

FAO-15795-2018 (O&M) and another connected

2023:PHHC:075101

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 230)

(1)

FAO-15795-2018 (O&M)
Date of Decision : 19.05.2023

Sanjay

...Appellant

Versus

Ram Kishan and others

...Respondents

(2)

FAO-4868-2018 (O&M)

Sushil and others

...Appellants

Versus

Ram Kishan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rahul Noorie, Advocate for
Mr. Abhimanyu Singh, Advocate for the appellants.

Ms. Anu Garg, Advocate
for respondents No. 1 and 2 in FAO-4868-2018.

Mr. Pradeep Kumar, Advocate
for respondent No. 3-Insurance Company.

Harsimran Singh Sethi J. (Oral)

CM-28322-CII-2018 in FAO-15795-2018

Application is allowed, as prayed for.

CM-16164-CII-2018 in FAO-4868-2018

Application is allowed, as prayed for.

FAO-15795-2018 and FAO-4868-2018

By this common order, the aforesaid two FAOs, which arise out of the same incident, are being decided.

Both the appeals have been filed by the claimants for the enhancement of compensation.

It may be noticed that an accident took place on 17.05.2016 in which accident, one Surender Singh @ Sunder son of Prithvi Singh, aged 42 years died and one Sanjay suffered injuries. In respect of the said injuries suffered by Sanjay, he filed a claim petition before Motor Accident Claims Tribunal, Bhiwani under Section 166 of the Motor Vehicle Act, 1988 to claim the compensation and a sum of ₹2,71,191/- has been awarded to him vide Award dated 31.03.2018. Further, the claimants of the deceased also filed a claim petition before the MACT under Section 166 of the Motor Vehicles Act, 1988 and a sum of Rs. 13,30,000/- was awarded to them.

Learned counsel for the appellant submits that the said compensation is not adequate for the reason that the injured Sanjay remained hospitalized for 15 days and he suffered loss of income and for the pain and sufferings, he has only been awarded ₹25,000/-, which amount is very less. It is further argued that even for the attendant charges and special diet, learned counsel submits that only ₹10,000/- has

been awarded, which is on lesser side.

Learned counsel for the Insurance Company, on the other hand, submits that the adequate compensation under various head have already been awarded by the Tribunal and the same needs no interference by this Court.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In respect of the claim raised by Sanjay, who has suffered injuries, it is clear from the Award dated 31.03.2018 that he has only been awarded ₹25,000/- for the pain and sufferings, which is not at all adequate keeping in view the fact that he remained hospitalized for 15 days, which fact shows the gravity of the injuries suffered and the consequent pain suffered by the claimant, hence, the amount of ₹25,000/- is enhanced to ₹1,00,000/-, which is adequate in the facts of this case.

Further, the loss of income has been estimated only ₹15,000/-, which is not at all correct. It cannot be said that a person, who got injured and had to remain in hospital, will only earn ₹15,000/- as income, even if the income is to be calculated at the minimum wages. Hence, for the loss of income instead of ₹15,000/- as awarded by the Tribunal, a sum of ₹30,000/- is granted as compensation.

Keeping in view the above, the total compensation comes to ₹3,61,191/- (₹2,71,191/- + ₹75,000/- + ₹15,000/-) instead of ₹2,71,191/-.

Now, coming to the claim being raised by the legal heirs of deceased Surender Singh @ Sunder in FAO No. 4868 of 2018. Income of the victim has been assessed at ₹8,000/- per month so as to calculate the amount of compensation. It has been brought to the notice of this Court that even the minimum wages for a daily wager as prescribed by the State of Haryana is ₹9700/-, hence income of the victim has not been assessed correctly. Learned counsel for the Insurance Company has not been able to rebut the said fact.

That being so, assessing the income of the deceased at ₹8,000/- per month, is not correct. At least the minimum of the wages should have been assessed as income of the deceased, hence, the Tribunal was not right in assessing the income of deceased Surender Singh @ Sunder as ₹8,000/- per month. In the facts and circumstances of the case, income of the victim is assessed as ₹9700/- per month, which was the minimum wages fixed by the Government of Haryana at the relevant time. Keeping in view the enhanced income, total compensation to be paid to the claimants is as under :-

Considered Income	9700/-
Add Future Prospects @ 25% Annual	$2425 (9700 + 2425) = 12,125/-$ $12,125 \times 12 = 1,45,500/-$
Deduction 1/4th (Claimants – 6)	36,375/-
Total	$1,45,500 - 36,375 = 1,09,125/-$
Multiplier 14 at age 43 years	
Loss of Dependency	$14 \times 1,09.125/- = 15,27,750/-$
Loss of Consortium	40,000/-
Loss of Funeral	15,000/-
Loss of Estate	15,000/-
Total	15,97,750/-

Compensated granted by Ld. 13,30,000/-

MACT

Total enhanced compensation 15,97,750/- - 13,30,000/- = 2,67,750/-

Keeping in view the above, the appellant Sanjay in **FAO-15795-2018** is held entitled for the total compensation to the tune of ₹3,61,191/-.

Appellants in **FAO-4868-2018** are held entitled for the total compensation to the tune of ₹15,97,750/-.

The compensation already paid as per the Award of the Tribunal be deducted from the total compensation for which the appellants have been held entitled for in this order and the remaining amount be released to them in equal share amongst the present appellants within a period of three months from the date of receipt of certified copy of this judgment.

It may be noticed that interest granted in both the cases will remain the same as awarded by the Tribunal while passing the impugned Award.

May 19, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No