

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 16.9.2019

FAO No. 8322 of 2015 (O&M)

Surinder Kaur and others

---Appellants

versus

Naresh Kumar and another

---Respondents

FAO No. 822 of 2016 (O&M)

Hardeep Singh

---Appellant

versus

Naresh Kumar and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. PKS Phoolka, Advocate
for the appellants in FAO- 8322 of 2015**

**Mr. Subhashish Kukreti, Advocate,
for the appellant in FAO- 822 of 2016**

**Mr. R.N.Singal, Advocate
for the insurance company**

Rekha Mittal, J.

This order will dispose of FAO No. 8322 of 2015 and 822 of 2016 as these have emerged out of the same accident that took place on 16.1.2012 wherein Avtar Singh sustained injuries that proved fatal and Hardeep Singh sustained injuries but was fortunately saved.

FAO No. 8322 of 2015 has been filed by the claimants for

enhancement of compensation in respect of death of Avtar Singh whereas the other appeal has been filed by injured Hardeep Singh for the same relief.

CM Nos. 26304 and 26305-CII of 2015 in FAO- 8322 of 2015

Prayer in these applications is for condoning delay of 97 days in refiling and 14 days in filing the appeal.

In view of averments made in the application and arguments advanced by counsel for the applicants, applications are allowed and delay of 97 days in refiling and 14 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No. 8322 of 2015

The Tribunal awarded Rs.20,63,600/-, detailed hereunder:-

Net annual income of the deceased	Rs. 3,23,100/-
Deduction for personal expenses	1/3 rd
Multiplier	9
Loss of dependency	Rs. 19,38,000/-
Funeral expenses	Rs. 25,000/-
Loss of consortium to widow	Rs. 1,00,000/-

Claimants shall be entitle to addition in income for future prospects @ 10%. Deduction for personal expenses and multiplier applied are correct and affirmed. In this manner, loss of dependency is calculated at Rs.21,31,800 [3,23,100 x 9 = 29,07,000 +2,90,700 (10%) = 31,97,700-10,65,900 (1/3rd)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/- , detailed hereunder:-

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-

Loss of estate	Rs. 15,000/-
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Total compensation is Rs. 22,01,800/- and additional amount is Rs. 1,38,200/- (22,01,800 -20,63,600), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased.

All other terms and conditions of the award shall remain intact.

The appeal is partly allowed in the aforesaid terms.

FAO No. 822 of 2016

The Tribunal awarded Rs. 2,65,243/- , detailed hereunder:-

Reimbursement of medical expenses	Rs. 2,23,243/-
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Transportation	Rs. 5000/-
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Pain and sufferings	Rs. 10,000/-
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Food charges	Rs. 5000/-
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Hospitalization charges	Rs. 22,000/-
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Counsel for the appellant would argue that compensation allowed for pain and sufferings, transportation charges, special diet is grossly inadequate and merits enhancement. The claimant may be awarded compensation for services of an attendant.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal.

Dr. KK.Singh, CW4 was examined to prove admission of injured in his hospital from 16.1.2012 to 1.2.2012 as the injured had fracture in his left leg and left shoulder. The injured spent an amount of Rs. 2,23,243/- on his treatment. Taking into consideration the nature of injuries sustained coupled with the period as an indoor patient, claimant is allowed additional compensation of Rs. 10,000/- under the heads already taken care of by the Tribunal. He is awarded Rs. 5000/- with regard to services of an

attendant. As the injured did not suffer any loss of income being an employee of Guru Nanak Dev thermal Plant, Bathinda he can not claim loss of future income. The additional amount of Rs. 15,000/- shall carry interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 152 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.9.2019.

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No