

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

1. FAO-6565-2017 (O&M)
Date of decision: 31.10.2017

National Insurance Company Ltd. Appellant

Versus

Abdul Sakoor and others Respondents

2. FAO-6489-2017 (O&M)

National Insurance Company Ltd. Appellant

Versus

Gulfsa and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Paul S.Saini, Advocate
for the appellant.

Mr. Ashish Gupta, Advocate
for the respondents.

Avneesh Jhingan, J.

The present appeals have been preferred against the award dated 03.05.2017 passed by Motor Accidents Claims Tribunal, Mewat (hereinafter referred to as the 'Tribunal').

These are two appeals arising out of the same accident which had been dealt by a common award and are hence being decided by common order.

The issue raised by learned counsel for the Insurance Company is that the amount awarded under the conventional heads is on the higher side. The other issue is that there was contributory negligence on the part of the deceased.

The facts have not disputed by either of the parties.

There is no dispute with regard to the loss of dependency. The only issue pressed is with regard to the conventional heads. Though the issue of contributory negligence was raised but the same was not pressed.

Unfortunately, Anees, Rafiq and Waseem lost their lives in a motor vehicular accident which had occurred on 15.05.2016. They were going on a motorcycle which was hit by rashly and negligently driven Swift Car bearing registration No. HR-27F-7617. All three died on the spot.

The claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') were filed.

The Tribunal after considering the witnesses and evidence produced, awarded a sum of Rs.20,02,400/-to the legal heirs of Anees and a sum of Rs.12,51,600/- along with interest @ 7.5% per annum to the parents of deceased Waseem. Tabular form of the details of amounts awarded to the legal heirs of Anees is as under :-

a)	<i>Loss of income to the family</i>	<i>Rs.16,52,400/-</i>
b)	Funeral expenses	Rs.25,000/-
c)	Loss of estate	Rs.25,000/-
d)	Loss of consortium	Rs.1,00,000/-
e)	Loss of care and guidance for children	Rs.1,00,000/-
f)	Loss of love and affection to parents	Rs.1,00,000/-
	Total amount of compensation	Rs.20,02,400/-

Tabular form of the details of amounts awarded to the parents of deceased Waseem is as under :-

a)	<i>Loss of income to the family</i>	<i>Rs.11,01,600/-</i>
b)	Funeral expenses	Rs.25,000/-
c)	Loss of estate	Rs.25,000/-
d)	Loss of love and affection to parents	Rs.1,00,000/-
	Total amount of compensation	Rs.12,51,600/-

I have heard the learned counsel for the parties and perused the paperbook.

FAO-6489-2017 (O&M)

Dealing with the appeal filed by Insurance Company relating to the death of Anees i.e. FAO No.6489 of 2017.

Learned counsel for the Insurance Company states that the deceased was survived by a widow, minor daughter and parents. He argued that in this case, an amount of Rs.1 lakh has been awarded for loss of care and guidance and Rs.1 lakh has been awarded for loss of love and affection to the parents. His grievance is that the said amount is on the higher side and there is only one child and father was not dependent upon the deceased.

Learned counsel for the respondents resisted any deduction and rather argued that 8 months daughter had lost the guidance, love and affection of her father and 46 years old mother has lost her son. In such circumstances, the amount awarded is rather on the lower side and should be enhanced.

Though, it would not be appropriate to reduce the amount already awarded in the present case as the claimants included a 20 years old widow and 8 months old daughter.

Learned counsel for the appellant has argued that amounts awarded under the conventional heads are on the higher side. He states that amount awarded under the conventional heads is Rs.3,50,000/-. The same should not be more than Rs.2,50,000/-.

Learned counsel for the claimants on instructions from the client has no objection if the amount is reduced by Rs.1,00,000/- under the conventional heads. Since no other issue has been raised in the present appeal and as per the instructions of learned counsel for the claimants, the award dated 03.05.2017 in MACT case No.94 of 2016 is modified to the extent that the amount awarded of Rs.20,02,400/- is reduced to Rs.19,02,400/-.

FAO No.6565 of 2017

In this case, Waseem lost his life who was aged 18 years. The claim petition was numbered as MACT No.89 of 2016. In the present case, the deceased was survived by parents.

Learned counsel for the Insurance Company has only challenged the amount awarded under the conventional heads.

From the perusal of the award, it is evident that the compensation of Rs.25,000/-for funeral expenses and Rs.25,000/- awarded for loss of estate, in no circumstance can be said to be on higher side. Same is just and equitable amount. With regard to Rs.1 lakh to the parents for loss of love and affection, the reliance may be relied upon the decision of the Hon'ble Apex Court in **Sandhya Rani Debbarma and others vs. National Insurance Company Ltd. and another, 2016(4) R.C.R. (Civil)**

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Similarly, in **Asha Verman and others Vs. Maharaj Singh and others, 2015(4) SCC (Civil) 767**, held as under:

*“17. Further, the High Court has erred in awarding only Rs.5,000/- each towards loss of estate, funeral expenses and loss of consortium. We award Rs.1,00,000/- towards loss of estate according to the principles laid down in the case of **Kalpanaraj & Ors. v. Tamil Nadu State Transport Corporation, 2014 (2) R.C.R.(Civil) 876; 2014 (3) Recent Apex Judgments (R.A.J.) 112; 2014 (5) SCALE 479, Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards loss of consortium as per the principles laid down by this Court in the case of **Rajesh & Ors. Vs. Rajbir Singh & Ors., 2013 (3) R.C.R. (Civil) 170; 2013 (3) Recent Apex Judgments (R.A.J.).659; (2013) 9 SCC 54.*****

*18. Further, we award Rs.1,00,000/- each to the appellant-children towards loss of love and affection due to the loss of their father (deceased) as per the decision of this Court in the case of **Jiju Kuruvila & Ors. vs. Kunjujamma Mohan & Ors., 2013(3) R.C.R.***

(Civil) 817 : 2013(4) Recent Apex Judgments
(R.A.J.) 364 : (2013)9 SCC 166. Further, a
sum of Rs.50,000/- is awarded to each of the
appellant-parents towards loss of love and
affection of their deceased son as per the
principles laid down by this Court in the case
of M Mansoor & Anr. vs. United India
Insurance Co.Ltd., 2013(4) R.C.R.(Civil)
729 : 2013(5) Recent Apex Judgments (R.A.J.)
516 : 2013 (12) SCALE 324.

In the above decisions, the Hon'ble Apex Court has awarded Rs.1 lakh for loss of love and affection to the parents. The unfortunate parents lost the son who was 18 years of age, the compensation is for the purpose for putting the claimants in a position that their loss is compensated to the extent that the money can. No amount awarded to the unfortunate parents can compensate the loss of young child. In any case, Rs.1,00,000/- awarded cannot be stretch of imagination can be argued to be on higher side.

The appeal has no merits and hence is dismissed.

Net result is FAO No.6489 of 2017 is partly allowed and FAO No.6565 of 2017 is dismissed.

(AVNEESH JHINGAN)
JUDGE

31.10.2017

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1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : Yes