

FAO-1466-2006 (O&M) and
FAO-1465-2006 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision : 20.9.2018

FAO-1466-2006 (O&M)

Ravinder Pal Kaur

....Appellant

vs.

Kulwant Dass and others

....Respondents

FAO-1465-2006 (O&M)

Ravinder Pal Kaur

....Appellant

vs.

Kulwant Dass and another

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Manish Kumar Singla, Advocate
for the appellant.

Mr. V.K.Garg, Advocate for
Mr. Pardeep Goyal, Advocate
for the respondent No.-2- insurance company.

AJAY TEWARI, J. (Oral)

These two appeals are decided by the common order as they are
arising out of the same accident.

FAO-1466-2006

These two appeals have been filed against the award dated
8.9.2005 passed by Motor Accident Claims Tribunal, Sangrur awarding
compensation of Rs. 3,12,000/- alongwith interest at the rate of 9% per

annum on account of death of Raghbir Singh in an accident.

Brief facts of the case are that on 7.12.2003 Ravinder Pal Kaur alongwith Raghbir Singh(deceased), Satinder Kaur, Kulwinder Kaur and Sarbajit Kaur was coming in Zen Car from village Dera Kundanpur, District Kurukshetra to Raikot to attend a marriage. The car was driven by the deceased-Raghbir Singh. When the case reached near Punjab State Electricity Board Office at Bhawanigarh at about 9:30 am, truck bearing No.PB-13D-7187 came from Phguwal crossing at a high speed hit the car by coming on the wrong side. All the occupants of the car received injuries and Raghbir Singh-deceased was referred to PGI-Chandigarh on 8.12.2003 where he died on 11.12.2003. Claim petition was filed and claimant was awarded abovementioned compensation.

First argument raised by the learned counsel for the appellant is that in view of the judgment of the Supreme Court in the matter of ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298***, the multiplier of 13 has been applied instead of 16. Learned counsel for the insurance company is not in a position to deny this fact. Consequently, it is held that multiplier of 16 has to be applied as per the age of the deceased.

Second argument raised by the learned counsel for the appellant is that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 40% future prospects have to be granted. Counsel for the respondent No.2-insurance company is not in a position to deny this fact. Consequently, I award 40% future prospects.

Third argument raised by the learned counsel for the appellant is that as per the judgment of Pranay Sethi's case (supra) under the conventional heads Rs.70,000/- is to be payable whereas the Tribunal has awarded nothing under this head. Counsel for the insurance company has very fairly accepted this fact. Consequently, I award Rs. 70,000 /- under the conventional heads.

Next argument raised by the learned counsel for the appellant is that in the latest judgment of the Supreme Court passed in “***Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others***” in ***Civil Appeal No. 9581 of 2018*** decided on 18.9.2018, the Supreme Court after considering the judgment of Pranay Sethi's (supra) has awarded a sum of Rs. 40,000/- each to the claimants i.e. father and unmarried sister of an unmarried deceased son/brother under the head of filial consortium and prays that in this case also a sum of Rs.40,000/- more should be awarded to the mother-respondent No.-3-Kulwant Kaur under the head of filial consortium. Learned counsel for the insurance company is not in a position to deny this fact also. Consequently, I award Rs.40,000/- more to the respondent No.3.

Counsel for the appellant has further argued that the Tribunal has awarded only Rs.5,000/- for hospitalization which is very low. I find this to be indeed so and awarded a sum of Rs.10,000/- more for hospitalization.

Counsel for the appellant has further pointed out that in the judgment of Magma General Insurance Company Limited (supra) the Supreme Court has awarded interest at the rate of 12% per annum on the

entire compensation. In view of this judgment, I also award 12% interest per annum on the entire compensation from the date of filing of the claim petition till the date of payment.

Out of the enhanced amount, apart from the individual shares, the appellant would be entitled to 70% while the respondent No.3 would be entitled to 30%.

The appeal bearing No. **FAO-1466-2006** stands disposed of with the abovesaid modifications.

In FAO-1465-2006 counsel for the appellant has argued that the Tribunal has awarded only Rs. 35,000/- for injuries sustained by the appellant in the accident.

Counsel for the insurance company has stated that there was no proof of permanent disability and the compensation was awarded as per the expenses which were proved.

I find no ground to increase the amount.

Consequently, the appeal bearing **FAO-1465-2006** stands dismissed.

Since the main cases have been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**20.9.2018
anuradha**

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No