

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

1. **FAO No. 10031 of 2014 (O&M)**  
Date of decision : September 28, 2018

Swati Gupta and others .....Appellants

Versus

Pardeep Kumar and others ....Respondents

2. **FAO No. 9907 of 2014 (O&M)**

Reliance General Insurance Company Ltd. ....Appellant

Versus

Swati Gupta and others ....Respondents

3. **FAO No. 10176 of 2014 (O&M)**

Swati Gupta .....Appellant

Versus

Pardeep Kumar and others ....Respondents

4. **FAO No. 10199 of 2014 (O&M)**

Rashim Jain @ Rashim Gupta .....Appellant

Versus

Pardeep Kumar and others ....Respondents

5. **FAO No. 10202 of 2014 (O&M)**

Kanika Gupta .....Appellant

Versus

Pardeep Kumar and others ....Respondents

6. **FAO No. 191 of 2015 (O&M)**

Darshan Gupta .....Appellant

Versus

Pardeep Kumar and others ....Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Hitesh Sammi, Advocate  
for the appellant/claimants (in FAO Nos. 10031, 10176, 10202,  
10199 of 2014 and 191 of 2015.  
for respondents No. 1 to 4 (in FAO-9907-2014).

Mr. Subhash Goyal, Advocate  
for the insurance company.

\*\*\*

**LISA GILL, J.**

This order shall decide FAO Nos. 10031, 10176, 10202, 10199, 9907 of 2014 and 191 of 2015.

All the said appeals emanate from claims set forth due to the accident which took place on 30.11.2012 which have been decided by the learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to 'the Tribunal') vide different awards of even date. FAO-9907-2014 has been filed by the insurance company challenging award dated 28.08.2014 vide which compensation has been awarded to the claimants on account of death of Rakesh Gupta.

FAO-10031-2014 has been filed by the children and father of the deceased Rakesh Gupta seeking enhancement of compensation awarded to them. FAO Nos. 10176, 10202, 10199 of 2014 and 191 of 2015 have been filed by the claimants seeking compensation on account of the injuries suffered by them.

Facts are being extracted from FAO-10031-2014 for the sake of convenience.

Brief facts necessary for the adjudication of the case are that Rakesh Gupta (deceased), his wife Rashim Jain alongwith their children Swati Gupta, Kanika Gupta, Mayank Gupta and Darshan Gupta (father of Rakesh Gupta) were travelling to pay obeisance at Shri Mata Vashno Devi Katra on 30.11.2012 in an Innova car bearing registration No. PB-02B-0003. The said car was being driven by respondent – Pardeep Kumar. When their car reached Jatwal National Highway near temple NHW on 01.12.2012 at about 4.45 a.m., respondent No. 1 lost control over the car. Respondent

which he lost control and the car over turned. All occupants of the car received multiple injuries on various parts of their bodies. They were shifted to Civil Hospital, Samba. After first aid, they were referred to Maharishi Dayanand Hospital and Medical Research Centre Rehari Chungi, Jammu. They remained admitted till 02.12.2012. Thereafter, Rakesh Gupta was referred to Fortis hospital, Mohali but his condition deteriorated on the way, therefore, he was admitted at Civil Hospital, Pathankot where he succumbed to his injuries on 03.12.2012 at about 12.55 p.m. Post mortem was conducted at Civil Hospital, Pathankot itself. FIR No. 100 of 2012 under sections 279, 337, 304A IPC was registered against respondent No. 1. Some of the injured claimants thereafter received treatment elsewhere too.

Petition MACT No. 49 was filed by the present appellants alongwith respondent No. 3 – Rashim Jain @ Rashim Gupta under Section 166 of the Motor Vehicles Act claiming compensation on account the death of Rakesh Gupta. The other claim petitions were filed seeking compensation on account of injuries received by the other occupants of the car which are the subject matter of the other appeals being dealt hereinafter.

**FAO-10031-2014 and  
FAO-9907-2014**

The appellants - claimants in FAO-10031-2014 (Swati Gupta and others veresus Pardeep Kumar and others) and respondents in FAO-9907-2014 ( Reliance General Insurance Company Limited versus Swati Gupta and others) pleaded that the deceased – Rakesh Gupta was about 46 years old at the time of his death. He was hale and hearty, running a business of steel and cement under the name and style of M/s Shiv Shakti Steels at Zirakpur, Tehsil Dera Bassi as well as M/s Shub Traders at Kala Amb (HP). It was further pleaded that he was earning a sum of ₹1,00,000/-

per month. His income tax returns were placed on record. It is pertinent to note that the car in question i.e. the offending vehicle is owned by respondent No. 3 – Rashim Jain wife of the deceased. Respondent No. 3 - Rashim Jain wife of the deceased Rakesh Gupta (initially arrayed as a claimant in the petition under Section 166 of the Act) gave up her claim and she was impleaded as respondent No. 3. The car in question was insured with respondent No. 2. Compensation was, accordingly, claimed.

Claim was resisted by respondents No. 1 and 2. Respondent No. 1 admitted that the car in question had over turned at Jatwal and the occupants of the car received injuries. However, he pleaded that the accident did not occur due to any rashness or negligence on his part. The respondent - insurance company pleaded that Rakesh Gupta was travelling in the car. Being the husband of the owner of the car he stepped into the shoes of the owner, therefore, the insurance company was not liable to pay any compensation to him. No reply was filed by respondent No. 3.

Following issues were framed by the learned Tribunal:-

1. Whether Rakesh Gupta died in a motor vehicular accident which took place on account of rash and negligent driving to Toyota Innova car No. PB-02AB-0003 by respondent No. 1?OPA
2. Whether the applicants are entitled to compensation, if so to what extent and from whom?OPA
3. Whether respondent No. 1 was not having a legal and valid driving licence at the time of alleged accident, if so its effect?OPR No. 3.
4. Whether respondent No. 3 has committed breach of any other condition of the insurance policy?OPR No. 3.
5. Relief.

Learned Tribunal concluded that the accident in question had

occurred due to rash and negligent driving of the vehicle by respondent – Pardeep Kumar. Learned Tribunal awarded a sum of ₹56,35,966/- with interest at the rate of 6% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹7,60,474/- per annum. Deduction of 1/3<sup>rd</sup> was effected, keeping in view the number of dependants. Multiplier of 13 was applied as the deceased was 46 years old at that time. Sum of ₹25,000/- was awarded on account of funeral expenses and ₹50,000/- towards loss of love and affection. Learned Tribunal has applied a cut to the extent of 25% on the amount of compensation awarded on the ground that the wife of the deceased was the owner of the car

Aggrieved of the quantum of compensation, claimants have filed the appeal for enhancement thereof, while the insurance company being aggrieved of the quantum as well fixation of its liability has preferred FAO-9907-2014.

Learned counsel for the appellants – claimants argues that the the learned Tribunal has grossly erred in imposing a cut on the amount of compensation to the tune of 25%. It is submitted that the wife of the deceased had given up her claim for compensation, therefore, there is no question of 25% cut in the compensation awarded. Moreover, in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, loss of future prospects at the rate of 25% should have been afforded as the deceased was 46 years old at the time of his death. Rate of interest is also stated to be on the lower side.

Mr. Subhash Goyal, learned counsel for the insurance company

argues that the learned Tribunal has rightly deducted the compensation to the tune of 25% on the account of the wife of the deceased being the owner of the vehicle. It is vehemently argued that the learned Tribunal has wrongly assessed the income of the deceased Rakesh Gupta on the basis of one single Income Tax Return (ITR) pertaining to the year 2012-13 i.e. the last ITR filed by the deceased, whereas average of the last three years should have been taken as ITRs of all three years were produced by the claimants. Mr. Goyal further contends that the income of businessman should be considered as per his contribution towards the business as the assets of the business in any case would remain. He relies upon a judgment of the Hon'ble Supreme Court in Rani Gupta versus M/s United India Insurance Company Limited and others. It is further contended by learned counsel for the insurance company that the widow of the deceased was admittedly participating in the conduct of the business, therefore, income of the deceased should have been assessed at a much lower level and at best as loss of managerial skills of the deceased. It is also contended that deduction of 1/3<sup>rd</sup> is to be effected instead of 1/4<sup>th</sup> as Darshan Gupta father of the deceased is not dependant upon the deceased. It is, thus, prayed that the appeal filed by the insurance company be allowed and that of the claimants be dismissed, consequently, reducing the compensation afforded to the claimants.

Learned counsel for the parties were heard and the record perused with their able assistance.

The undisputed facts are that Rashim Jain @ Rashim Gupta widow of Rakesh Gupta is the owner of Innova car in which Rakesh Gupta (deceased) alongwith his wife, children and father were travelling towards

Shri Mata Vaishno Devi on 30.11.2012. This vehicle was being driven by respondent – Pardeep Kumar. Finding of the learned Tribunal that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent – Pardeep Kumar is not under challenge in the appeal filed by the insurance company. It is further not in dispute that Rashim Jain widow of Rakesh Gupta though initially arrayed as a claimant, gave up her claim and was impleaded as a respondent in the claim petition. Breach of any condition of the insurance policy is neither pleaded or proved on record though a feeble attempt was made on behalf of the insurance company to suggest that as Rashim Jain was the owner of the vehicle in question, the deceased being her husband had stepped into her shoes, therefore, the deceased being the owner, insurance company was not liable. In any case, it is a matter of record that premium towards compulsory PA cover of the owner driver stands paid. Direction of the learned Tribunal for deduction of 25% in the amount of compensation as the owner of the vehicle was the widow of the deceased, is clearly misplaced and unjustified. This is so for the reason that Rashim Jain widow of the deceased has given up her claim towards compensation. Therefore, there is no occasion for imposing a cut of 25% in the amount of compensation. Said direction is, accordingly, set aside.

Learned counsel of the insurance company has vehemently argued that the average of all the three ITRs should have been taken rather than the income as per the last Income Tax Return (Ex.RW2/C) of the deceased. With equal vehemence, it is argued that the deceased being a businessman, it is only the loss of managerial skills which should be taken into consideration and not the income earned by the deceased from the

business. A perusal of the record and particularly the statement of PW1 Rashim Jain @ Rashim Gupta reveals that she specifically stated that the business run by her husband was closed down after the death of her husband as she was unable to look after the same due to shock of losing her husband. It is revealed in the cross examination of PW1 that the entire business was being run by her husband though she used to append her signatures on various documents at the asking of her husband. Therefore, in the peculiar facts and circumstances of the case, it is not considered appropriate to assess the income of the deceased only with regard to the loss of managerial skills.

A perusal of the ITRs of the deceased for the years 2010-11, 2011-12, 2012-13 (Ex.RW2/A to Ex. RW2/C) indicate steady increase in the income. There is no illegality or irregularity in assessing the income of the deceased on the basis of the last ITR (Ex.RW2/C), which was filed well before the death of the deceased. In this respect, reference can be gainfully made to the judgment of the Hon'ble Supreme Court in **Shashikala and others versus Gangalakshamma and another 2015(4) SCC (Civil) 319** wherein reliance was placed on the last ITR filed by the deceased to assess his income even in the presence of previous ITRs. Income of ₹37,648/- derived from interest has been rightly deducted by the learned Tribunal. Income tax liability of ₹81,486/- has been duly deducted. Income of the deceased is rightly assessed by the learned Tribunal as ₹7,60,474/- per annum.

There is merit in the argument raised by learned counsel for the insurance company that Darshan Gupta father of the deceased cannot be termed to be dependent upon the deceased, therefore, deduction of 1/3<sup>th</sup> instead of 1/4<sup>th</sup> is to be effected. This is so for the reason that Darshan

Gupta, who filed a separate claim petition (subject matter of FAO-191-2015) for compensation on account of injuries suffered by him, has claimed himself to be running a business of branded snacks. Darshan Gupta has placed on record his ITR for the year 2012-13 (Ex.P12) in the said proceedings. Thus, deduction of 1/3<sup>rd</sup> on account of personal expenses is required to be effected. Multiplier of 13 has been correctly applied.

In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 25% (₹1,90,118/-) is afforded in view of the age of the deceased (46 years), which takes the income of the deceased to ₹9,50,592/- per annum. In view of laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/3<sup>rd</sup> is to be applied as number of dependants is three (3), thereby rendering income of the deceased to be ₹6,33,728/-(₹9,50,592-₹3,16,864). Applying a multiplier of 13, dependency of the claimants is, therefore, assessed as ₹82,38,464/- (₹6,33,728x13). The claimants are also entitled to ₹15,000/- instead of ₹25,000/- for funeral expenses besides ₹15,000/- instead of ₹50,000/- for loss of estate. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and others** (Civil Appeal No. 9581 of 2018), appellants No. 1, 2 and 3 i.e. children of the deceased are entitled to ₹40,000/- each on account of loss of parental consortium and appellant No. 4 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹84,28,464/- detailed as under:-

|                                                                  |                     |
|------------------------------------------------------------------|---------------------|
| Loss of dependency (₹6,33,728x13)                                | ₹82,38,464/-        |
| Loss of estate                                                   | ₹15,000/-           |
| Funeral expenses                                                 | ₹15,000/-           |
| Loss of parental consortium                                      | ₹40,000/-           |
| Loss of filial consortium (40,000/- each for all three children) | ₹1,20,000/-         |
| <b>Total</b>                                                     | <b>₹84,28,464/-</b> |

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, FAO-10031-2014 and FAO-9907-2014 are disposed of.

#### **FAO-10176-2014**

This appeal has been preferred by the appellant – Swati Gupta for enhancement of compensation awarded to her vide award dated 28.08.2014 passed by the learned Tribunal on account of injuries suffered by her in the motor vehicle accident, which took place on 30.11.2012.

It was pleaded that the appellant – daughter of the deceased Rakesh Gupta, suffered multiple injuries on her right leg, fracture of her left shoulder and injuries on the other parts of the body. After giving first aid at Civil Hospital, Samba, she was referred to Maharishi Dayanand Hospital and Medical Research Centre Rehari Chungi, Jammu. She remained

admitted there till 02.12.2012 and was shifted to Alchemist hospital, Panchkula in an ambulance. She was discharged from the said hospital on 07.12.2012. She was again admitted in the same hospital on 15.01.2013 and discharged on 18.01.2013. Claim of ₹20 lakhs was raised.

Following issues were framed by the learned Tribunal:-

1. Whether Swati Gupta received injuries in a motor vehicular accident which took place on account of rash and negligent driving to Toyota Innova car No. PB-02AB-0003 by respondent No. 1? OPA
2. Whether the applicant is entitled to compensation, if so to what extent and from whom? OPA
3. Whether respondent No. 1 was not having a legal and valid driving licence at the time of alleged accident, if so its effect? OPR No. 3.
4. Whether respondent No. 3 has committed breach of any other condition of the insurance policy? OPR No. 3.
5. Relief.

Learned Tribunal vide award dated 28.08.2014 awarded a sum of ₹1,65,000/- with interest at the rate of 6% per annum from the date of the filing of the claim petition till date of actual realisation of the award. A sum of ₹1,00,000/- was awarded towards pain and suffering, ₹25,000/- as transportation charges and ₹40,000/- towards loss of income for three months.

Learned counsel for the parties were heard and the record perused with their able assistance.

It is not in dispute that the claimant – appellant did not suffer any permanent disability in the accident in question. As per the medico legal report (Ex.P1) she suffered a compound fracture of right leg and fracture of left humerus. Period of admission in the hospital is not disputed. The

appellant claimed to be running a Boutique having a degree of Masters of Business Administration, earning a sum of ₹2,65,000/- per annum. Income Tax Return for the year 2011-12 (Ex.P16) is on record. However, learned Tribunal has rightly held that the source of the said income is not clear from the income tax return. There is no evidence on record to corroborate running of a Boutique by the appellant.

It is relevant to note that the claimant did not press the claim for reimbursement of medical bills as she probably received the said amount as per a Medi claim policy. This is so reflected in the statement of her counsel recorded before the learned Tribunal on 27.08.2014. Therefore, it is not open to the appellant to press for the same at this stage.

In my considered opinion, the appellant is entitled to another sum of ₹20,000/- in addition to ₹40,000/- towards loss of income in the given circumstances. Compensation awarded under the other heads is reasonable and calls for no further enhancement. The appellant is, thus, entitled to ₹1,85,000/- as compensation.

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, FAO-10176-2014 is disposed of.

#### **FAO-10202-2014**

This appeal has been preferred by the appellant – Kanika Gupta for enhancement of compensation awarded to her vide award dated 28.08.2014 passed by the learned Tribunal on account of injuries suffered

by her in the motor vehicle accident, which took place on 30.11.2012.

It was averred that the appellant – daughter of the deceased Rakesh Gupta suffered a fracture of collar bone and other multiple injuries on her person. After giving first aid at Civil Hospital, Samba, she was referred to Maharishi Dayanand Hospital and Medical Research Centre Rehari Chungi, Jammu. She remained admitted till 02.12.2012 and then shifted to Alchemist hospital, Panchkula in an ambulance. She was discharged from the said hospital on 03.12.2012. Claim of ₹20 lakhs was raised.

Following issues were framed by the learned Tribunal:-

1. Whether Kanika Gupta received injuries in a motor vehicular accident which took place on account of rash and negligent driving to Toyota Innova car No. PB-02AB-0003 by respondent No. 1?OPA
2. Whether the applicant is entitled to compensation, if so to what extent and from whom?OPA
3. Whether respondent No. 1 was not having a legal and valid driving licence at the time of alleged accident, if so its effect?OPR No. 3.
4. Whether respondent No. 3 has committed breach of any other condition of the insurance policy?OPR No. 3.
5. Relief.

It was pleaded that the appellant was a student of BCA from Chitkara University, Rajpura. A sum of ₹35,000/- was awarded by the learned towards pain and suffering including attendant charges.

Learned counsel for the parties were heard and the record perused with their able assistance.

It is relevant to note that the claimant did not press her claim for reimbursement of medical bills as is reflected in the statement of her

counsel recorded before the learned Tribunal on 27.08.2014. Therefore, it is not open to the appellant to press for the same at this stage.

In my considered opinion, the appellant is entitled to another sum of ₹15,000/- in addition to ₹35,000/- on account of pain and suffering and ₹10,000/- on account of special diet and attendant charges. The appellant is, thus, entitled to ₹60,000/- as compensation.

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, FAO-10202-2014 is disposed of.

### **FAO-191-2015**

This appeal has been preferred by the appellant – Darshan Gupta for enhancement of compensation awarded to him vide award dated 28.08.2014 passed by the learned Tribunal on account of injuries suffered by him in the motor vehicle accident, which took place on 30.11.2012.

It was averred that the appellant – father of the deceased Rakesh Gupta suffered fracture of ribs and other multiple injuries on his chest and person. After giving first aid at Civil Hospital, Samba, he was referred to Maharishi Dayanand Hospital and Medical Research Centre Rehari Chungi, Jammu. He remained admitted till 02.12.2012 and was then shifted to Alchemist hospital, Panchkula in an ambulance. He was discharged from the said hospital on 03.12.2012. When he suffered some problems due to the injuries, he was taken to Sanjivani Multi-specialities Hospital, Rajpura on 10.12.2012 and then to Amar Hospital, Patiala on

11.12.2012 where he remained admitted till 16.12.2013. Claim of ₹20 lakhs was raised.

Following issues were framed by the learned Tribunal:-

1. Whether Darshan Gupta received injuries in a motor vehicular accident which took place on account of rash and negligent driving to Toyota Innova car No. PB-02AB-0003 by respondent No. 1? OPA
2. Whether the applicant is entitled to compensation, if so to what extent and from whom? OPA
3. Whether respondent No. 1 was not having a legal and valid driving licence at the time of alleged accident, if so its effect? OPR No. 3.
4. Whether respondent No. 3 has committed breach of any other condition of the insurance policy? OPR No. 3.
5. Relief.

Learned tribunal awarded a sum of ₹75,000 towards medical treatment, ₹20,000/- towards transportation charges, ₹50,000/- on account of pain and suffering and ₹24,000 towards loss of income for three months. A total amount of ₹1,99,000/- was awarded by the learned Tribunal as compensation.

Learned counsel for the parties were heard and the record perused with their able assistance.

The appellant was 72 years old at the time of the accident. No permanent disability has, however, been suffered by the appellant. Keeping in view the nature of injuries, it can be reasonably presumed that he would not be able to work for atleast six months. Therefore, he is entitled to a sum of ₹8,000/- x 6 = ₹48,000/- instead of ₹24,000/- for loss of income. ₹75,000/- has been awarded towards medical expenses as per the bills proved on record and the same is maintained. The appellant is, however,

entitled to a sum of ₹1 lakh instead of ₹50,000/- towards pain and suffering.

Appellant is, thus, entitled to ₹2,23,000/- instead of ₹1,69,000/-.

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, FAO-191-2015 is disposed of.

### **FAO-10199-2014**

This appeal has been preferred by the appellant – Rashim Jain @ Rashim Gupta for enhancement of compensation awarded to her vide award dated 28.08.2014 passed by the learned Tribunal on account of injuries suffered by her in the motor vehicle accident, which took place on 30.11.2012.

It was averred that the appellant, who is also the owner of the offending vehicle suffered multiple injuries including dislocation of left hip joint and some injuries on the left thigh. After giving first aid at Civil Hospital, Samba, she was referred to Maharishi Dayanand Hospital and Medical Research Centre Rehari Chungi, Jammu. She remained admitted till 02.12.2012 and was thereafter shifted to Orthomax Bone and Joint Hospital, Panchkula. She was discharged from the said hospital on 07.12.2012. She visited the said hospital for follow up treatment on 12.12.2012, 17.12.2012 and 21.01.2013. Thereafter, she was admitted at Alchemist Hospital, Panchkula and discharged on 02.02.2013. Claim of ₹50 lakhs was raised.

Following issues were framed by the learned Tribunal:-

1. Whether the applicant received injuries in a motor vehicular accident which took place on account of rash and negligent

driving to Toyota Innova car No. PB-02AB-0003 by respondent No. 1?OPA

2. Whether the applicant is entitled to compensation, if so to what extent and from whom?OPA
3. Whether respondent No. 1 was not having a legal and valid driving licence at the time of alleged accident, if so its effect?OPR No. 3.
4. Whether respondent No. 1 has committed breach of any other condition of the insurance policy?OPR No. 3.
5. Relief.

Learned Tribunal while observing that ₹100/- as premium had been paid as a compulsory cover towards owner and driver of the vehicle, awarded a sum of ₹50,000/- as compensation on account of injuries received by her (45000+5000 as transportation charges). The insurance company has not filed any appeal challenging its liability to pay the compensation in the present case.

Learned counsel for the parties were heard and the record perused with their able assistance.

The appellant as per the discharge card issued by Maharishi Dayanand Hospital and Medical Research Centre Rehari Chungi, Jammu (Ex.P5) reflects that the appellant was unable to walk having dislocation of the hip joint. She was admitted in Orthomax Bone and Joint Hospital, Panchkula and operation was performed on 07.12.2012 for fixation of screw. However, the appellant did not suffer any permanent disability.

It is relevant to note that the claimant did not press her claim for reimbursement of medical bills as is reflected in the statement of her counsel recorded before the learned Tribunal on 27.08.2014. Therefore, it is not open to the appellant to press for the same at this stage.

In my considered opinion, the appellant is entitled to a sum of ₹75,000/- instead of ₹45,000/- on account of pain and suffering and ₹10,000/- for transportation charges and ₹10,000/- on account of special diet and attendant charges. The appellant is, thus, entitled to ₹95,000/- as compensation.

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, FAO-10199-2014 is disposed of.

Consequently, all the six appeals i.e. FAO Nos. 10031, 10176, 10202, 10199, 9907 of 2014 and 191 of 2015 stand disposed of.

September 28, 2018  
rts

**(Lisa Gill)**  
**Judge**

|                             |        |
|-----------------------------|--------|
| Whether speaking/reasoned : | Yes/No |
| Whether reportable :        | Yes/No |