



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

221

Date of decision: 21.04.2026

1. FAO-2944-2015 (O&M)
Kanta and others

...Appellant(s)

Vs.

Jagpal and others

...Respondent(s)

AND

2. FAO-2054-2015 (O&M)
Ram Kishan Sharma and another

...Appellant(s)

Vs.

Jagpal and others

....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. S.S.Khurana, Advocate for
the appellant(s).
Mr. Pradeep Kumar, Advocate
for respondent No.3-Insurance Co.

NIDHI GUPTA, J.

CM-8941-CII-2015 in FAO-2944-2015

Prayer in this application filed under Section 5 of the
Limitation Act is for condonation of delay of 15 days in filing the
accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is
supported by an affidavit of the applicant/appellant No.1, the same is



allowed and delay of 15 days in filing the accompanying appeal is condoned.

FAO-2944-2015

The present appeal has been filed by the claimants No.1 to 3 seeking enhancement of compensation of Rs.31,91,824/- granted by the learned MACT, Rewari vide Award dated 13.10.2014 passed in MACT Case No. 148 dated 12.03.2013 filed under Section 166 of the Motor Vehicles Act. The 5 claimants are the 29-year-old widow; 8-year-old minor son; 6-year-old minor daughter (appellants in FAO-2944-2015); and parents (appellants in FAO-2054-2015) of the deceased Ravinder Kumar Sharma, who was 35 years old at the time of accident.

CM-6450-CII-2015 in FAO-2054-2015

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 11 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is supported by an affidavit of the applicant/appellant No.1, the same is allowed and delay of 11 days in filing the accompanying appeal is condoned.

FAO Nos.2944 and 2054 of 2015 (O&M)

Both the above said appeals are being decided by this common order as both appeals pertain to the same accident dated 27.12.2012; are



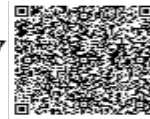
against the same Award dated 13.10.2014 passed by learned MACT, Rewari; and the facts and issues involved in both the cases are identical. For the sake of facility, facts are being drawn from **FAO-2944-2015** titled as **Kanta and others vs. Jagpal and others**.

2. At the very outset, it is informed by learned counsel for the appellants in FAO-2944-2015 that claimants No. 4 and 5/appellants in FAO-2054-2015 have expired. It is informed that even the counsel previously representing the said appellants has expired; as is also mentioned in order dated 13.02.2025.

3. Order sheets in FAO-2054-2015 show that vide dated 15.01.2016, notice of motion was issued only qua appellant no.2 i.e. Mother of the deceased; and on the statement of learned counsel for the appellants, the said FAO-2054-2015 was not pressed qua appellant No.1. Furthermore, none has appeared on behalf of the appellant no.2 after 14.09.2016. In the aforesaid premise, issuance of fresh notice to the appellants would be a futile exercise; especially as no legal representatives have come forward to pursue the present appeal. Therefore, FAO-2054-2015, being of such an old vintage, is being disposed of as nobody has come forward to pursue the appeal.

FAO-2944-2015

The learned Tribunal upon appraisal of the pleadings, and the oral and documentary evidence adduced by the parties, concluded that deceased-Ravinder Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 27.12.2012 at 2:40 p.m. due to



the rash and negligent driving of a Bus bearing registration No. UP-83T-5068 (hereinafter referred to as 'the offending vehicle'), which was driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The above said compensation was granted by the learned Tribunal alongwith interest @ 6% per annum from the date of institution of the claim petition till realisation. All the respondents were jointly and severally held liable to pay the amount of compensation. Learned Tribunal had apportioned the compensation in the following manner: -

"25. In view of findings on the preceding issues, the petition stands partly allowed with costs. Petitioners are awarded a sum of Rs. 31,91,824/- (Rupees Thirty One lacs Ninety One Thousand Eight Hundred Twenty Four only) as compensation along with interest @ 6 per cent per annum from the date of filing of the petition till realization payable by respondents. Out of the compensation amount, Rs. 12,00,000/- shall go to petitioner no.1 Kanta Devi widow of the deceased, Rs.15,00,000/- shall go in equal share to petitioner no.2 and 3 who are minor children of the deceased and the remaining amount of Rs.04,91,824/- shall go in equal share to petitioner no.4 and 5 who are parents of the deceased....."

2. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side. It is submitted that a perusal of the Salary Certificate of the deceased Ex.PW2/A shows that a gross total monthly income of the deceased was Rs.63,437/- per month. It is submitted that the appellants had duly proven on record that the deceased was serving in the Indian

Army and was working as a Commando in NSG at Manesar yet, learned



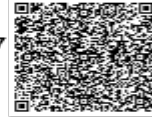
Tribunal has taken income of the deceased as only Rs.21,261/- p.m. by making deductions from the salary of the deceased which were not justified as per law. It is further submitted that even nothing has been awarded by learned Tribunal towards future prospects. Whereas in view of the fact that deceased was serving in the Indian Army, addition of 50% is liable to be made towards future prospects. Furthermore, even the amount under the conventional heads is on the lower side and nothing has been awarded by way of consortium to claimants/appellants No.2 and 3. It is accordingly prayed that the present Appeal be allowed; and the compensation be enhanced as above.

3. *Per contra*, learned counsel for respondent No.3-Insurance Company opposes submissions made on behalf of the appellants. However, learned counsel for respondent No.3 is unable to dispute as per the structured formula laid down by Hon'ble Supreme Court in numerous judgments, an addition of 50% is liable to be made towards future prospects; and compensation under the conventional heads are also liable to be awarded as per the formula given by Hon'ble Supreme Court.

4. No other argument is made by Id. counsel for the parties. I have heard Id. counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of learned counsel for the appellants.

5. The record reveals that the pleaded case of the appellants before the learned Tribunal was that the deceased was serving in the Indian

Army and was working as a Commando in NSG at Manesar and was earning



Rs.40,000/- p.m. To prove their case, claimants had examined PW2 Subedar Major R.P.Sharma, who had produced the service and salary record of the deceased; including Pay Slip Ex.PW2/A, as per which deceased was drawing salary of Rs.63,437/-. PW2 Subedar had also deposed that deceased was drawing salary of Rs.63,437/- p.m. However, while calculating the salary of the deceased as Rs.21,262/- p.m., learned Tribunal has observed that:

“The pay slip Ex.PW2/A proved by PW2 shows the salary of deceased as Rs.63437/- but this salary is inclusive of several personal allowances which are required to be deducted. Further the pay slip shows the outstanding arrear of Rs.28724/- which was pending amount recoverable by the deceased and was paid to him in November 2012 and PW2 also admitted in his cross examination that the arrears of pay and allowances of Rs.28724/- was not part of the salary. Thus, this amount is also required to be deducted. In these circumstances, the Band pay dearness allowance is taken as monthly salary of the deceased as per the salary certificate Ex.PW2/A without deducting any income tax and the monthly salary of the deceased comes to Rs.21261/- (band pay Rs.9850/- + D.A. Rs.11412/-).”

6. Ld. Counsel for the appellants has been unable to show as to why the above said reasoning of the Tribunal or the above said deductions made by the learned Tribunal are incorrect. As such, I find no error in the income as assessed by the learned Tribunal.

7. Further, age of the deceased was determined to be 35 years on the basis of Post Mortem Report as well as pleading of the appellants; as also on account of the fact that in the Pay Slip Ex.PW2/A, date of birth of the deceased was recorded as 27.07.1977. In view of the said fact, and in



view of the fact that deceased was in a permanent salaried job with the Government, addition of 50% was liable to be made towards future prospects. However, learned Tribunal has failed to do so.

8. Further, keeping in view the age of the deceased, Id. Tribunal has correctly applied multiplier of 16. Keeping in view the fact that there were 5 claimants, learned Tribunal had correctly made deduction of 1/4th.

9. Under the conventional heads, learned Tribunal has awarded Rs.25,000/- towards funeral expenses; Rs.5,000/- towards loss of estate; and Rs.1 lac by way of loss of consortium; thereby granting total compensation of Rs.31,91,824/-.

10. Accordingly, in view of the above discussion, compensation payable to the claimants is reassessed in the following manner: -

Sr.No.	Heads	Before the Tribunal	Revised compensation
1.	Basic + D.A.	Rs.21,261/- per month	Rs.21,261/- per month
2.	1/4th deduction	Rs.15,947/- (Rs.21,261- Rs.5,314)	Rs.15,947/- (Rs.21,261- Rs.5,314)
3.	50% future prospects	Nil	Rs.23,921 (Rs.15,947+Rs.7,974)
4.	Annual dependency	Rs.15947 x 12= Rs.1,91,364/-	Rs.23921 x 12=Rs.2,87,052/-
5.	Multiplier of 16	Rs.30,61,824/- (Rs.1,91,364 x 16)	Rs.45,92,832/- (Rs.2,87,052 X 16)
6.	Funeral expenses	Rs.25,000/-	Rs.15,000/-
7.	Loss of estate	Rs.5,000/-	Rs.15,000/-
8.	Loss of consortium	Rs.1,00,000/-	Rs.2,00,000/- (Rs.40,000 x 5)
9.	Total	Rs.31,91,824/-	Rs.48,22,832/-

10.	Enhanced compensation	Rs.48,22,832 – Rs.31,91,824/- = Rs.16,31,008/-	
11.	Interest	6% per annum	6% per annum

11. The present Appeal is **allowed** in the above terms. It is clarified that in case any legal representatives of claimant no.4/mother of the deceased come forward, the apportionment of the compensation shall be as determined by the Tribunal.

12. Pending application(s) if any also stand(s) disposed of.

21.04.2026

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No