

219(2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. **FAO-6441-2015**
Date of Decision: October 15, 2019

Sudesh Kumari @ Sudesh Rani and others

.....Appellants

Versus

Parmod Kumar and others

.....Respondents

2. **FAO-7842-2015(O&M)**

National Insurance Company Limited

.....Appellant

Versus

Sudesh Kumari @ Sudesh Rani and others

.....Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Sagar Aggarwal, Advocate
for the appellants in FAO-6441-2015
Mr.Aseem Aggarwal, Advocate for
Mr.Harsh Aggarwal, Advocate
the appellants in FAO-7842-2015
for respondent No.3 in FAO-6441-2015.
Mr.Ramesh Goyat, Advocate for
respondent Nos.1 and 2 in FAO-6441-2015.

.....

NIRMALJIT KAUR, J. (ORAL)

CM-24653-CII-2015 in
FAO-7842-2015

For the reasons mentioned in the application, the same is
allowed and delay of 3 days in re-filing FAO-7842-2015 is condoned.

Main cases

Both the appeals shall stand decided by this common order.

FAO No.6441-2015 is filed by the appellant-claimants for

enhancement, whereas FAO-7842-2015 is filed by the Insurance Company.

Learned counsel for the appellant-Insurance Company in FAO No.7842-2015 while challenging the impugned Award submitted that the Tribunal has wrongly awarded the compensation of ₹78,98,560.00 as the deceased was an employee of the Haryana Government and hence, the Haryana Compassionate Assistance Rules, 2006 (for short,'the Rules 2006') was applicable to the dependents of the deceased. Accordingly, the amount granted under the Rules 2006 was liable to the deducted.

On the other hand, learned counsel for the appellant-claimants, while praying for enhancement submitted that salary of the deceased was ₹42043/-, whereas only ₹38,660/- was taken into consideration, but does not dispute that 50% of the amount of compensation, paid to the family of the victim under the Rules 2006 can be deducted out of the compensation assessed as per the judgment rendered by this Court in the case of **Kamla Devi and others vs Sahib Singh and others** passed in FAO No.3064 of 2013 decided on 30.11.2017, which was up-held by the Apex Court and the Special Leave Petition filed by the Insurance Company was dismissed vide judgment and order dated 14.03.2018 passed in SLP No.5926 of 2018.

In view of the above, the appellants are entitled to the amount as per the calculations provided hereunder:

Head	Amount
Annual Income	₹4,63,920.00 (₹38660 x 12)
Future prospects @ 50%	₹2,31,960.00
Total annual income	₹6,95,880.00
3/4 th dependency	₹5,21,910.00
Multiplier	15
Loss of dependency	₹78,28,650.00
Loss of estate	₹15000.00

Funeral expenses	₹15000.00
Consortium	₹40000.00
Total compensation awarded by the Tribunal	₹78,98,650.00
Less 50% financial assistance provided by State Government under Rules 2006	₹51,15,130.00 (₹78,98,650.00 - ₹27,83,520.00)
Compensation awarded by this Court	₹51,15,130.00
Amount already awarded	₹40,00,000.00
Difference	₹11,15,130.00

While issuing notice of motion, the compensation beyond ₹40.00 lacs was ordered to be stayed. Accordingly, the balance amount of ₹11,15,130.00, as per the above calculation, be paid to the appellant-claimants forthwith as per the order passed by the Tribunal. In case the said amount is not deposited within two months from the date of receipt of a copy of this order, the same shall be deposited alongwith interest @ 12% from the expiry of the said two months.

The appeal filed by the Insurance Company is allowed and the appeal filed by the appellant-claimants is dismissed.

October 15, 2019
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(NIRMALJIT KAUR)
JUDGE

1. Whether speaking/reasoned ?

Yes/No
2. Whether reportable ?

Yes/No