IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No. 583 of 2015 (O&M)
Date of decision: January 29, 2016

Shri Ram General Insurance Company Ltd.
...Appellant
Versus
Asma and others
...Respondents

(2) FAO No. 2002 of 2015 (O&M)

Asma and others
...Appellants
Versus
Aashu and others
...Respondents

(3) FAO No. 3751 of 2015 (O&M)

Soni Devi and others
...Appellants
Versus
Aashu and others
...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Ms. Kavya Jariyal, Advocate, for
Mr. T.K. Joshi, Advocate,
for the appellant in FAO No. 583 of 2015 and
for the respondent-No.3 in FAO No. 2002 and 3751 of 2015.

M. Sarfraj Hussain, Advocate,
for the appellants in FAO No. 2002 and and 3751 of 2015 and
for the respondents in FAO No. 583 of 2015.

K. KANNAN, J. (Oral)

<u>CM No. 1571 CII of 2015</u>

For the reasons stated in the application, delay in filing the appeal is condoned.

CM stands disposed of.

Main case

1. All the three cases relate to the same accident where the driver of a motor cycle and the pillion riders were hit from behind by the insured vehicle. The deceased were two persons, one of whom was 22 years of age. With particularly no proof of income, the Tribunal took his income at ₹5200/- and for a claim by the parents, brother and sister, assessed compensation at ₹7,97,200/-. The insurance company is in the appeal contending that the assessment is erroneous and does not conform to the mode of assessment prescribed in Sarla Verma Versus Delhi Transport Corporation 2009 (6) SCC 121. This is the subject matter of appeal is FAO No. 583 of 2015. The claimants are in appeal in FAO No. 2002 of 2015 complaining of the assessment of inadequacy.

2. The assessment by the Tribunal providing for 1/4th deduction and applying for a multiplier of 11 cannot be supported. I will re-work the compensation taking the income at ₹5200/-, as already taken, provide for ½ deduction and apply a multiplier of 18. The loss of dependency will be at ₹8,42,400/- and make a provision for loss of love and affection for the mother at ₹1 lakh and funeral expenses and loss to estate at ₹25,000/- and ₹5,000/- respectively. The total compensation payable shall be ₹9,72,400/-. Several heads of claims are tabulated as under:-

Fatal Accident		***Date of accident***	
Age	22	12/01/14	
Occupation			
Claimants:	Parents, brother and sister		
	Heads of claim	**Tribunal**	**High Court**
Sr. No.		Amount (₹)	Amount (₹)

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1	Income	5200	5200
2	Add, 50% of increase	7800	7800
3	Deduction 7800x 1/4	5850	x ½=3900
4	Multiplicand (annualized)	70200	46800
5	Multiplier	11	18
6	Loss of dependence	7,72,200	8,42,400
7	Medical expenses		
8	Loss of Consortium		
9.	Loss of love and affection for parents		1,00,000
10	Loss to estate		5000
11	Funeral Expenses	25000	25000
	Total	7,97,200	9,72,400

3. The award is modified the appeal by the insurance company is partly allowed. The amount shall be distributed only among the parents of the deceased.

4. In FAO No. 3571 of 2015, the claim is at the instance of the wife, two minor children and the parents. The deceased was 33 years of age and was a cook. The Tribunal took his income at ₹5200/-, made a prospects of increase at 50% and provided total ₹12,73,100/- as compensation payable. The deduction applied was erroneous at 1/5th and I have re-work the compensation taking the deduction at 1/4th and providing for loss of consortium and loss of love and affection for the children at ₹1 lakh each and ₹50,000/- for each parent. Several heads of claim are tabulated as under:-

Fatal Accident		***Date of accident***	
Age		33	
Occupation	Cook	12/01/14	
Claimants:	Widow, two minor children and parents		
	Heads of claim	**Tribunal**	**High Court**
Sr. No.		Amount (₹)	Amount (₹)
1	Income	5200	5200
2	Add, 50% of increase	7800	7800
3	Deduction 1/5	6240	¼ =5850

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Fatal Accident		***Date of accident***	
4	Multiplicand (annualized)	74880	70200
5	Multiplier	16	16
6	Loss of dependence	11,98,080	11,23,200
7	Medical expenses		
8	Loss of Consortium	50000	1,00,000
9.	Loss of love and affection for children and parents		3,00,000
10	Loss to estate		5000
11	Funeral Expenses	25000	25000
	Total	12,73,080	15,53,200

5. The total compensation payable shall be ₹ 15,53,200/-. The award of the Tribunal is modified and the appeal by the claimants stands allowed. The additional compensation will attract interest at the rate of 9% from the date of petition till the date of payment.

6. The additional amount shall also be distributed in ratio of 2:2:2:1:1 amongst the wife, minor children and the parents respectively. As regards the share of the parents, it shall be distributed forthwith and as regards the claim of the wife, considering the fact that the accident had taken place in the year 2014, 25% of the amount shall be permitted to be withdrawn and 75% of the amount for the wife shall be deposited in a nationalized bank for a period of 10 years, splitting for ten equal portions, 1st portion for a period of one year, 2nd portion for a period of two years and so on upto 10 years. As regards, the share of the two minor children, the entire amount shall be deposited in a nationalized bank during the period of minority of the respective children and interest to be paid once in three months to the mother by cheque drawn in her favour towards maintenance of the children. On attaining the majority, they will be permitted to withdraw 75% and remaining 25% shall be deposited in a nationalized bank for a period of three years, splitting in three equal portions, 1st portion for a

period of one year, 2nd portion for a period of two years and the 3rd portion for the three years. There shall be standing instruction given to the bank to which the deposits are made that amounts will be deposited in the manner directed and cheques drawn in favour of the persons entitled to the same directly with due intimation to the Tribunal.

6. The appeals are disposed of as above.

January 29, 2016 **(K.KANNAN)**
prem **JUDGE**