, Advocate
for the respondent No.4 in both appeals.

H.S. MADAAN, J.

By this order, I shall dispose of two FAOs i.e. FAO-1720-
2016 filed on behalf of appellants/claimants – Smt.Kamla Devi and

another and FAO-5736-2016 filed on behalf of appellants/claimants Smt.Krishna Devi and another, which have arisen out of the same accident.

Briefly stated, facts of the case as per version of the claimants are that on 25.5.2013 Amit Kumar, aged about 19 years, a student of Polytechnic, Mechanical Engineering, Institute of Vertex Technologies, Radaur was pillion riding the motorcycle having registration No.HR02X-9654 make Hero Honda, Splendor Plus, which was being driven by Tinku, aged about 22 years and a student of Civil Engineering in Institute of Vertex Technologies, Radaur; the motorcycle was being driven at a normal speed on correct left hand side of the road; when the said motorcycle had just crossed Goldi Dhaba and reached near Warehouse Godown, Grain Market, Radaur on Radwa Radaur road, in the meantime, a bus bearing registration No.HR45-A-5019 (hereinafter referred to as the offending vehicle) belonging to Haryana Roadways, Karnal Depot being driven by respondent No.1 – Jagir Singh in a rash and negligent manner at a very high speed came from Yamuna Nagar side and by going on the wrong side hit the motorcycle; both the riders fell down and sustained multiple injuries; Tinku succumbed to the injuries at the spot, whereas Amit Kumar injured was taken to PHC Radaur and after providing first aid, he was referred to Civil Hospital, Yamuna Nagar, however, he succumbed to the injuries suffered by him in the way; formal FIR No.90 dated 25.5.2013 for the offences under Sections 279 and 304-A IPC was registered at Police Station Radaur on the basis of statement of Dayal Chand.

Both the deceased were unmarried. Their parents had filed separate claim petitions.

Petitioners Smt.Krishna Devi – mother and Sh.Mahinder Pal – father of deceased Amit Kumar had brought a claim petition bearing MACT Case No.61 of 2013 against respondents i.e. Jagir Singh – driver, General Manager, Haryana Roadways, Karnal Depot – registered owner, State of Haryana through Transport Commissioner, Chandigarh – controller cum-owner and The New India Assurance Company Ltd. - insurer, claiming compensation to the tune of Rs.30 lakhs, on account of death of their son in a motor vehicular accident.

Petitioners Smt.Kamla Devi – mother and Sh.Ramesh Chand – father of deceased Tinku had also brought a claim petition bearing MACT Case No.29 of 2013 against the above-said respondents, claiming compensation to the tune of Rs.30 lakhs, on account of death of their son in the motor vehicular accident.

Since both the claim petitions arose out of the same accident, those were tried together by Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri(hereinafter referred to as the Tribunal).

After hearing arguments, the claim petitions were allowed partly by the Tribunal vide award dated 22.9.2015. Petitioner/claimant No.1 Smt.Krishna Devi, who had filed MACT Case No.61 of 2013 was awarded compensation of Rs.6,78,000/- and petitioner/claimant No.1 Smt.Kamla Devi, who had filed MACT Case No.29 of 2013 was also awarded compensation of Rs.6,78,000/- along with interest at the rate of 9% per annum from the date of filing of the petitions till recovery payable

by respondents No.1 to 4 jointly and severally.

The claimants in both the claim petitions were dissatisfied with the compensation awarded to them and they have filed separate appeals before this Court seeking enhancement of compensation.

Notice of the appeals was issued to the respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The Tribunal considering the age of deceased Amit Kumar to be 17 years on the basis of evidence available on the record and he being a student of Mechanical Engineering in Institute of Vertex Technology Engineering College, Ladwa Road, Radaur, took his notional income to be Rs.6,000/-. Similarly, considering the age of Tinku to be 23 years in view of the evidence produced on the record by the parties and he being a student of Civil engineering in Institute of Vertex Technology Engineering College, Ladwa Road, Radaur, his notional income was also taken to be Rs.6,000/-. However, no addition on account of future prospects has been made.

Both the deceased after completion of their diploma could be expected to land good jobs either in public sector or with some private organization earning handsome amounts and such income is supposed to increase with passage of time on gaining adequate experience.

So, addition towards future prospects ought to have been made. In view of the ratio of authority *National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009*, keeping

in view the ages of deceased, 40% of the amount is to be added towards their future prospects. Doing that the monthly income is taken as Rs.6,000 + 2400 = Rs.8,400/- of each deceased.

In terms of the ratio of authority **Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr., 2009(3) RCR(Civil)77** where the deceased was a bachelor and the claimants are the parents, deduction towards self-expenses is to be taken as 50%. In this case the Tribunal has correctly deducted 50% of the amount towards self expenses of both the deceased. Doing that the dependency of claimants comes out to Rs.4,200/- per month, annual dependency comes out to Rs.4,200 x 12 = Rs.50,400/-.

The Tribunal has used multiplier of 18, which keeping in view the age of both the deceased has been properly used. Doing that the compensation payable comes out to Rs. 50,400 x 18 = 9,07,200/- each to the claimants in both the petitions.

In view of the ratio of authority **National Insurance Company Limited Versus Pranay Sethi and Ors.**(supra), the claimants entitled to get compensation under conventional heads i.e. Rs.15,000/- on account of loss of estate and Rs.15,000/- as funeral expenses, total Rs.30,000/-. The total compensation comes out to Rs. 9,07,200 + 30,000 = 9,37,200/- in each petition.

The Tribunal has awarded compensation of Rs.6,78,000/- in each petition.

In this way, the enhanced amount comes out to Rs.2,59,200/- (9,37,200 – 6,78,000) in each petition. The claimants would be entitled to

get interest @ 7.5% per annum from the date of filing of the appeals till actual realization on the enhanced amount of Rs. 2,59,200 /- in each appeal.

The amount of compensation is to be apportioned amongst the claimants in equal shares.

The other terms and conditions given in the relief clause shall apply to the enhanced amount as well.

With such modifications, both the appeals are allowed partly.

30.9.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No