

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

Date of decision : 12.07.2019

1. FAO No. 6831 of 2016

Karamjit Kaur and others

..... Appellants

versus

Pritpal Singh alias Pala and others

..... Respondents

2. FAO-5665-2016(O&M)

Raj Kumar

..... Appellant

versus

Karamjit Kaur and others

..... respondents

CORAM : HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr.J.S.Ghumman, Advocate for the appellants(in FAO-6831-2016) and respondents No. 1 to 6 (in FAO-5665-2016).

Mr.Pardeep Kumar,Advocate for appellant(in FAO-5665-2016) and for respondent No.2 (in FAO-6831-2016).

Mr.Rahul Pathania, Advocate
for the respondent No.6-insurance company(in FAO-6831-2016) and for respondent No.7(in FAO-5665-2016).

NIRMALJIT KAUR, J. (ORAL)

This order shall dispose of both the aforementioned appeals bearing FAO No.6831 of 2016 and FAO-5665 of 2016 arising out of a common order.

FAO No. 5665 of 2016 has been filed on behalf of owner of the truck bearing registration No. RJ-31G-3837 who was held for contributory negligence to the extent of 50% as the aforesaid compensation as the truck

smashed into truck No. MH-43U-1565 which was standing on the road. While praying for setting aside the said finding of the Motor Accidents Claims Tribunal, Bathinda (for short 'the Tribunal') to the extent the driver of truck no. RJ-31G-3837 was made leave for 50% of the compensation, learned counsel for the appellant submitted that the respondents have not been able to prove his negligence. The truck was being driven at a normal speed. As per the witnesses, it was dark at that time. The truck bearing registration No. MH-43U-1565 was stationed without its parking lights on.

This Court is not at all in agreement with the said argument. It is an admitted fact that the offending vehicle i.e. truck no. RJ-31G-3837 was not even insured. The fact that the driver of the said truck hit into a standing truck shows that he was not alert enough while driving. Moreover, even the FIR has been registered only against the driver of truck No. RJ-31G-3837 and chargesheet was also filed against him. Thus, the finding of the Tribunal that the accident was caused due to the rash and negligent driving of driver of truck no. RJ-31G-3837 together with the negligent parking of the truck no. MH-43U-1565 cannot be faulted with.

In view of the above, the appeal bearing FAO No.5665 of 2016 filed by the owner of truck no. RJ-31G-3837 is accordingly dismissed.

FAO No. 6831-2016.

This appeal has been filed by the claimants for enhancement of compensation on account of death of Harbans Singh alias Gubbi alias Lubbi (husband of appellant No.1-Karamjit Kaur, father of minor claimants No. 2 and 3 and son of appellant No.4-Jaspal Kaur. While praying for enhancement of compensation the counsel submitted that an amount of Rs. 16,02,000/- awarded as compensation by the Tribunal is inadequate as

the Tribunal failed to grant future prospects. The age of the deceased at the time of death was 35 years. His income was stated to be Rs.8000/-per month. Hence he was entitled for an increase of 40% towards future prospects as per the settled law in the case of **National Insurance Co.Ltd. vs. Pranay Sethi and others , 2017 AIR(SC) 5157.**

Learned counsel for the respondent-insurance company is not in a position to dispute the said legal position but states that excessive compensation has been awarded under conventional heads. The appellants are entitled to only Rs.70,000/- as per the judgment in the case of **Pranay Sethi(supra)** and the Tribunal erred in granting Rs. 4,50,000/- under the conventional heads. Hence, the amount over and above Rs.70,000/- under the said heads need to be deducted which the learned counsel for the claimants cannot dispute either.

In view of the above, the appellants are entitled to the enhanced amount of Rs. 80,000/- as per the calculation provided as under:-

Monthly Income	Rs. 8000/-
Deductions(1/4 th towards personal expenses	Rs. 8000-Rs.2000/-) = Rs. 6000/-
Future prospects(40%)	Rs.6000 x 40/100 = Rs. 2400/-
Total income	Rs. 6000 + Rs. 2400= Rs.8400/-
Multiplier(16)	Rs. 8400 x16 x12 = Rs.16,12,800/-
Conventional heads	Rs. 70,000/-
Total compensation	Rs. 16,82,000/-
Compensation awarded by Tribunal	Rs. 16,02,000/-
Final compensation	Rs. 80,000/-(Rs.16,82,000 - Rs.16,02,000)

The enhanced amount of compensation to the tune of Rs. 80,000/- shall carry interest at the rate of 6% p.a. from the date of filing of the claim petition till realisation. The enhanced amount of compensation shall be paid by the owner and the insurance company in equal proportion and shall be deposited before the Tribunal within three months from today and released to the claimants as per the terms of the award of the Tribunal. In case the enhanced amount of compensation along with interest is not deposited before the Tribunal within the stipulated period of three months, the owner and the insurance company shall be liable to pay interest on the said amount at the rate of 12% p.a. till the said amount is paid after the expiry of three months.

The appeal bearing FAO No. 6831 of 2016 is disposed of in the above terms.

(NIRMALJIT KAUR)
JUDGE

12.07.2019
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No