

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) FAO No.1296 of 2006(O&M)
Date of Order:22.03.2018

R.D.Sharma and another

..Appellants

Versus

Kumari Santosh and others

..Respondents

(2) FAO No.3624 of 2006 (O&M)

Krishan Lal and others

...Appellants

Versus

Kumari Santosh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jaspal Singh Maanipur, Advocate,
for the appellants.

Mr. Pardeep Goyal, Advocate,
for respondent no.4.

ANIL KSHETARPAL, J(Oral)

By this judgment, two appeals i.e. FAO No.1296 of 2006 and 3624 of 2006 arising out of the same accident, resulting into death of two young and unmarried girls, are being disposed of. The Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') also passed a consolidated judgment while disposing of these two appeals.

Claimants, namely, the parents of two unmarried girls, who unfortunately died in a motor vehicular accident on 21.05.2003, are in appeal seeking enhancement of the compensation. There is no appeal or cross objections by the respondents, so the only issue which needs

determination is what should be the appropriate compensation.

In the case arising from the death of late Ms. Indu Sharma, i.e. FAO No.1296 of 2006, the Tribunal after arriving at a conclusion that she was drawing monthly salary of Rs.4845/-, applied a cut of 1/3rd and thus worked out dependency at Rs.3230/-. The Tribunal after working out the yearly dependency, applied multiplier of 3. No amount was added on account of future prospects. The deceased was working as Operating Engineer in Purulator India Limited. The court has also awarded a sum of Rs.2500/- on account of conventional heads, i.e. loss of estate, loss of consortium and funeral expenses.

As per the judgment passed by the Constitution Bench in National Insurance Company Limited v. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014, decided on 31.10.2017P, in the case of unmarried person, the cut which is to be applied is 50%. On account of conventional heads, the appellant would only be entitled to the loss of estate i.e. Rs.15,000/- and funeral expenses at Rs.15,000/-

As per the judgment in National Insurance Company Limited (supra), the Tribunal has committed an error in not adding 40% of the income on account of future prospectus. Hence the compensation is re-worked as under:-

<i>Heads</i>	<i>Compensation awarded by High Court</i>	<i>Compensation awarded by MACT</i>
Income Taken	Rs.4845/-	Rs.4845/-
-deduction	-50%(Rs.2423) Rs.2422/-	-1/3 rd (Rs.1615) Rs.3230
+ future prospects	+40% 969 Rs.3392/-	NIL

<i>Heads</i>	<i>Compensation awarded by High Court</i>	<i>Compensation awarded by MACT</i>
Dependency M= 18 A= 23	Rs.3392x12x18=7,32,672/-	3230x3x12=1,16,280/-
Conventional Heads -Loss of estate -Funeral Expenses -Consortium ----- 7,62,672/-	Rs.15000/- Rs.15000/- NIL ----- 7,62,672/-	Rs.2500/- ----- 1,18,780/-
Already awarded by MACT	-1,19,000 ----- 6,43,672/-	 Rounded off Rs.1,19,000/-

Similarly in FAO No.3624 of 2006, which arises from the claim petition filed on account of death of late Ms. Tara Vati, aged 26 years, the court has taken the income as Rs.4155/-, applied a cut of 1/3rd, which has been to be 50% as per the judgment in ***National Insurance Company Limited*** (supra). 40% is to be added as future prospectus and the multiplier which would applicable is 17.

Under the conventional heads loss of estate 15000/- and funeral expenses Rs.15000/-. Hence the compensation is re-worked as under:-

<i>Heads</i>	<i>Compensation awarded by High Court</i>	<i>Compensation awarded by MACT</i>
Income Taken -deduction	Rs.4155/- -50%(Rs.2077) Rs.2078/-	Rs.4155/- -1/3 rd (Rs.1385) Rs.2770/-
+ future prospects	+40% 831.2 Rs.2909.2/- Rounded off to Rs.2910/-	NIL
Dependency M= 18 A= 23	Rs.2910x12,17=5,93,640/-	2770x3x12=99,720/-

<i>Heads</i>	<i>Compensation awarded by High Court</i>	<i>Compensation awarded by MACT</i>
Conventional Heads		
-Loss of estate	Rs.15000/-	Rs.2500/-
-Funeral Expenses	Rs.15000/-	
-Consortium	NIL	
	-----	-----
	6,23,640/-	1,02,220/-
Already awarded by MACT	-1,02,220	

Enhanced amount	5,21,420/-	

In view of the aforesaid, both the appeals are allowed. The enhanced amount shall carry interest @ 7.5% from the date of filing of the claim petition till its realization.

March 22, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	YES/NO
Whether reportable	YES/NO