

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

(1)		FAO No. 1242 of 2005
Surjit Kaur and others		 APPELLANTS
	Versus	
Baljit Singh and others		 RESPONDENTS
(2)		FAO No. 1243 of 2005
Gurdev Kaur and others		 APPELLANTS
	Versus	
Baljit Singh and others		 RESPONDENTS
(3)		FAO No. 1559 of 2005
Gian Kaur and others		 APPELLANTS
	Versus	
Baljit Singh and others		 RESPONDENTS

DATE OF DECISION : 19.02.2018

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ashok Jindal, Advocate,
 for the appellants.

Mr. Vikas Mohan Gupta, Advocate,
for respondent No.3.

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AVNEESH JHINGAN, J. (Oral)

This order shall dispose of FAO Nos. 1242, 1243 and 1559 of 2005, as these arise from one and the same accident. The appeals arise from three separate awards passed by the Motor Accident Claims Tribunal,

Bathinda (for short, 'the Tribunal').

2. The record of these appeals were burnt and from the salvaged record of the partially burnt cases, the same were reconstructed subject to all just exceptions and further verification.

3. An accident took place on 28.08.2001. Jasbir Singh alias Jagsir Singh, Pahara Singh and Darshan Singh were passengers in jeep bearing registration No. PB-04E-3232, being driven by Baljit Singh – respondent No.1. At about 3.30 PM, when the jeep reached near village Jida Romana bus stand, one *Tahli* tree fell on the jeep. As a result of this, the above named passengers lost their lives.

4. Three separate claim petitions under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act') were filed by legal heirs of the deceased persons.

5. The Tribunal awarded compensation along with interest at the rate of 6% per annum.

6. The present appeals have been filed for enhancement of compensation.

7. I have heard learned counsel for the parties and perused the paper book.

FAO No. 1242 of 2005

8. Learned counsel for the appellants assailed the award arguing that deceased Jasbir Singh alias Jagsir Singh was aged about 50 years and was an agriculturist. He was survived by three un-married daughters, two of whom were minor, and old parents. His contention is that the income of the deceased assessed by the Tribunal as ₹ 2,400/- per month is on lower side.

He argued that the multiplier of 12 has wrongly been applied. Learned counsel further argued that no amount has been awarded for loss of estate and no future prospects have been added.

9. Learned counsel for the insurer defended the award and argued that no case has been made out for enhancement of compensation.

10. The contention of learned counsel for the appellants that future prospects should have been added cannot be accepted. The claim petition was filed under Section 163-A of the Act. In proceedings under Section 163-A of the Act, the structured formula for calculating compensation has been given in Second Schedule to the Act. In the said Schedule, there is no provision for adding future prospects.

11. The multiplier of 12 has wrongly been applied. Keeping in view the age of the deceased, multiplier of 13 is to be applied. The appellants are entitled to ₹ 2,500/- for loss of estate. The fact that the deceased was an agriculturist by profession has not been seriously disputed. Keeping in view this fact, the monthly earning of the deceased is assessed at ₹ 3,300/-.

The compensation is re-calculated as under :-

Monthly income	₹ 3,300/-
1/3 rd deduction for self expenses	₹ 1,100/-
Monthly dependency	₹ 2,200/-
Applying multiplier of 13	
2,200 x 12 x 13	₹ 3,43,200/-
Loss of estate	₹ 2,500/-
Funeral expenses	₹ 2,000/-
Total	₹ 3,47,700/-

12. The award dated 01.12.2004 passed in MACT No. 58 of 11.09.2011 is modified to the extent that the amount awarded of ₹ 2,32,400/- is enhanced to ₹ 3,47,700/-.

13. The appellants would be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

14. The appeal is partly allowed in the aforesaid terms.

FAO No. 1243 of 2005

15. Learned counsel for the appellants assailed the award by arguing that deceased Pahara Singh was aged about 53 years and was an agriculturist. He was survived by two sons and widow. His contention is that the income of the deceased assessed by the Tribunal as ₹ 2,400/- per month is on lower side. He argued that the multiplier of 10 has wrongly been applied. Learned counsel further argued that no amount has been awarded for loss of estate and no future prospects have been added.

16. Learned counsel for the insurer defended the award and argued that no case has been made out for enhancement of compensation.

17. The contention of learned counsel for the appellants that future prospects should have been added cannot be accepted, as the claim petition was filed under Section 163-A of the Act. In proceedings under Section 163-A of the Act, the structured formula for calculating compensation has been given in Second Schedule to the Act. In the said Schedule, there is no provision for adding future prospects.

18. The multiplier of 10 has wrongly been applied. Keeping in view the age of the deceased, multiplier of 11 is to be applied. The

appellants are entitled to ₹ 2,500/- for loss of estate. The fact that the deceased was an agriculturist by profession has not been seriously disputed. Keeping in view this fact, the monthly earning of the deceased is assessed at ₹ 3,300/-.

The compensation is re-calculated as under :-

Monthly income	₹ 3,300/-
1/3 rd deduction for self expenses	₹ 1,100/-
Monthly dependency	₹ 2,200/-
Applying multiplier of 13 2,200 x 12 x 11	₹ 2,90,400/-
Loss of estate	₹ 2,500/-
Funeral expenses	₹ 2,000/-
Loss of consortium	₹ 5,000/-
Total	₹ 2,99,900/-

19. The award dated 01.12.2004 passed in MACT No. 60 of 11.09.2011 is modified to the extent that the amount awarded of ₹ 1,99,000/- is enhanced to ₹ 2,99,900/-.

20. The appellants would be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

21. The appeal is partly allowed in the aforesaid terms.

FAO No. 1559 of 2005

22. Learned counsel for the appellants assailed the award by arguing that deceased Darshan Singh was aged about 50 years and

was an agriculturist. He was survived by one son, widow, one daughter and old father. His contention is that the income of the deceased assessed by the Tribunal as ₹ 2,400/- per month is on lower side. He argued that the multiplier of 11 has wrongly been applied. Learned counsel further argued that no amount has been awarded for loss of estate and no future prospects have been added.

23. Learned counsel for the insurer defended the award and argued that no case has been made out for enhancement of compensation.

24. The contention of learned counsel for the appellants that future prospects should have been added cannot be accepted, as the claim petition was filed under Section 163-A of the Act. In proceedings under Section 163-A of the Act, the structured formula for calculating compensation has been given in Second Schedule to the Act. In the said Schedule, there is no provision for adding future prospects.

25. The multiplier of 10 has wrongly been applied. Keeping in view the age of the deceased, multiplier of 13 is to be applied. The appellants are entitled to ₹ 2,500/- for loss of estate. The fact that the deceased was an agriculturist by profession has not been seriously disputed. Keeping in view this fact, the monthly earning of the deceased is assessed at ₹ 3,300/-.

The compensation is re-calculated as under :-

Monthly income	₹ 3,300/-
1/3 rd deduction for self expenses	₹ 1,100/-
Monthly dependency	₹ 2,200/-
Applying multiplier of 13	

2,200 x 12 x 11

₹ 3,43,200/-

Loss of estate	₹ 2,500/-
Funeral expenses	₹ 2,000/-
Loss of consortium	₹ 5,000/-
Total	₹ 3,52,700/-

26. The award dated 01.12.2004 passed in MACT No. 61 of 11.09.2011 is modified to the extent that the amount awarded of ₹ 2,18,200/- is enhanced to ₹ 3,52,700/-.

27. The appellants would be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

28. The appeal is partly allowed in the aforesaid terms.

February 19, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes