IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No.1131 of 2015 (O&M)
Date of decision: 13.08.2018.

National Insurance Company Ltd.

...Appellant

Versus

Smt. Baljinder Kaur and others

....Respondents

(2) FAO No.5662 of 2015 (O&M)

Smt. Baljinder Kaur and others

...Appellants

Versus

Jai Singh and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sandeep Suri, Advocate for the appellant in FAO No.1131 of 2015 and for respondent No.2 in FAO No.5662 of 2015.

Ms. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate for respondents No.1 to 5 in FAO No.1131 of 2015 and for the appellants in FAO No.5662 of 2015.

Mr. Manna Singh, Advocate for
Mr. Amrik Singh, Advocate for respondent No.6 in FAO No.1131 of 2015 and for respondent No.1 in FAO No.5662 of 2015.

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LISA GILL, J.

This order shall dispose of FAO No.1131 of 2015 and FAO No.5662 of 2015 as both of them arise out of the common award dated 10.11.2014 passed by Motor Accident Claims Tribunal, SAS Nagar, Mohali (`Tribunal' for short).

FAO No.1131 of 2015 has been filed by National Insurance Company Ltd. seeking reduction of the compensation awarded whereas FAO No.5662 of 2015 has been filed by the claimants seeking enhancement of the compensation awarded by the learned Tribunal.

The claimants, who are the widow, children and parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Jasbir Singh in a motor vehicle accident which took place on 05.01.2014. FIR was registered against respondent No.1 at Police Station Lalru. The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending vehicle by its driver respondent No.1.

The deceased was 38 years old at the time of accident. The deceased was working as a Picker in Bharti Retail Private Ltd. Banur and was earning Rs.7500/- per month. Learned Tribunal, in the absence of any documentary evidence, held that the income of the deceased cannot be assessed as more than that of a casual workman i.e. about Rs.200/- per day, Rs.6000/- per month at the time of his death. 50% was added in the income of the deceased towards future prospects. Deduction of 1/5th was effected on account of personal expenses. Multiplier of 15 was applied. Learned Tribunal awarded a sum of Rs.15,21,000/- to the claimants as compensation, the details of which are as under: -

Date of Accident		05.01.2014
Age of the deceased Jasbir Singh		38 years
Claimants	Baljinder Kaur etc. (total numbering 5)	
Sr. No.	Heads of Claim	Tribunal awarded amount (Rs.)

1.	Monthly income	Rs.6000/-
2.	Annual income	Rs.6000/- x 12 = Rs.72,000/-
3.	Addition of 50% on Rs.72,000/- on account of future prospect	Rs.36,000/-
4.	Total income of the deceased	Rs.72,000/-+36,000/- = Rs.1,08,000/-
5.	Personal and living expenses (1/5)	Rs.1,08,000/- / 5 = Rs.21,600/-
6.	Income after deduction of personal and living expenses	Rs.1,08,000-Rs.21,600= Rs.86,400/-
7.	Multiplier	15 (fifteen)
8.	Amount of compensation	Rs.86,400/-x15 = Rs.12,96,000/-
9.	Loss of consortium to claimant No.1	Rs.1,00,000/-
10.	Loss of care and guidance for minor claimants No.2 and 3	Rs.1,00,000/-
11.	Funeral expenses	Rs.25,000/-
12.	Grand Total	Rs.15,21,000/-

There is no dispute regarding the death of Jasbir Singh on 05.01.2014 due to injuries received in a motor vehicle accident which was caused due to the rash and negligent driving of the offending vehicle by its driver/respondent Jai Singh. Learned counsel for the appellant/Insurance Company does not challenge the finding of the learned Tribunal on issue No.1. Challenge is laid solely to the quantum of the compensation awarded to the claimants by the learned Tribunal. It is contended that the learned Tribunal has wrongly afforded an increase of income @ 50% towards future prospects. Moreover, a sum of Rs.1,00,000/- each on account of loss of consortium and loss of care and guidance to the minor claimants besides Rs.25,000/- for funeral expenses has been wrongly awarded by the learned Tribunal.

Per contra learned counsel for the claimants submits that income of the deceased has been wrongly assessed as Rs.6000/- per month whereas the minimum wages of unskilled worker at the time of accident in 2014 were Rs.6428/- per month in the State of Punjab.

It is also not in dispute that the minimum wages of an unskilled worker at the time of accident in 2014 was Rs.6248/-. Therefore, income of the deceased should be assessed as Rs.6248/- per month.

However, learned counsel for the claimants as well as Insurance Company are ad idem that compensation is required to be reworked in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1099**. Keeping in view the facts and circumstances of the case, it is considered appropriate to assess the income of the deceased as Rs.6248/- i.e. the minimum wage of unskilled worker in the year 2014 in the State of Punjab. There is no dispute regarding age of the deceased i.e. 38 years at the time of accident. Increase of 40% has to be afforded on account of future prospects. Multiplier of 15 has rightly been applied by the learned Tribunal. Deduction of 1/4th instead of 1/5th has to be applied in view of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, *2009(3) RCR (Civil) 77***. Applying the multiplier of 15, loss of dependency is worked as Rs.11,80,875/-. The claimants are also entitled to 15,000/- instead of Rs.25,000/- on account of funeral expenses besides Rs.15,000/- for loss of estate. A sum of Rs.40,000/- instead of Rs.1,00,000/- is awarded to the widow towards loss of consortium. The claimants are thus entitled total compensation to Rs.12,50,875/- instead of Rs.15,21,000/- with interest @ 7.5% per annum. The details thereof are as under: -

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6248 p.m. i.e., 74,976/- per annum

2.	Total income after addition at the rate of 40% on account of future prospects	74976**+** (74976 **x 40**%) = 1,04,966/-
3.	Income after deduction of 1/4th on account of personal expenses	1,04,966**–**(1,04,966/ 1/4th) = 78,725
4.	Total dependency after applying a multiplier of 16	(78725 **x**15) = 11,80,875/-
5.	Loss of estate	50,000/-
6.	Loss of consortium to wife	40,000/-
7.	Funeral expenses	15,000/-
	Grand Total	Rs.12,50,875/-

Recovery of the awarded amount of compensation beyond Rs.9,00,000/- was stayed by this Court.

The unpaid amount of Rs.3,50,875 (Rs.12,50,875-Rs.9,00,000/) shall carry interest at the rate of 7.5% per annum from the date of the application 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 award dated 10.11.2014, both the appeals are disposed of.

(LISA GILL)
JUDGE

August 13, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No