

262 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on : 26.07.2022

FAO-7045-2016 (O&M)

Saroj Bala

..... Appellant

Versus

Naresh and others

..... Respondents

FAO-7046-2016 (O&M)

Ram Rati Devi and others

..... Appellants

Versus

Naresh and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Harish Mehta, Advocate for
Mr. S.S.Dalal, Advocate
for the appellant(s).

Mr. Rahul Pathania, Advocate for
Mr. R.C.Kapoor, Advocate
for the insurance company.

Manjari Nehru Kaul, J.(Oral)

This order shall dispose of two appeals i.e. FAO No.7045 and 7046 of 2016 as both of them have been filed against the award dated 25.03.2016 passed by the Motor Accident Claims Tribunal, Kaithal. Brief facts of the case are taken from FAO No.7046 of 2016.

The appellants-claimants is in appeal before this Court to impugn the award dated 25.03.2016 passed by Motor Accident Claims Tribunal, Kaithal (hereinafter called as 'the Tribunal') in the claim petition

under Section 166 of Motor Vehicles Act wherein the following compensation was assessed and awarded to the appellants-claimants on account of death of Balwan (hereinafter referred to as 'deceased') and on account of injuries received by appellant-Saroj Bala in an accident, which took place on 16.11.2014:-

Compensation awarded to Saroj Bala

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Medical expenses	Rs.44,000/-
2	For pain and suffering	Rs.5,000/-
3	Other expenses	Rs.12,000/-
	Total compensation	Rs.61,000/-

Compensation awarded to Ram Rati and others

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.6,000/-
2	Annual income (Rs.6,000x 12)	Rs.72,000/-
3	Deduction towards personal expenses (1/4)	Rs.18,000/-
4	Annual dependency (Rs.72,000 – Rs.18,000)	Rs.54,000/-
5	Multiplier	14
6	Total dependency (Rs.54,000 x 14)	Rs.7,56,000/-
7	Funeral expenses	Rs.25,000/-
8	Loss of consortium	Rs.1,00,000/-
9	Loss of love and affection (Rs.25,000 each)	Rs.75,000/-
	Total compensation	Rs.9,56,000/-

The amount of compensation along with interest @ 9% p.a. from the date of filing of the petition till its realisation was ordered to be paid jointly and severally by the respondents. In the claim petition filed by Ram Rati and others, 70% of compensation was awarded to appellant No.1 Ram Rati while other claimants i.e. appellants No.2 to 4 were awarded 10%

each of the compensation.

In the claim petition filed under Section 166 of Motor Vehicles Act, it was claimed that Sadhu Ram along with his wife Saroj, his brother Balwan and Ravinder son of Nobar was going to village Ladsoli in an Alto car bearing registration No.HR-26AB-7515. The car was being driven by Ravinder at a moderate speed on the left side of the road. When the car reached near village Danoli, a truck bearing registration No.HR-64-2559 (hereinafter referred to as 'offending vehicle') came in a rash and negligent manner driven by respondent No.1 and collided with the car of the appellants. Resultantly, all the passengers of the car suffered serious injuries and were removed to the hospital in Assandh. The deceased Balwan succumbed to his injuries on his way to the hospital.

Learned counsel for the appellants while impugning the compensation awarded by the Tribunal has vehemently argued that the compensation awarded on account of death of deceased was inadequate and thus, requires to be reassessed and modified. It is submitted that the Tribunal erred in assessing the income of the deceased in the sum of Rs.6,000/- per month by treating him as an unskilled worker even though it had been claimed that he was earning Rs.30,000/- per month as he was a driver and also owned agricultural land. It is thus, prayed that the Tribunal should have thus, assessed the income of the deceased at least Rs.25,000/- per month. Learned counsel further submits that under the conventional heads, the Tribunal failed to award any compensation qua future prospects, which should have been to the extent of 25%. A prayer has also been made that since the children of the deceased had been deprived of his love and

affection, they ought to be compensated with Rs.1 lakh each.

Learned counsel for the injured-claimant has vehemently argued that the Tribunal had awarded a meagre compensation in the sum of Rs.61,000/- even though she had suffered serious injuries in the accident in question for which she remained hospitalised from 16.11.2014 to 20.11.2014. During her hospitalization, she had to undergo surgery on her arm. It is further submitted that while assessing the compensation, the Tribunal erred in not awarding any compensation for special diet, attendant charges, loss of income etc. A prayer, is therefore, made to enhance the compensation awarded by the Tribunal.

Per contra, learned counsel for the respondent-Insurance Company while opposing the prayer and submissions made by counsel for the appellants has submitted that the compensation awarded by the Tribunal was adequate and did not warrant any interference. He further submits that the injured-claimant had not produced any evidence on record from which it could be inferred that she was employed anywhere and hence, there was no question of compensating the appellant qua loss of income etc.

Heard learned counsel and perused the impugned award passed by the Tribunal.

This Court cannot lose sight of the fact that the injured-claimant was 40 years old home-maker when she received injuries in the accident in question. It is but natural that on account of the injuries received, her hospitalization and surgery, she would have definitely undergone a lot of pain and suffering coupled with the fact that she would have not been able to take care of her home and family during the period of

her hospitalization and even thereafter while recovering. Hence, this Court deems it fit to reassess and grant the following compensation to the injured-claimant:

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Medical expenses	Rs.44,000/-
2	Attendant charges	Rs.15,000/-
3	Other expenses	Rs.12,000/-
4	Pain and suffering	Rs.5,000/-
5	Loss of income	Rs.15,000/-
	Total compensation	Rs.91,000/-

As far as compensation awarded to the appellants Ram Rati and others are concerned, since no cogent evidence was brought on record by the claimants qua the monthly income of the deceased, hence, the amount assessed at Rs.6,000/- per month by the Tribunal does not warrant any interference. However, since the deceased was 45 years of age on the date of accident, the claimants would be entitled to an addition of 25% to the income of the deceased towards future prospects as per the settled law.

The compensation under conventional heads including compensation in the sum of Rs.1 lakh towards loss of consortium to the widow of the deceased and Rs.25,000/- each to the children for loss of love and affection admittedly is not in consonance with the settled law. They would thus, be entitled to Rs.40,000/- each for loss of parental consortium as per the settled law. Rs.1 lakh granted to the widow of the deceased for loss of consortium being not in consonance with the settled law would stand reduced to Rs.40,000/-. The claimants would be entitled to Rs.15,000/- each for loss of estate and for funeral expenses, which requires to be modified. Since it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be

subject to 10% enhancement after every three years, 10% enhancement qua the above-mentioned conventional heads would have to be made. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate & funeral expenses. Besides this, the claimants, who are widow and the children of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium respectively.

The compensation to the claimants on account of death of deceased is reassessed and modified as follows:

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.6,000/-
2	Future prospects (25%)	Rs.1,500/-
3	Annual income (Rs.6,000 + Rs.1,500 x 12)	Rs.90,000/-
4	Deduction towards personal expenses (1/4)	Rs.22,500/-
5	Annual dependency (Rs.90,000-Rs.22,500)	Rs.67,500/-
6	Multiplier	14
7	Total dependency (Rs.67,500 x 14)	Rs.9,45,000/-
8	Loss of estate	Rs.16,500/-
9	Funeral expenses	Rs.16,500/-
10	Loss of consortium (Rs.44,000 x 4)	Rs.1,76,000/-
	Total compensation	Rs.11,54,000/-

In the circumstances, the injured-claimant is entitled to enhanced compensation of Rs.30,000/- (Rs.91,000 – Rs.61,000) while the appellants-claimants in FAO No.7046 of 2016 are entitled to afore-detailed enhanced compensation of Rs.1,98,000/- (Rs.11,54,000-Rs.9,56,000) along with interest at the rate of 9% per annum from the date of filing of the claim petition till its actual realization. The compensation shall be released to the appellants-claimants in FAO No.7046 of 2016 in the same ratio as ordered by the learned Tribunal vide award dated 25.03.2016.

With the above modifications, the instant appeals stand disposed
of.

26.07.2022
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(MANJARI NEHRU KAUL)
JUDGE

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