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FAO-2800-2017 and connected case

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

(106-1)

Smt. Krishna and another

Versus

Rameshwar and others

FAO-2800-2017

...Appellants

...Respondents

Rameshwar

Versus

Smt. Krishna and others

FAO-3497-2017 (O&M)

...Appellant

...Respondents

Date of decision: 06.03.2025

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ravi Dutt Sharma, Advocate
for the appellants (in FAO-2800-2017)
for respondents No.1 and 2 (in FAO-3497-2017).

Mr. Sanjay Verma, Advocate
for respondent No.1 (in FAO-2800-2017)
for the appellant (in FAO-3497-2017).

SUVIR SEHGAL, J. (Oral)

1. This order shall dispose off both the above-noted appeals filed by the claimants and owner-cum-driver under Section 173 of the Motor Vehicles Act, 1988 (for brevity “MV Act”) as they arise out of the same award passed by the Motor Accident Claims Tribunal, Kaithal (for short “the Tribunal”). For the sake of convenience, factual position is being taken from FAO-2800-2017, titled as Smt. Krishna and another Versus Rameshwar and others.

2. This appeal has been filed by the claimants, who are legal representatives of Rakesh Kumar, deceased, for enhancement of compensation granted by the Tribunal vide award dated 15.10.2016.

3. Facts, in brief, leading to the filing of the appeal are that on



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30.09.2015, Rakesh Kumar and Sudesh Kumar, were travelling on separate motorcycles. A Mahindra Tractor bearing registration No. HR-08-D-2716, which was being carelessly driven by Rameshwar - respondent No.1, collided with the motorcycle of Rakesh Kumar, who fell on the road and sustained multiple injuries. He was taken to the G.H. Kaithal, where he was declared dead. An FIR No. 99, dated 01.10.2015, was lodged at Police Station Pundri, under Sections 279, 304-A, IPC, on the next day. Appellants filed a claim petition under Section 166 of MV Act, claiming compensation on account of the death of Rakesh Kumar, which has been partly accepted vide award dated 15.10.2016, and they have been granted compensation of Rs.8,84,000/-. Respondent No.1 has been held liable to pay the compensation, along with interest @ 7% p.a., from the date of filing of the claim petition.

4. I have heard counsel for the parties and have considered their respective submissions.

5. Claimants have examined Sudesh Kumar, PW2, brother of the deceased and an eye witness to the accident, who established the factum of the accident. He has categorically deposed that the offending tractor was being driven rashly by respondent No.1 and after collusion with the motor cycle, respondent No.1 fled away from the spot leaving the tractor behind. Police took possession of the tractor from the site of the accident. FIR was registered and respondent No.1 is facing a criminal trial. Delay of one day in the registration of the FIR is inconsequential. In *Ravi Versus Badrinarayan and others, (2011) 4 SCC 693*, Supreme Court has held that delay in lodging the FIR cannot be a ground to doubt the claimants' case.



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6. Compensation was assessed by assuming the income of the deceased, who was running a building material shop and was 24 years of age, as Rs.6,000/- per month. Deceased was treated as a casual labourer, as there was no documentary evidence in respect to his income. Minimum wage notified by the Government of Haryana, w.e.f., 01.07.2015 for unskilled labour was Rs.5,886/- p.m. By virtue of notification dated 21.10.2015, State Government reversed the minimum monthly wage for unskilled labour to Rs.7600/-, w.e.f., 01.11.2015. Fatal accident took place on 30.09.2015. Monthly income of the deceased can safely be assumed to be Rs.7200/-. A deduction of 1/3rd has been made by the Tribunal towards personal expenses from the monthly income as the deceased had three dependents. However, it is a matter of record that the deceased was also survived by his mother, who had filed the claim petition as a guardian/next friend of the minor child. Therefore, deduction of 1/4th has to be made from the income of the deceased. Tribunal has correctly applied a multiplier of 18, which does not require any increase. Tribunal has awarded Rs.20,000/- for funeral expenses of the deceased. However, no compensation has been awarded on the account of loss of estate and loss of consortium to the claimants, which deserves to be granted. Rakesh Kumar's widow was pregnant at the time of the accident. A male child was born on 18.11.2015, after almost two months of the death of Rakesh Kumar. Even though, the child was in the mother's womb on the day of the unfortunate accident, he will also be entitled to compensation under MV Act.

7. In the light of the principles laid down by the Supreme Court in **Smt. Sarla Verma and others Versus. Delhi Transport Corporation and another,**



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(2009) 6 SCC 121, National Insurance Co. Ltd. Versus. Pranay Sethi, (2017) 16 SCC 680 and Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130, claimants are entitled to award under conventional heads, for future prospects, etc. This court is of the view that head-wise various computation of compensation deserves to be modified as below:-

Sr. No.	Heads	Compensation Awards
1.	Monthly Income	Rs.7,200/-
2.	Future prospects	Rs.2,880/- (40% of Rs. 7,200/-)
3.	Deduction towards personal expenditure 1/4	Rs.2,520/- (Rs.10,080 /- x 1/4)
4.	Total Monthly Income.	Rs.7,560/- (Rs.10,080 /- subtract Rs.2,520/-)
5.	Multiplier	18
6.	Annual dependency	Rs.16,32,960/- (Rs.7,560/- x 12 x 18)
7.	Loss of Consortium	Rs.1,44,000/- (48,000 x 3)
8.	Funeral expenses	Rs.18,000/-
9.	Loss of Estate	Rs.18,000/-
10.	Total compensation	Rs.18,12,960/-
11.	Less: Award by MACT	Rs.8,84,000 /-
12.	Enhancement	Rs.9,28,960/-

8. Accordingly, appellants are held to an additional compensation of Rs.9,29,000/- (rounded off), which shall be payable to the appellants with interest at the rate of 7.5% p.a., from the date of filing of the claim petition.

9. Appeals are disposed off.

10. As the appeal has been decided, pending application(s), if any, is/are disposed off.

(SUVIR SEHGAL)
JUDGE

Pardeep
06.03.2025

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes