

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

Date of decision: 26.02.2020

Kulwant Singh and anr.

FAO No.2447 of 2012 (O&M)
... Appellants

Versus

Sant Singh and ors.

... Respondents

Kulwant Singh and anr.

FAO No.2448 of 2012 (O&M)
... Appellants

Versus

Sant Singh and ors.

... Respondents

Kulwant Singh and anr.

FAO No.2449 of 2012 (O&M)
... Appellants

Versus

Sant Singh and ors.

... Respondents

United India Insurance Co. Ltd.

FAO No.3219 of 2012 (O&M)
... Appellant

Versus

Kulwant Singh and ors.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Viney Saini, Advocate for
Mr. GS Nagra, Advocate for the claimants.

Mr. RK Bashamboo, Advocate for insurance company.

None for driver.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.2447 to 2449 and 3219 of

2012 as these have emerged out of the same accident that took place on 16.01.2011 in which Devinder Singh, Manjit Kaur and Ravinder Kaur, riders of motorcycle bearing No.PB-12G(T)-7380 sustained injuries that proved fatal.

FAO Nos.2447 to 2449 of 2012 have been filed by the claimants whereas FAO No.3219 of 2012 has been filed by the United India Insurance Co. Ltd. (hereinafter referred to as 'the insurance company').

FAO Nos.2447 to 2449 of 2012

The appellants failed to ensure service of Ruby, owner/insured of offending vehicle i.e. Qualis car PB-65-K-8152. A relevant extract from order dated 26.03.2019, reads as follows:-

XX

The appellants shall ensure service of respondent-Ruby before the next date of hearing failing which it may be of adverse consequence.

XX

In view of the above, appeal against respondent-Ruby is dismissed.

The appeals have been filed by the claimants for seeking additional compensation. Perusal of the award(s) would reveal that insurance company has been given right of recovery against the insured after payment of compensation to the claimants. That being so, grant of additional compensation to the claimants would be prejudicial to insured/owner of the offending vehicle. In the given circumstances, the

claimants cannot press for awarding additional compensation at the back of insured/owner of the offending vehicle. In this view of the matter, nothing sustains for consideration of this Court.

For the foregoing reasons, the appeals fail and are accordingly dismissed leaving the parties to bear their own costs.

FAO No.3219 of 2012

Counsel for the appellant would inform that appeal has been filed to assail only quantum of compensation with regard to death of Devinder Singh.

The application for compensation has been filed by the father and adult sister of the deceased.

The Tribunal awarded Rs.8,79,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Multiplier	18
Deduction for personal expenses	1/3 rd
Loss of dependency	Rs.8,64,000/-
Expenses on funeral	Rs.5000/-
Loss of estate and loss of love and affection	Rs.10,000/-

Counsel for the insurance company would argue that claimants are not entitle to compensation with regard to loss of dependency. In the alternative, it is contended that even if they are held entitle to loss of dependency, deduction for personal expenses should be 50% as against 1/3rd allowed by the Tribunal.

Counsel representing the claimants, on the contrary, would argue that even if the claimants are not entitle to additional compensation in

view of decision in FAO No.2448 of 2012 vide order of even date, claimants can press for allowing addition in income for future prospects @ 40% and adequate compensation under conventional heads so that amount of compensation is not reduced.

Be that as it may, without going into the question of entitlement of the claimants qua loss of dependency but even if it is so, claimants shall be entitle to substantial amount with regard to loss of estate. However, admissible deduction for personal expenses in both the eventualities would be 50%. If the claimants are extended benefit of addition in income for future prospects but deduction for personal and living expenses is restricted to 50%, the net result would be that they are entitle to more compensation than what has been assessed by the Tribunal. However, in view of findings recorded in FAO No.2448 of 2012, claimants cannot press for grant of additional compensation. In the given circumstances, compensation assessed by the Tribunal is kept intact.

For the foregoing reasons, the appeal stands disposed of.

26.02.2020

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No