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

**Date of Decision: 11.09.2018**

**1. FAO No.2640 of 2012(O&M)**

**Amarjit Kaur ...... Appellant**
**Versus**
**Kamta Paswan and others .....Respondents**

**2. FAO No.2641 of 2012**

**Manjit Kaur ...... Appellant**
**Versus**
**Kamta Paswan and others .....Respondents**

**3. FAO No.2642 of 2012**

**Jagjit Singh @ Sonu ...... Appellant**
**Versus**
**Kamta Paswan and others .....Respondents**

**4. FAO No.2643 of 2012**

**Sujit Kaur ...... Appellant**
**Versus**
**Kamta Paswan and others .....Respondents**

**5. FAO No.2644 of 2012**

**Harbans Kaur ...... Appellant**
**Versus**
**Kamta Paswan and others .....Respondents**

**6. FAO No.2645 of 2012**

**Nachattar Kaur ...... Appellant**
**Versus**
**Kamta Paswan and others .....Respondents**

**7. FAO No.2646 of 2012**

**Manjit Kaur ...... Appellant**

**Versus**

**Kamta Paswan and others .....Respondents**

**8. FAO No.3129 of 2012**

**Bhinder Kaur and another ...... Appellants**

**Versus**

**Kamta Paswan and others .....Respondents**

**CORAM:** ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Swarn Tiwana, Advocate
for the appellant(s).

Mr. Sandeep Suri, Advocate
for respondent No.6/Insurance Company.

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***RAJ MOHAN SINGH, J.***

[1]. Vide this common order, bunch of eight cases i.e. FAO No.2640 of 2012 titled Amarjit Kaur Vs. Kamta Paswan and others, FAO No.2641 of 2012 titled Manjit Kaur Vs. Kamta Paswan and others, FAO No.2642 of 2012 titled Jagjit Singh @ Sonu Vs. Kamta Paswan and others, FAO No.2643 of 2012 titled Surjit Kaur Vs. Kamta Paswan and others, FAO No.2644 of 2012 titled Harbans Kaur Vs. Kamta Paswan and others, FAO No.2645 of 2012 titled Nachattar Kaur Vs. Kamta Paswan and others, FAO No.2646 of 2012 titled Manjit Kaur Vs. Kamta Paswan and others and FAO No.3129 of 2012 titled Bhinder Kaur and another Vs. Kamta Paswan and others is being decided as common question of law and facts are involved in

the aforesaid appeals. Though the aforesaid appeals have been decided separately by the Motor Accident Claims Tribunal, Fatehgarh (for short 'the Tribunal'), but since the appeals have arisen out of one accident, where issues No.1 and 2 in respect of negligence and validity of driving licence of respondent No.1 were common, therefore, I think it appropriate to decide the aforesaid appeals by common order.

[2]. The accident took place in the intervening night of 03.03.2009 and 04.03.2009, when the deceased Gurpreet Singh son of Jaspal Singh, Sukhpreet Singh son of Major Singh, Gurpreet Singh son of Surinder Singh, Bir Devinder Singh, Harjinder Singh @ Nand, Sardara, Major Singh and Jagjit Singh @ Sonu were going from village Kutala to village Sidhupur Kalan in a Scorpio vehicle being driven by Bir Devinder Singh after attending marriage party of son of Surjit Singh, Ex-Sarpanch of village Kutala. The vehicle was followed by another vehicle, being driven by Balbir Singh. After midnight, when the first Scorpio reached at Amrit Palace, Khamano, then it struck against rear portion of a truck parked on pucca road without any indicator and reflector. The truck was loaded with iron rods. Dala of the truck was open and the iron rods were protruding out of the said dala. Scorpio dashed into the truck and the truck was pushed which hit against the trees. The

claimants alleged that iron rods were protruding out of the said truck and the same hit the occupants of the jeep. Bir Devinder Singh and Sukhpreet Singh died at the spot due to piercing of iron rods through their bodies. Remaining injured i.e. Gurpreet Singh son of Jaspal Singh, Major Singh, Harinder Singh @ Nand, Sardara Singh, Gurpreet Singh son of Surinder Singh and Jagjit Singh were removed to the hospital in serious conditions by a vehicle of police highway patrolling. Out of the aforesaid six persons, five were declared dead and only Jagjit Singh was referred to P.G.I, Chandigarh. The accident was witnessed by Balbir Singh who was following the ill fated Scorpio. Balbir Singh informed the families of the deceased. He got the statement recorded.

[3]. Claim petitions were contested by the respondents.

[4]. Issue No.1 was framed as to whether the accident in question was the result of wrong parking of the truck by respondent No.1 without any indicator and other safeguards and whether it amounted to negligence on his part. The second issue was in respect of validity of driving licence held by respondent No.1 at the time of accident. Third issue was in respect of compensation to which claimant(s) were entitled to.

[5]. The accident was proved by CW 1 Balbir Singh, eye witness and injured Jagjit Singh (CW 2). The claimants have

also appeared in the evidence. Copy of postmortem report, copy of FIR and copy of insurance cover were produced on record. The respondents examined Balbir Singh, Clerk, Office of DTO, Ludhiana besides examining Ashish Pathak. RC of the truck and insurance policy were brought on record. Eye-witness Balbir Singh and injured Jagjit Singh have deposed that at the time of impact, the truck was lying parked on the pucca road in a negligent manner without lightening of indicator and without reflector. The stationary truck was loaded with iron rods which were protruding out of dala. Dala of the truck was open and as a result of impact, the iron rods pierced through the bodies of the occupants namely Bir Devinder Singh (driver) and Sukhpreet Singh (occupant) and they died at the spot. Other six occupants were seriously injured and were removed to the hospital where five of them except Jagjit Singh were declared dead. Injured Jagjit Singh was referred to PGI, Chandigarh.

[6]. Both the witnesses were cross examined and nothing incriminating could be extracted from their cross examinations. After the impact, the said truck hit the trees. The sitting capacity of Scorpio was eight in number. The ill fated Scorpio was filled to the capacity, as eight persons were traveling in the same. As per medical evidence of the driver Bir Devinder Singh, no consumption of liquor was detected and he was not found to be

under the influence of liquor. Nothing was detected in the postmortem report, nor any evidence was led by the respondents to show that the driver was under the effect of any intoxicant. Ashish Pathak (RW 2) examined by the respondents is son of owner of the truck. According to his testimony, the witness and his father were into the business of transport at Ludhiana. The truck was owned by his father being registered owner. Kamta Paswan was employed as a driver of the truck. After taking his driving test and finding him to be a perfect driver, he was employed. After seeing his driving licence, the same was found to be genuine. On 03.03.2009, the truck was out of order and was parked on the road with parking lights on. The negligence on the part of Scorpio driver was alleged by the aforesaid witnesses as the truck after its impact, went into the ditches and struck against the trees. The intensity of the impact was such which can demonstrate the speed with which the Scorpio was being driven. In the cross examination, the witness had admitted that some part of the truck was partly on the kucha berm and partly on the pucca road.

[7]. The Tribunal took cognizance of issue No.1 that even if indicators and parking lights were on with dalla of the truck open and dropped down, then the parking lights and indicators would have been blocked by open dalla. Opened dalla would have

blocked the visibility of indicators and parking lights. Statements of Balbir Singh and Jagjit Singh, however demonstrated that no such indicators and parking lights were on. When the dalla of the truck was dropped down, it would have covered the indicators and parking lights. The dropping down of dalla was on account of protruding out of iron rods from the truck. The Tribunal believed the version of eye-witness on the one hand and with reference to Rule 15 of the Road Regulations,1989, Section 201 of the Motor Vehicle Act and Rule 138 of Central Motor Vehicle Rules, 1989 proceeded to hold negligence on the part of respondent No.1, but still held the case to be of contributory negligence in the ratio of 50:50% on the ground that since the truck was not parked on the curve of any road but the same was parked on the main road, therefore, the driver of the Scorpio should have taken due care and caution while driving his Scorpio at night. The driver of the Scorpio could have avoided the accident.

[8]. The factum of accident with the stationary truck was demonstrated with reference to ***Amrjit Kaur and others Vs. State of Punjab and others, 2001 ACJ 211, Smt. Nirmal Bhutani and others Vs. Haryana State and another, AIR 1983, Punjab and Haryana 188, UP State Road Transport Corpn. Vs. Radha Mohan Mall and others, (DB), 2004(4)***

***RCR (Civil) 782*** and ***The New India Assurance Company Limited Vs. Gurmail Singh and others, FAO No.1149 of 2009 decided on 28.07.2010***. In ***Amarjit Kaur's case (supra)*** and ***Smt. Nirmal Bhutani's case (supra)***, the accident on account of collision between a car with stationary vehicle was held to be due to sole negligence of stationary vehicle which was parked on the road without proper marking and indicators. In view of ***UP State Road Transport Corpn.Vs. Radha Mohan Mall and others case (supra)*** and ***The New India Assurance Company Limited Vs. Gurmail Singh and others case (supra),*** when the stationary truck was dashed from behind by another vehicle, then the case was held to be of contributory negligence to the extent of 50:50%. In ***Rajrani and others Vs. Oriental Insurance Company, (2009) 13 SCC 654***, the Hon'ble Apex Court uphold the findings of contributory negligence, in case, the collision took place between the ill fated vehicle with a stationary truck particularly when the truck was not found parked on a blind curve. The accident at a blind curve would have held the driver of the stationary vehicle to be liable. The driver of the ill fated vehicle was not in a position to note it from a safer distance by using illumination of headlights of the vehicle and by slowing down the speed of the vehicle. The impact resulted in pushing down the truck to hit the trees in ditches.

[9]. In my considered opinion, there is no escape from the findings of contributory negligence as recorded by the Tribunal, therefore, findings recorded by the Tribunal under issue No.1 cannot be faulted with.

[10]. The findings recorded under issue No.2 were based on evidence led by the respondents wherein Balbir Singh, Clerk from the Office of DTO, Ludhiana was examined who had brought the original driving licence issuance register for the concerned period. Driving licence issued to Kamta Paswan was found to be issued for driving LTV and its validity was from 09.12.2004 to 08.12.2007. The said driving licence was renewed for LMV for the period 27.03.2008 to 26.03.2011. The aforesaid fact was proved from the original register in respect of relevant entries. The witness was cross examined. Learned counsel for Kamta Paswan produced a driving licence dated 27.03.2008 valid upto 26.03.2011 which was issued for HMV. The said licence ran contrary to the entry in the original register brought by Balbir Singh, Clerk from the Office of DTO, Ludhiana. The record showed that the licence was issued for driving LMV only. The licence produced by learned counsel for Kamta Paswan had no such entry in the original record. The said document was in fact a coloured photocopy and was not the original licence. Logo of DTO printed on the licence

produced by learned counsel for Kamta Paswan did not carry the same and Logo was not reflected thereupon. Kamta Paswan could not give satisfactory reply before the Tribunal with regard to existence of original driving licence of the coloured photocopy produced by him in the cross examination. The evasive reply of Kamta Paswan to the effect that the original licence might be in the record of criminal case was found to be farce as the same being an identical licence found present in the record of criminal case.

[11]. Due to aforesaid anomalous situation with regard to non-production of original HMV licence, the Tribunal found that the driver of the truck was not having valid driving licence on the date of accident and was issued only LMV licence and not HMV licence.

[12]. The Tribunal after due deliberation, recorded a finding that the Insurance Company would answer the claim at the first instance with a right to recover the same from owner and driver of the offending vehicle.

[13]. The decision of issues No.1 and 2 are common in all the connected cases. Now, I will proceed to decide the individual entitlement of the claimants in all the cases separately.

***FAO No.2640 of 2012***

[14]. Deceased Gurpreet Singh was 24 years of age and was an agriculturist besides running dairy farming. His income was claimed to be Rs.15000/- per month. The claimant had appeared as CW 3 and has deposed in the context of earning of the deceased per month. The deceased was not having any bank account. Even Sewa Singh, Commission Agent was not examined as witness to whom agricultural produce was being sold by the deceased. In view of facts on record, the income of the deceased was assessed as Rs.4000/- per month. In my considered opinion, the assessment of monthly income to the tune of Rs.4000/- is just and appropriate. It has come on record that the deceased was unmarried and was a self employed person. Keeping in view his age to be 24 years, future prospects to the tune of 40% can be applied. Addition of 40% i.e. Rs.1600/- (4000 X 40/100 =1600) would bring the monthly income of the deceased to be Rs.5600/- (4000 + 1600 = 5600). Since the deceased was unmarried, 50% of the income can be deducted towards personal expenses, thereby assessing an amount of Rs.2800/- per month (5600/2 = 2800) as dependency of the claimant. The annual dependency would come out to be Rs.33,600/- (2800 X 12 =33,600). Keeping in view the age of the deceased and in view of ratio laid down in ***Smt. Sarla***

***Verma Vs. Delhi Transport Corporation, 2009 (3) PLR 22***, a multiplier of 18 has to be applied and after applying the same, the total amount of compensation can be worked out to the tune of Rs.6,04,800/- to which an amount of Rs.30,000/- towards conventional heads i.e. loss of estate and funeral expenses can be added in view of ratio laid down in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 SCC 1270.*** In this way, total amount of compensation would come out to be Rs.6,34,800/- (6,04,800 + 30,000 = 6,34,800).

[15]. Since the liability of the respondents has been assessed to be 50% on account of contributory negligence, therefore, Rs.3,17,400/- is the amount of compensation to which the claimant-appellant is entitled to. Since an amount of Rs.1,42,900/- has already been awarded by the Tribunal, therefore, the enhanced amount of compensation would come out to be Rs.1,74,500/- (3,17,400 – 1,42,900 = 1,74,500).

[16]. The enhanced amount of compensation i.e. Rs.1,74,500/- shall carry interest @ 7.5 % per annum from the date of filing of the claim petition till final realization of the amount.

[17]. With the aforesaid modification, the present appeal stands disposed of.

***FAO No.2641 of 2012***

[18]. Deceased Major Singh was about 50 years of age and was an agriculturist besides running dairy farming. His income was taken to be Rs.1200/- per month and additional manual labour was calculated by the Tribunal as Rs.3000/- per month. Therefore, the income of the deceased was worked out to be Rs.4200/- per month. The claimant appeared as PW 3 wherein she stated that her husband was an agriculturist and was into dairy farming and used to sell milk to the tune of Rs.15,000/- per month. The claimant also examined Major Singh (PW 4), Secretary of Milk Producer Cooperative Society, Shidhupur Kalan who has stated that Major Singh used to sell the Milk with the society and produced the copies of payment register showing the payments to deceased Major Singh as Exs.PW4/1 to PW4/12. The perusal of the payment register revealed that Major Singh used to sell 400 litres of milk per month and for an approximate amount of Rs.8000/-, therefore, the average income of the deceased came out to be Rs.1200/- per month. No evidence was produced regarding agricultural occupation of the deceased.

[19]. In my considered opinion, the assessment of the monthly income of the deceased to the tune of Rs.4200/- was just and appropriate. Keeping in view the age of the deceased

to be 50 years, future prospects to the tune of 25% can be added. The addition of 25% i.e. Rs.1050 (4200x25/100=1050) would bring the monthly income of the deceased to be Rs.5250/- (4200+1050=5250). Since the deceased was married, therefore, 1/3rd of the income can be deducted towards personal expenes, thereby assessing an amount of Rs.1750/- per month (5250/3=1750). Therefore, the amount towards dependency would come out to be Rs.3500/- per month i.e. (5250-1750=3500) and Rs.42,000/- per annum i.e. (3500x12=42,000). Keeping in view the age of the deceased and in view of ratio laid down in ***Smt. Sarla Verma's case (supra)***, a multiplier of 13 has to be applied and after applying the same, the total amount of compensation can be worked out to the tune of Rs.5,46,000/- to which an amount of Rs.70,000/- can be added towards conventional heads in view of ratio laid down in ***National Insurance Company Limited Vs. Pranay Sethi and others case (supra)***. In this way, total amount of compensation would come out to be Rs.6,16,000/- (5,46,000+70,000=6,16,000).

[20]. Since the liability of the respondents has been assessed to be 50% on account of contributory negligence, therefore, Rs.3,08,000/- is the amount of compensation to which the claimant-appellant is entitled to. Since an amount of Rs.2,25,900/- has already been awarded by the Tribunal,

therefore, the enhanced amount of compensation would come out to be Rs.82,100/-.

[21]. The enhanced amount of compensation i.e. Rs.82,100/- shall carry interest @ 7.5 % per annum from the date of filing of the claim petition till final realization of the amount.

[22]. With the aforesaid modification, the present appeal stands disposed of.

***FAO No.2642 of 2012***

[23]. Claimant/appellant has filed this appeal for enhancement of award dated 24.08.2011 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib.

[24]. In case of injury, the heads under which compensation is to be awarded are:-

> (1) Expenses relating to treatment, hospitalization, medicines, transportation, special diet and miscellaneous expenses.
>
> (2) Loss of earning and other gain which the injured would have got had he not been injured. This head includes:-loss of earnings during period of treatment and loss of future earnings on account of permanent disability.
>
> (3) Future medical expenses.

(4) Non-pecuniary damages/general damages are also required to be assessed towards pain, suffering and trauma as consequent of the injuries.

(5) Loss of amenities in life including loss of marriage prospects.

(6) Loss of expectation of life i.e. shortening of longevity of life.

(25). ***In Govind Yadav Vs. New India Insurance Company Limited, 2011 (4) RCR (Civil) 817***, the Hon'ble Apex Court after considering all pros and cons in detail assessed the compensation in case of permanent disability of the injured.

[26]. In **K. Suresh Vs. New India Assurance Company Limited and another, 2013(1) RCR (Civil) 312**, the Hon'ble Apex Court held that in case of permanent disability, the injured is entitled to grant of compensation towards permanent disability as well as loss of earning capacity. The determination of compensation for loss of earning capacity on the basis of multiplier method was held to be proper. In determination of compensation, some guess work and hypothetical considerations based on sympathy can be worked out, but ultimate determination has to be viewed with some objective standards. There cannot be a flight in fancy. The award should correspondent to reasonableness and should be in consonance

with conventional sum. The endeavour should be to award just compensation keeping in view the suffering of the injured person.

[27]. In ***S. Manickam s. Metropolitan Transport Corporation Ltd, 2013(3) RCR (Civil) 696***, it was ruled by the Hon'ble Apex Court that the determination of just compensation cannot be equated to a bonanza. It has to be based on application of fair and equitable principles. Reasonable approach should be adopted. Compensation towards permanent disability and loss of earning capacity, both were endorsed to the effect that the victim is entitled to separate claims towards permanent disability as well as loss of earning capacity.

[28] In ***G. Ravindranath @ R. Chowdary Vs. E. Srinivas and another, 2013(3) RCR (Civil) 934,*** the Hon'ble Apex in case of grievous injuries of the injured in pelvic region ruled that in case of nature of injury, rendering the injured to be impotent, adequate compensation has to be awarded towards all heads like expenses incurred in treatment including hospitalization, future medical expenses towards hospitalization, medicines, attendant charges etc, pain suffering and trauma, loss of amenities, prospects of marriage, loss of expectation of life and loss of future earning. In aforesaid case, the Hon'ble Apex Court

awarded a sum of Rs.20.20 lacs.

[29]. In case of ***Rekha Jain Vs. National Insurance Company Ltd., 2013(3) RCR (Civil) 996***, the Hon'ble Apex Court in case of 30% disability of face of a film actress held that in the circumstances of the case, the disability should be treated to be 100% functional disability. Loss was assessed on multiplier method keeping in view the age of the victim. As against compensation of 2 lacs assessed by the Tribunal, the Apex Court assessed the compensation of Rs.42,50 lacs.

[30]. In case of ***Neerupam Mohan Mathur Vs. New India Assurance Company, 2013(4) Law Herald (SC) 3422***, it was held by the Hon'ble Apex Court that in case of permanent disability on account of amputation of limb, compensation towards non pecuniary damages has to be awarded. In the said case, on account of amputation of one arm, the services of the claimant were terminated by the employer. There was loss of 100% earning capacity of the claimant. The order of High Court in assessing 70% loss of income was upheld by the Apex Court. An amount of Rs.1 lac towards pain, suffering and trauma was assessed. An amount of Rs.2 lacs was assessed towards loss of amenities and additional amount of Rs.1 lac was assessed towards loss of expectation of life i.e. shortening of the normal longevity.

[31]. In case of ***Yadava Kumar Vs The Divisional Manager, National Insurance Company Ltd. and another, 2010(4) RCR (Civil) 155***, the Hon'ble Apex Court highlighted that a distinction has to be drawn between the damages and compensation. Damages are given for injuries which the injured suffered, whereas compensation is to be paid for atonement of the injury caused and to put back the injured as far as possible in the same manner, as if injury has not taken place. Court should be liberal in determination of quantum of compensation to be paid to the victim towards future loss of income and other heads.

[32]. In the instant case, the injured claimant has suffered 30% of permanent disability of right leg. Disability of a particular limb cannot be taken to be disability of whole body. There has to be reduction in percentage of disability while taking the same to be qua whole body.

[33]. The Tribunal while assessing the compensation has proceeded to take disability to the tune of 30% for calculating the loss of future income on account of permanent disability. The Tribunal has assessed the amount towards annual loss of income as Rs.18,000/- and while appreciating the loss of earning capacity of the injured claimant, assessed total amount of Rs.16,000/- on account of loss of income and Rs.3,06,000/- on account of loss of earning capacity. In addition to the

aforesaid compensation, the Tribunal has awarded an amount of Rs.8000/- towards special diet, an amount of Rs.10,000/- towards pain and suffering, an amount of Rs.15,000/- towards loss of enjoyment of life, an amount of Rs.5000/- towards conveyance charges and an amount of Rs.8000/- towards attendant charges. In this way, total amount of compensation has been assessed to be Rs.4,08,000/- and after applying contributory negligence, an amount of Rs.2,04,000/- was calculated as payable compensation to the injured claimant.

[34]. In view of precedents cited in the preceding paras, permanent disability by applying principle of Rs.2000/- per percentage was to be assessed in addition to loss of future income on account of permanent disability. If the calculations are made on the aforesaid two principles, the calculations would arrive differently. The compensation awarded under different heads would have no such difference, but in case, calculations are made on the basis of precedents cited hereinabove, there would be difference in the amount and the amount of compensation may be marginally changed.

[35]. Since there is no cross appeal filed by the Insurance Company or the owner, therefore, I deem it appropriate to maintain the awarded passed by the Motor Accident Claims

Tribunal, Fatehgarh Sahib. The present appeal is accordingly dismissed.

***FAO No.2643 of 2012***

[36]. Deceased Harinder Singh was 24 years of age (un-married) and was a truck driver. His income was assessed to be 5,000/- per month. The claimant who is mother of deceased Harinder Singh appeared as PW-3 wherein she has deposed that deceased was earning Rs 12000 /-per month but no evidence was led in this regard. Therefore, the Tribunal assessed the income of the deceased to be Rs 5000/- per month. In my considered opinion, the assessment of monthly income to the tune of Rs. 5000/- per month is just and appropriate. It has come on record that deceased was unmarried and was a truck driver. Keeping in view his age to be 24 years, future prospects to the tune of 40% can be applied. Addition of 40% i.e. Rs. 2,000/- (5000 X 40/100=2000) would bring the monthly income of the deceased to be Rs. 7,000/- (5,000 + 2,000= 7,000). Since the deceased was unmarried, 50% of the income can be deducted towards personal expenses, thereby assessing an amount of Rs. 3500/- per month (7,000/2= 3500) as dependency of the claimant. The annual dependency would come out to be Rs. 42,000/- (3500 X12= 42,000). Keeping in view the age of the deceased and in

view of ratio laid down in **Smt. Sarla Verma's case (supra)**, a multiplier of 18 has to be applied and after applying the same, the total amount of compensation can be worked out to the tune of Rs. 7,56,000/- to which an amount of Rs. 30,000/- towards conventional heads i.e. loss of estate and funeral expenses can be added in view of ratio laid down in **National Insurance Company Limited Vs. Pranay Sethi and others case (supra)** . In this way, total amount of compensation would come out to be Rs. 7,86,000/- (7,56,000+30,000= 7,86,000).

[37]. Since the liability of the respondents has been assessed to be 50% on account of contributory negligence, therefore, Rs. 3,93,000 is the amount of compensation to which the claimant- appellant is entitled to. Since an amount of Rs. 95,900/-(50% of the assessed amount of Rs. 1,89,900) has already been awarded by the Tribunal, therefore, the enhanced amount of compensation would come out to be Rs. 2,97,100/- (3,93,000- 95,900=2,97,100)

[38]. The enhanced amount of compensation i.e Rs. 2,97,100 shall carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount.

[39]. With the aforesaid modification, the present appeal stands disposed of.

**FAO No.2644 of 2012**

[40]. Deceased Gurpreet Singh s/o Surinder Singh was 24 years of age and was a student of BA first year. The claimant i.e. mother of the deceased appeared as CW-3 and has deposed that deceased was student of BA First Year. She further stated that deceased was in the business of agriculture and dairy farming and was thus earning an amount of Rs. 15,000/- per month. No evidence was led by claimant in support of her assertions, therefore, in view of the facts on record the income of the deceased was assessed as Rs. 4500/- per month. In my considered opinion, the assessment of Rs. 4500/- per month is just and appropriate. It has come on record that deceased was unmarried. Keeping in view his age to be 24 years, future prospects to the tune of 40% can be applied. Addition of 40% i.e. Rs. 1800/- (4500 X 40/100= 1800) would bring the monthly income of the deceased to be Rs. 6300 (4500+1800= 6300). Since the deceased was unmarried, 50 % of the income can be deducted towards personal expenses, thereby assessing an amount of Rs. 3150/- per month (6300/2 = 3150) as dependency of the claimant. The annual dependency would come out to be Rs. 37,800/- (3150 X 12 = 37,800). Keeping in view the age of the deceased and in view of ratio laid down in **Smt. Sarla Verma's case (supra)** a multiplier of 18 has to be

applied and after applying the same, the total amount of compensation can be worked out to the tune of Rs. 6,80,400/- to which an amount of Rs. 30,000/- towards conventional heads i.e. loss of estate and funeral expenses can be added in view of ratio laid down in **National Insurance Company Limited Vs. Pranay Sethi and others case (supra)** . In this way, total amount of compensation would come out to be Rs. 7,10,400/- (6,80,400+30,000= 7,10,400).

[41]. Since the liability of the respondents has been assessed to be 50% on account of contributory negligence, therefore, Rs. 3,55,200/- is the amount of compensation to which the claimant- appellant is entitled to. Since an amount of Rs. 1,58,500/- has already been awarded by the Tribunal, therefore, the enhanced amount of compensation would come out to be Rs.1,96,700/- (3,55,200- 1,58,500= 1,96,700).

[42]. The enhanced amount of compensation i.e. Rs. 1,96,700/- shall carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount.

[43]. With the aforesaid modification, the present appeal stands disposed of.

***FAO No.2645 of 2012***

[44]. Since contributory negligence has been rightly found by the Tribunal and keeping in view the above said facts, the

Tribunal has rightly assessed the total compensation as Rs.2 lacs towards damage of Scorpio.

[45]. In view of above, the present appeal stands dismissed.

**FAO No.2646 of 2012**

[46]. Deceased Sukhpreet Singh s/o Major Singh was 26 years of age and was a B.A. Final Year student. The claimant, mother of the deceased appeared as CW-3 and has deposed that deceased was student of BA Final Year. She further stated that deceased was in the business of agriculture and dairy farming and was thus earning an amount of Rs. 15,000/- per month. No evidence was led by the claimant in support of her assertions, therefore, in view of the facts on record the income of the deceased was assessed as Rs. 4500/- per month. In my considered opinion, the assessment of Rs. 4500/- is just and appropriate. It has come on record that deceased was unmarried. Keeping in view his age to be 26 years, future prospects to the tune of 40% can be applied. Addition of 40% i.e. Rs. 1800/- (4500 X 40/100= 1800) would bring the monthly income of the deceased to be Rs. 6300/- (4500+1800= 6300). Since the deceased was unmarried, 50 % of the income can be deducted towards personal expenses, thereby assessing an amount of Rs.3150/- per month (6300/2 = 3150) as dependency of the claimant. The annual dependency would come out to be Rs. 37,800/- (3150 X 12 = 37,800). Keeping in view the age of

the deceased and in view of ratio laid down in **Smt. Sarla Verma's case (supra),** a multiplier of 18 has to be applied and after applying the same, the total amount of compensation can be worked out to the tune of Rs. 6,80,400/- to which an amount of Rs. 30,000/- towards conventional heads i.e. loss of estate and funeral expenses can be added in view of ratio laid down in **National Insurance Company Limited Vs. Pranay Sethi and others case (supra)** . In this way, total amount of compensation would come out to be Rs. 7,10,400/- (6,80,400+30,000= 7,10,400).

[47]. Since the liability of the respondents has been assessed o be 50% on account of contributory negligence, therefore, Rs. 3,55,200/- is the amount of compensation to which the claimant- appellant is entitled to. Since an amount of Rs. 1,34,500/- has already been awarded by the Tribunal, therefore, the enhanced amount of compensation would come out to be Rs.2,20,700/- (3,55,200- 1,34,500= 2,20,700).

[48]. The enhanced amount of compensation i.e. Rs. 2,20,500/- shall carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount.

[49]. With the aforesaid modification, the present appeal stands disposed of.

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[50]. Deceased Bir Devinder Singh was 26-27 years of age and was truck driver. His income was claimed to be Rs. 15,000/- per month. The claimant Surjit Singh, father of deceased appeared as PW-2 and stated that deceased was a truck driver and was also looking after agriculture and thus earning Rs. 15,000/- per month. The claimants produced registration certificate of the truck. However no evidence was produced to suggest that the deceased was also in the business of agriculture. Keeping in view the above facts the income of the deceased was assessed as Rs. 5,000/- per month. In my considered opinion the assessment of monthly income to the tune of Rs. 5,000/- per month is just and appropriate. The deceased was un-married. Keeping in view his age to be 26- 27 years, future prospects to the tune of 40% can be applied. Addition of 40% i.e. Rs. 2,000/- (5000 X 40/100=2000) would bring the monthly income of the deceased to be Rs. 7,000/- (5,000 + 2,000= 7,000). Since the deceased was un-married, 50% of the income can be deducted towards personal expenses, thereby assessing an amount of Rs. 3500/- per month (7,000/2= 3500) as dependency of the claimant. The annual dependency would come out to be Rs. 42,000/- (3500 X12= 42,000). Keeping in view the age of the deceased and in view of ratio laid down in **Smt. Sarla Verma's case (supra)**, a multiplier of 17 has to be applied and after applying the same,

the total amount of compensation can be worked out to the tune of Rs. 7,14,000/- to which an amount of Rs. 30,000/- towards conventional heads i.e. loss of estate and funeral expenses can be added in view of ratio laid down in **National Insurance Company Limited Vs. Pranay Sethi and others case (supra)** . In this way, total amount of compensation would come out to be Rs. 7,44,000/- (7,14,000+30,000= 7,44,000).

[51]. Since the liability of the respondents has been assessed to be 50% on account of contributory negligence, therefore, Rs.3,72,000/- is the amount of compensation to which the claimant- appellant is entitled to. Since an amount of Rs. 1,74,000 has already been awarded by the Tribunal, therefore, the enhanced amount of compensation would come out to be Rs.1,97,900/- (3,72,000- 1,74,100=1,97,900)

[52]. The enhanced amount of compensation i.e Rs. 1,97,900/- shall carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount.

[53]. With the aforesaid modification, the present appeal stands disposed of.

September 11, 2018 **(RAJ MOHAN SINGH)**
*Prince* **JUDGE**
Whether speaking/reasoned Yes/No
Whether reportable Yes/No