

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

240

Date of decision: 14.01.2019

FAO-402-2015 (O&M)

UNITED INDIA INSURANCE CO LTD

... Appellant

Versus

MANJU & ORS

... Respondents

FAO-403-2015 (O&M)

UNITED INDIA INSURANCE CO LTD

... Appellant

Versus

RAJWATI & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Suvir Dewan, Advocate for the appellant.

None for the claimants.

Mr. Tarun Yadav, Advocate for the driver-respondent No.6.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.402 and 403 of 2015 as these have emerged out of the same award dated 30.05.2014 passed by the Motor Accidents Claims Tribunal, Rewari whereby compensation has been assessed on account of death of Krishan and Rambir in a motor vehicular accident that took place on 03.02.2009.

Counsel for the insurance company would inform that the appeals have been preferred to assail quantum of compensation assessed by the Tribunal.

FAO No.402 of 2015

It is argued that since the claimants filed application under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act'), claimants cannot be allowed compensation more than what has been prescribed in the Second Schedule appended to Section 163-A of the Act.

There is no representation on behalf of the claimants, earlier being represented by a counsel.

With regard to death of Krishan, the Tribunal has awarded

compensation of Rs.6,29,900/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3300/-
2. Multiplier	17
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.5,04,900/-
5. Expenses on funeral	Rs.25,000/-
6. Loss of consortium	Rs.1,00,000/-

Indisputably, the application for compensation has been filed by invoking Section 163-A of the Act wherein compensation is to be assessed in accordance with the provisions of Second Schedule appended to Section 163-A of the Act. Taking into consideration the structured formula laid down in the Second Schedule, deduction for personal expenses would be 1/3rd. The multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.4,48,800/- [(3300 x 12 x 17) – (1/3rd deduction for personal expenses)].

Under conventional heads, claimants shall be entitle to Rs.9500/-, detailed hereunder:-

1. Funeral expenses	Rs.2000/-
2. Loss of consortium	Rs.5000/-
3. Loss to estate	Rs.2500/-

In this manner, total compensation is Rs.4,58,300/- and compensation awarded by the Tribunal is reduced to the extent of Rs.1,71,600/- (6,29,900 - 4,58,300). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is disposed of in the aforesaid terms.

FAO No.403 of 2015

With regard to death of Rambir, the Tribunal has awarded compensation of Rs.5,58,500/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3300/-
2. Multiplier	15
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.4,18,500/-
5. Expenses on funeral	Rs.25,000/-
6. Loss of consortium	Rs.1,00,000/-
7. Medical expenses	Rs.15,000/-

Compensation allowed by the Tribunal towards medical expenses is affirmed. In view of findings recorded with regard to compensation qua death of Krishan, deduction for personal expenses would

be 1/3rd. The multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.3,96,000/- [(3300 x 12 x 15) – (1/3rd deduction for personal expenses)].

Under conventional heads, claimants shall be entitle to Rs.9500/-, detailed hereunder:-

1. Funeral expenses	Rs.2000/-
2. Loss of consortium	Rs.5000/-
3. Loss to estate	Rs.2500/-

In this manner, total compensation is Rs.4,20,500/- and compensation awarded by the Tribunal is reduced to the extent of Rs.1,38,000/- (5,58,500 - 4,20,500). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is disposed of in the aforesaid terms.

No order as to costs.

14.01.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No