

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

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Date of decision: 11.03.2019

FAO 7409 of 2015 (O&M)

Kamal Verma

.....Appellant

Versus

Jai Nand and others

.....Respondent

FAO 4062 of 2015 (O&M)

United India Insurance Co Limited

.....Appellant

Versus

Kamal Verma and others

.....Respondents

FAO 5772 of 2015 (O&M)

Kamal Verma

.....Appellants

Versus

Jai Nand and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. R K Bashamboo, Advocate
for the insurance company

Mr. G S Sandhu, Advocate
for the claimant (s)

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Rekha Mittal, J. (Oral)

This order will dispose of aforesaid appeals as these have emerged out of common award dated 07.03.2015 passed by the Motor Accidents Claims Tribunal, Karnal (in short, 'the Tribunal') whereby compensation has been assessed on account of injuries sustained by Kamal Verma and death of Komal wife of Kamal Verma in a motor vehicular accident that took place on 14.09.2013.

FAO No. 7409 of 2015 has been filed by Kamal Verma for enhancement of compensation on account of injuries sustained in the occurrence whereas other two appeals pertain to compensation in respect of death of Komal wife of Kamal Verma.

Counsel for the insurance company would inform that the appeal has been preferred to assail quantum of compensation qua death of Komal whereas Kamal Verma has staked his claim for enhancement of compensation in respect of death of Komal.

FAO No. 7409 of 2015

CM 23260 CII of 2015

Prayer in this application is for condoning delay of 116 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and delay of 116 days in filing the appeal stands condoned.

Main case

The Tribunal has awarded Rs.29,825.00, detailed as under:-

-Medicines charges	Rs.4,825/-
-Attendant charges	Rs.5,000/-
-Special diet	Rs.5,000/-
-Transportation charges	Rs.5,000/-
-Pain and sufferings	Rs.10,000/-

Counsel for the appellant is not in a position to make out a case justifying additional compensation over and above what has been assessed by the Tribunal.

I have gone through findings of the Tribunal in respect of grant of compensation to Kamal Verma for injuries sustained by him but find that the Tribunal has shown magnanimity and taken a very sympathetic view while assessing compensation. That being so, I do not find any reason to interfere in assessment made by the Tribunal.

For the foregoing reasons, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

FAO No. 4062 of 2015 and FAO No. 5772 of 2015

The Tribunal has awarded Rs.32,03,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.9,500/-
-Addition in income for future prospects	50%
-Multiplier	18
-Loss of dependency	Rs.30,78,000/-
-Loss of consortium	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-

Counsel for the insurance company would argue that income of deceased assessed by the Tribunal is on higher side and needs reduction. It is further argued that Kamal Verma was married to Komal just one week before the unfortunate occurrence and he has been awarded more than Rs.32,00,000.00. It is further argued that the Tribunal has wrongly allowed addition in income for future prospects and compensation under conventional heads needs to be restricted to Rs.55,000.00 in the light of judgments of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018***

AIR (SC) 5034.

Counsel for the claimants, on the contrary, has supported assessment made by the Tribunal.

Before adverting to the submissions made by counsel for the parties, it is appropriate to note that compensation cannot be a bonanza, source of profit or largesse. Equally true is that the Tribunal has an obligation to assess just and reasonable compensation. Kamal Verma was married to Komal just seven days prior to the occurrence. After death of Komal, he has performed second marriage. In the given circumstances, loss of dependency is required to be assessed in the light of peculiar facts and circumstances of the present case.

In view of the above, interest of justice would be served if the claimant is awarded Rs.2,50,000/- in all, which shall carry interest at the rate of 7.5% per annum. Compensation awarded by the Tribunal is reduced to the extent of Rs.29,50,000/- (Rs.32,00,000/- - Rs.2,50,000/-). The Insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

For the foregoing reasons, FAO No. 4062 of 2015 is partly allowed and FAO 5772 of 2015 is dismissed.

(Rekha Mittal)
Judge

11.03.2019
Mohan Bimbura

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