

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

FAO-966-2015 (O&M)

Date of decision: 19.5.2016

United India Insurance Company Ltd.

...Appellant

Versus

Satmeet Kaur and others

...Respondents

FAO-2532-2015 (O&M)

Satmeet Kaur and others

...Appellants

Versus

Sunil Kumar and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.RK Bashamboo, Advocate
for the appellant in FAO-966-2015
for respondent No.3 in FAO-2532-2015

Mr.Sagar Aggarwal, Advocate
for the appellants in FAO-2532-2015 and
for respondents No.1 to 4 in FAO-966-2015.

SNEH PRASHAR, J.

This judgment shall dispose of both the appeals i.e. FAO-966-2015 filed by the Insurance Company and FAO-2532-2015 filed by the claimants, arising out of the award dated 21.10.2014 passed by learned Motor Accident Claims Tribunal, Kurukshetra (for short 'the Tribunal') passed in MACP no.802 of 2013, vide which, a sum of

Rs.16,52,246/- was allowed to the claimants as compensation on account of death of Karamjit Singh, husband of claimant No.1, father of claimant No.2 and son of claimants No.3 and 4, in a motor vehicular accident that took place on 7.11.2013.

The submissions made by Mr.RK Bashamboo, Advocate representing the Insurance Company and Mr.Sagar Aggarwal, Advocate for the claimants have been heard and the record perused.

Learned counsel for the Insurance Company raised two fold arguments (i) that as the deceased was not in a permanent employment, no amount towards future prospects should have been allowed and (ii) that the deduction of 1/3rd instead of 1/4th of the income towards personal and living expenses of the deceased should be made, since the father was not a dependent of the deceased.

On the other hand, learned counsel for the claimants submitted that addition of 50% to the actual income of the deceased computing future prospects has been rightly made in view of the law laid down in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**. He further submitted that the father of the deceased being an old man of 60 years, was wholly dependent on the earnings of the deceased and thus, there being four dependents, the deduction of 1/4th towards personal and living expenses taken by learned Tribunal is appropriate. Learned counsel also submitted that learned Tribunal awarded a consolidated amount under the conventional heads i.e. Rs.1,25,000/-, which is on the lower side.

Undoubtedly, Karamjit Singh died at the age of 30 years.

The contention of learned counsel for the Insurance Company regarding that addition of 50% of the actual income computing future prospects of the deceased was wrongly made is not tenable in view of the law laid down by Hon'ble Apex Court in **Rajesh and others's case (supra)** . The relevant part of the judgment reads as under:-

“11. Since, the Court in Santosh Devi's case (supra) actually intended to follow the principle in the case of salaried persons as laid in Sarla Verma's case (supra) and to make it applicable also to the self employed and person on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self employed or persons of fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.”

Regarding dependency, Satmeet Kaur, widow of the deceased deposed through her affidavit that besides her, the deceased is survived by Gurjot Singh (minor son), Balbir Singh (father) and Seemar Kaur (mother) and that they all were dependent on his earnings. She also stated that after the death of her husband, there is no person left to earn a livelihood for the family. During her cross-examination, the respondents

did not specifically challenge the testimony of Satmeet Kaur that Balbir Singh, father of the deceased was dependent on his earnings. Also no evidence was led by the respondents to prove that Balbir Singh had any independent source of income. The age of Balbir Singh was mentioned as 60 years. There being nothing contrary to the evidence, it is assumed that he was not independently earning. Thus, he was rightly taken as a dependent of the deceased and in that manner, there being four dependents namely widow, minor son and parents, learned Tribunal has rightly deducted 1/4th of the income towards personal and living expenses of the deceased.

Perusal of the award shows that learned Tribunal has awarded a consolidated amount of Rs.1,25,000/- on account of loss of consortium to the wife, love and affection to the minor child and parents, funeral expenses and loss of estate. Undoubtedly, the above heads of compensation are distinct and different from each other and cannot be clubbed together. Therefore, the amount under the following heads is allowed as under, against which the amount already awarded i.e. Rs.1,25,000/- will be adjusted:-

1	For loss of consortium to the widow	Rs.1,00,000/-
2	For loss of love, care and guidance to the minor child	Rs.1,00,000/-
3	Funeral and last rite expenses	Rs.25,000/-
4	Loss of love and affection to the mother	Rs.50,000/-

Accordingly, the enhanced compensation amount of Rs.1,50,000/- (2,75,000-1,25,000) shall be paid to the claimants within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest @ 7.5% per annum from

the date of filing the appeal till its realisation.

In view of the above, FAO-966-2015 filed by the Insurance Company is dismissed and FAO-2532-2015 filed by the claimants is partly allowed with modification in the impugned award to the above extent.

19.5.2016
gsv

(SNEH PRASHAR)
JUDGE