

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

Date of decision: 28.01.2020
FAO No.5696 of 2011 (O&M)

United India Insurance Co. Ltd. ... Appellant

Versus

Chajju Ram and others ... Respondents

FAO No.6422 of 2011 (O&M)

Kumari Monika ... Appellant

Versus

Lakhwinder Singh and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vinod Chaudhri, Advocate
for United India Insurance Co. Ltd.

Mr. Sanjay Joshi, Advocate for the claimants.

None for driver and owner of truck.

None for owner of Indica car.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.5696 and 6422 of 2011 as these have emerged out of the same accident that took place on 11.06.2009 in which Krishan Kumar, Smt. Saroj wife of Krishan Kumar died and their daughter Kumari Monika sustained injuries.

FAO No.5696 of 2011 has been filed by United India Insurance Co. Ltd and counsel for the insurance company would state that

appeal has been filed to assail only quantum of compensation whereas other appeal has been filed by injured Monika seeking additional compensation.

FAO No.5696 of 2011

With regard to death of Krishan Kumar, the Tribunal awarded Rs.8,33,524/-, detailed hereunder:-

Monthly income of the deceased	Rs.25,542/-
Addition in income for future prospects	Rs.7662/-
Multiplier	13
Deduction for personal expenses	1/5 th
Loss of dependency	Rs.41,43,984/-
Deduction qua salary of deceased paid to his family	Rs.33,20,460/-
Transportation of dead body and expenses on funeral	Rs.5000/-
Loss of estate	Rs.5000/-

Claim has been filed by parents and three children of the deceased. As the claimants are less than six, admissible deduction for personal expenses would be 1/4th. In this context, reference can be made to judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**. Claimants shall be entitle to addition in income for future prospects @ 30%. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.38,84,938/- [(25,542 x 12 x 13) + (30% future prospects) – (1/4th deduction for personal expenses)]. After deducting financial assistance available to family of the deceased, net compensation comes to Rs.5,64,478/- (38,84,938 - 33,20,460).

Under conventional heads, compensation awarded is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed

hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.5,94,478/- and compensation assessed by the Tribunal is reduced to the extent of Rs.2,39,045/- (8,33,524 - 5,94,478). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The Tribunal awarded Rs.4,46,800/- with regard to death of Saroj, detailed hereunder:-

Monthly value of services of deceased	Rs.3500/-
Multiplier	13
Deduction for personal expenses	1/5 th
Loss of dependency	Rs.4,36,800/-
Transportation of dead body and expenses on funeral	Rs.5000/-
Loss of estate	Rs.5000/-

The deceased left behind three minor children aged 17, 11 and 2½ years. Unfortunately, her husband also died in the same accident. The parents in law of the deceased are in their early 70s. A house-maker has multifarious duties to perform and available to the family round the clock. She cannot be equated with that of a daily wager. In this view of the matter, monthly value of services of the deceased is assessed at Rs.6000/-. No deduction for personal expenses would be made in the light of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730**. Saroj was 45 years old, therefore, admissible multiplier is 15. In this manner, loss of

dependency is calculated at Rs.10,80,000/- (6000 x 12 x 15).

Under conventional heads, compensation awarded is modified to the effect that claimants shall be entitle to Rs.15,000/- for funeral expenses.

Total compensation is Rs.10,95,000/- and additional amount is Rs.6,48,200/- (10,95,000 - 4,46,800), payable with interest @ 7.5% per annum from the date of petition till realization to minor Shantnu, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later.

The appeal is disposed in the aforesaid terms.

FAO No.6422 of 2011

Monika, the injured victim has been awarded Rs.2,72,067/-, detailed hereunder:-

Medical expenses	Rs.1,42,067/-
Compensation on account of disability	Rs.80,000/-
Loss of amenities of life and matrimonial prospects	Rs.50,000/-

Dr. Sameer Aggarwal PW6 deposed that on 11.06.2009, Monika was brought in emergency OPD. She was diagnosed as a case of fracture of shaft of femur right with fracture both bone right fore-arm with open globe (eye) injury type. He also produced documents Exs.P10 to P60 i.e. copy of original record of patient and bills in respect of medical expenses.

The Tribunal has allowed reimbursement of medical expenses on the basis of bills and the same is affirmed.

Dr. Shashi Kumar PW4 was examined to prove disability and disability certificate Ex.P9. As per disability certificate, appellant suffered damage to her right eye resulting in 30% visual loss. Perusal of testimony of Dr. Shashi Kumar would reveal that nothing has been deposed by the doctor as to how disability suffered by the victim in respect of visual loss of one eye can be considered for assessing functional disability. However, in cross examination, he has deposed that left eye has visual acuity 6/6 with glasses (minus two). The functional disability can be assessed more than 10%. As the injured was minor at the time of occurrence, she is awarded Rs.1 lakh for disability in the light of judgment of Hon'ble the Supreme Court **Master Mallikarjun Vs. Divisional Manager, The National Insurance Co. Ltd. and another, 2013(4) RCR (Civil) 295**. Rs.80,000/- awarded by the Tribunal shall be adjusted out of Rs.1 lakh. The claimant is awarded additional amount of Rs.50,000/- with regard to loss of amenities of life and matrimonial prospects. The claimant is awarded Rs.20,000/- for transportation, services of an attendant and loss of income of her attendant during the period of treatment and recovery. In this manner, claimant shall be entitle to additional amount of Rs.90,000/-, payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

28.01.2020

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No