

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

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Date of decision: 23.01.2020

FAO No. 1886 of 1997 (O&M)

Rajasthan State Road Transport and another

.....Appellants

Versus

Rajesh and others

.....Respondents

FAO No. 1894 of 1997 (O&M)

Rajasthan State Road Transport and another

.....Appellants

Versus

Sibli and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Ms Monika Singh, Advocate for
Mr. Anil K. Gahlawat, Advocate
for the appellants (FAO No. 1886 of 1997)

Ms Harpreet Kaur, Advocate for
Mr. S S Behl, Advocate
for the appellant (FAO 1894 of 1997)

Mr. Devender Kumar, Advocate
for respondent No. 1 (i),(ii),(iv) and (v)
in FAO No. 1894 of 1997
for respondent No. 4(i), (ii), (v) and (vi) in FAO 1886 of 1997

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Rekha Mittal, J. (Oral)

CM 10598 CII of 1997

Allowed as prayed for. Delay of 40 days in re-filing the appeal
stands condoned.

CM 4157 CII of 2018

Prayer in this application is for impleading legal representatives of respondents No. 2, 3 and 4 (since deceased).

In view of averments made in the application supported by an affidavit, the application is allowed and persons mentioned in para 3 of the application are allowed to be brought on record as legal representatives of respondents No. 2, 3 and 4 (since deceased) for the purpose of present lis, subject to just exceptions.

Main case

This order will dispose of aforesaid appeals as these have emerged out of same award dated 07.01.1997 passed by the Motor Accidents Claims Tribunal, Gurgaon (in short 'the Tribunal') whereby compensation has been assessed on account of death of Sukhbir and damage to Tractor bearing No. URB 1609 and trolley attached thereto.

FAO No. 1886 of 1997 has been filed to assail quantum of compensation assessed in regard to death of Sukhbir whereas other appeal has been filed to assail assessment with regard to damage to Tractor and trolley.

FAO No. 1886 of 1997

The Tribunal awarded Rs.3,41,400, rounded off to Rs.3,42,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.2,400/-
-Deduction for personal expenses	1/3 rd
-Multiplier	17
-Loss of dependency	Rs.3,26,400/-
-Loss of consortium	Rs.15,000/-

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is on higher side and needs reduction.

Counsel representing the respondents/claimants, on the contrary, would argue that additional compensation may be allowed to the claimants, in exercise of jurisdiction under Order 41 Rule 33 of the Code of Civil Procedure by passing a judgment that ought to have been passed by the Tribunal.

The plea of claimants is that deceased was doing agriculture thereby earning Rs.5,000/5,500/- per month. He was also selling milk and total income of deceased was Rs.50,000/60,000/- per year. They examined Rajesh (PW1), Om Parkash (PW2) and Jai Narain (PW3) to prove avocation and income of the deceased. There is no documentary evidence on record that the deceased was in possession of any land either as a owner or a lessee. Taking a clue from notification issued by the State of Haryana, income of deceased is assessed at Rs.1,200/- per month. The claimants shall be entitle to addition in income for future prospects @ 40%.

The application for compensation has been filed by the widow, two minor sons, one minor daughter and father of deceased. Even if father of the deceased was not dependent on income of deceased, admissible deduction for personal expenses would be 1/4th. As the deceased was 35 years old, multiplier of 16 is available. In this manner, loss of dependency is Rs.2,41,920/- (Rs.2,30,400/- i.e. 1,200 x 12 x 16 + Rs.92,160/- (40% addition) – Rs.80,640/- (1/4th deduction).

Under conventional heads, claimants shall be entitle to Rs.45,000.00 (Rs.25,000.00 for loss of consortium, Rs.10,000.00 each qua

loss to estate and funeral expenses).

Total compensation is Rs.2,76,920/- and compensation allowed by the Tribunal is reduced to the extent of Rs.65,080/- (3,42,000 – 2,76,920). The appellants shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

In view of the above, the appeal is partly allowed in the aforesaid terms.

FAO No. 1894 of 1997

The Tribunal awarded Rs.20,000/- on account of damages to Tractor and trolley.

The Tribunal, on a detailed consideration of material on record, discussed in para 25 of the award, has arrived at conclusion that a sum of Rs.20,000/- is payable towards damages.

I do not find any reason to interfere in assessment of compensation with regard to damage to Tractor and trolley, assessed by the Tribunal.

In view of the above, the appeal is disposed of.

(Rekha Mittal)
Judge

23.01.2020
Mohan Bimbura

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