

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

**F.A.O. No. 1508 of 2014 (O&M)
Date of Decision: 29.11.2018**

Savitri Devi and others

.....Appellants.

Versus

Yaduvanshi Shiksha Niketan and others

..... Respondents.

AND

**F.A.O. No. 1509 of 2014 (O&M)
Date of Decision: 29.11.2018**

Savitri Devi

.....Appellant.

Versus

Yaduvanshi Shiksha Niketan and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Vijay Sangwan, Advocate
for the appellants (in both cases).

Respondents no.1 and 2 in both the appeals were
already proceeded against *ex parte vide* order dated 15.12.2014.

Mr. Abhinav Gupta, Advocate
for respondent no.3-Insurance Company (in both cases).

LISA GILL, J.

This judgement shall dispose of FAO No. 1508 of 2014 and 1509 of 2014 as both the appeals arise from the same accident which took place on 12.06.2009 and claim petitions decided by a common award dated 12.12.2012, passed by the learned Motor Accident Claims Tribunal, Narnaul (for short 'tribunal').

Appellant-claimants in FAO No. 1508 of 2014, seek enhancement of the compensation awarded by the learned tribunal, vide impugned award dated 11.12.2012, on account of death Yad Ram.

Appellant-claimant in FAO No. 1509 of 2014, seeks enhancement of the compensation awarded by the learned tribunal, vide impugned award dated 11.12.2012, on account of injuries received by her in the motor vehicle accident. For the sake of convenience, facts are being extracted from FAO No. 1508 of 2014.

Brief facts which are common to both the appeals are that as per the claim petition Yad Ram (deceased) along with his wife Savitri Devi on 12.06.2009 had gone to his in-laws village Bhakri on motorcycle bearing registration no. HR-35-D-0242. They were returning to their village Koriawas, at about 3.00.p.m., on a motorcycle driven by Yad Ram (deceased) at a moderate speed within the revenue estate of village Khatoti Khurd. When they were near Hanuman Mandir, a jeep bearing registration no. HR-35-D-2197 driven by respondent no.1 in a rash and negligent manner struck against their motorcycle from behind. As a result thereof, Yad Ram (deceased) and Savitri Devi fell down and received multiple, serious injuries. Mahender Singh, Sarpanch, reached at the spot and rushed them to Kailash Hospital, Behror. FIR No. 164 dated 13.07.2009, under Sections 279, 337, 304-A IPC, Police Station Sadar Narnaul, was registered in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.2-|Sita Ram. The said finding of the learned tribunal has

attained finality.

Income of the deceased-Yad Ram was assessed as ₹7899/- per month. Deduction of $\frac{1}{4}^{\text{th}}$ was effected. Multiplier of 8 was applied by the learned tribunal. A sum of ₹1,04,457/- was awarded towards treatment, ₹20,000/- was awarded on account of transportation and last rites and ₹10,000/- was awarded as consortium. Learned tribunal in MACT No. 125 of 2009 awarded a total sum of ₹7,03,257/- along with interest @ 7.5 % per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

Learned tribunal in MACT No. 126 of 2009 awarded a total sum of ₹60,000/- along with interest @ 7.5 % per annum from the date of filing of the claim petition till realisation of the amount to claimant-Savitri Devi on account of injuries received by her.

Learned counsel for the appellants in FAO No. 1508 of 2014 submits that increment on account of future prospects has not been afforded and multiplier has been incorrectly applied. It is further submitted that meagre compensation has been awarded under the conventional heads. It is, thus, prayed that compensation awarded to the appellants be enhanced in terms of the abovesaid judgements.

Learned counsel for the appellant in FAO No. 1509 of 2014 submits that compensation of ₹60,000/- awarded to the claimant-Savitri Devi on account of the injuries received by her is woefully insufficient and needs to be enhanced.

Learned counsel for the respondent-Insurance Company in both the appeals, while refuting the above arguments, submits that compensation

has been reasonably assessed by the learned tribunal and there is no scope for any further enhancement. Learned counsel prays for dismissal of both the appeals.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

There is no dispute regarding the age of the deceased-Yad Ram i.e. 45 years, at the time of the accident, his date of birth being 05.10.1963. He was employed as a driver with the Gujarat Police. There is further no dispute about his income as assessed by the learned tribunal i.e. ₹7899/- per month on the basis of the salary certificates Ex.P-1 and Ex.P-2. However, increase in income on account of future prospects at the rate of 30% is required to be awarded keeping in view the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**. Multiplier of 14 instead of 8 has to be applied in terms of judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009 (3) R.C.R. (Civil) 77**. Deduction of 1/4th has been correctly applied by the learned tribunal keeping in view the number of dependants/claimants i.e. 4. A sum of ₹15,000/- each is awarded on account of funeral expenses and loss of estate to the claimants. In terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhuru Ram and others, Civil Appeal no. 9581 of 2018, arising out of SLP (Civil) No. 3192 of 2018, decided on 18.09.2018.**, all the four claimants are further entitled to a sum of ₹40,000/- each for loss of consortium (spousal, parental and filial).

Yad Ram remained admitted in Kailash Hospital, Behror and at SMS Hospital, Jaipur from 12.06.2009 to 18.06.2009 when he ultimately breathed his last. Expense of ₹1,04,457/- on medical treatment as afforded by the learned tribunal, is upheld.

Compensation towards the claimants on account of death of Yad Ram in FAO No. 1508 of 2014, is thus re-worked as under:-

1.	Total income of deceased	₹7899/- p.m
2.	Deduction of 1/4th on account of personal expenses	₹7899/- (₹7899*1/4=₹1974/-) = ₹5925/-
3.	Total income after addition of future prospects at the rate of 30%	₹5925/- (₹5925+ ₹1778/-) i.e. ₹7703/-
4.	Annual dependency after applying multiplier of 14	₹7703/- x 12 x 14= ₹12,94,104/-
5.	Spousal consortium	₹40,000/-
6.	Funeral expenses	₹15,000/-
7.	Loss of estate	₹15,000/-
8.	Medical expenses	₹1,04,457/-
9.	Filial consortium to claimant no.4 i.e. mother of the deceased	₹40,000/-
10.	Parental consortium to claimants no.2 and 3 i.e. children of the deceased @ ₹40,000/-each	₹80,000/-
	Total Compensation =	₹15,88,561/-

Claimants in FAO No. 1508 of 2014 shall be entitled to interest on the compensation amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimants shall stand deducted.

Apportionment of amount of compensation amongst claimants in FAO No. 1508 of 2014 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.

FAO No. 1509 of 2014

Learned counsel for the insurance company in FAO No. 1509 of 2014 is unable to deny that the claimant/appellant-Savitri Devi indeed suffered injuries in the accident, which took place on 12.06.2009. The claimant was admitted at Kailash Hospital on 12.06.2009. PW-3-Dr. Dinesh Podar, while appearing as PW-3, has proved the disability certificate Ex.PW3/A reflecting the claimant to have suffered disability to the extent of 13%. It is borne out from the record that the appellant sustained Grade-I compound fracture both bones. She underwent surgery on 13.06.2009 and was discharged on 15.06.2009. The bills amounting to a sum of ₹27,408/- are mark P-49 to P-72. Award of a consolidated sum of ₹60,000/- as compensation to the injured-appellant by the learned tribunal is not justified in the facts and circumstances of the case.

Appellant is entitled to a sum of ₹26,000/- (₹2000/- per percent i.e. ₹2000/- x 13), as compensation on account of permanent disability suffered by her. The amount of ₹27,408/- on account of medical expenses as noted by the learned tribunal, is proved on record. Appellant is further entitled to a sum of ₹25,000/- on account of pain and suffering, besides ₹10,000/- for loss of amenities, ₹5000/- each on account of special diet, transportation charges and attendant charges.

Appellant is thus entitled to a total sum of ₹1,03,408/- on account of the injuries received by her in the motor vehicle accident.

Claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of petition till realization.

Needless to say the amount, if any, already disbursed to the claimant shall stand deducted.

With the abovesaid modification in the amount of compensation, both the appeals are disposed of.

29.11.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.