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

**I.** **FAO-248-2015 (O&M)**
Date of decision:08.02.2018.

UNITED INDIA INSURANCE CO. LTD ... Appellant

Versus

ANITA AND ORS .... Respondents

**II.** **FAO-8227-2015 (O&M)**

ANITA AND ORS ... Appellants

Versus

DEVINDER SINGH & ORS. .... Respondents

**CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA**

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Present: Mr. Sanjiv Pabbi, Advocate,
for the appellant in FAO No.248 of 2015 and
for respondent No.3 in FAO No.8227 of 2015.

Mr.Gaurav Soni, Advocate, for
Mr. Ramneek Vasudeva, Advocate,
for respondents No.1 and 2 in FAO No.8227 of 2015 and
for respondents No.5 and 6 in FAO No.248 of 2015.

Mr. Naveen Sharma (Moudgil), Advocate, and
Mr. Vijay Lath, Advocate, for
for the appellants in FAO No.8227 of 2015 and
for respondents No.1 to 4 in FAO No.248 of 2015.

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***HARI PAL VERMA, J.*** *(Oral)*

This order shall dispose of two appeals i.e. FAO No.248 of 2015 titled as '***United India Insurance Company Limited Versus Anita and others***' and FAO No.8227 of 2015 titled as '***Anita and others Versus Devinder Singh and others***' as both the appeals have been filed against a common award dated 26.08.2014 passed by learned Motor Accident Claims Tribunal, Rupnagar (for short, 'the Tribunal').

FAO No.248 of 2015 has been filed by the Insurance Company challenging the award dated 26.08.2014 passed by the Tribunal in favour of the respondents-claimants, whereas FAO No.8227 of 2015 has been filed by the claimants seeking enhancement of compensation on account of death of Ravinder Kumar.

Briefly stated, the claimants filed a claim petition under Section 166 of the Motor Vehicles Act for grant of compensation on account of death of Ravinder Kumar. The claimants are widow, minor daughter, minor son and mother of the deceased. In the claim petition, it was averred that on 16.04.2013, Ravinder Kumar had gone to Nangal for collecting orders as well as payments from the shopkeepers for the material supplied by Bajaj & Company. He had gone on his motorcycle bearing registration No.PB-12-N-2917. When he came out of the shop of Sanjay Kumar situated in the area of Mandi Railway Road, Nangal Township, at about 3 PM when he was about to start his journey towards Ropar, in the meantime, a Bus bearing registration No.PB-11-AD-0577 came from the side of Ropar towards Nangal Bus Stand, being driven in a rash and negligent manner and struck against the motorcycle of Ravinder Kumar by coming on wrong side of the road. In the said accident, Ravinder Kumar received multiple injuries on his head and other parts of the body. He was immediately taken to BBMB Hospital, Nangal and from there, he was referred to PGI, Chandigarh. Ultimately, he succumbed to the injuries on 18.04.2013. In this respect, an FIR No.50 dated 18.04.2013 under Sections 279, 337, 427 and 304-A IPC was registered at Police Station Nangal.

On notice of claim petition, driver, owner and Insurance Company appeared before the Tribunal and contested the claim petition.

They denied the accident and claimed to be falsely involved in the accident.

The Tribunal found the driver responsible for the accident and awarded a total compensation of ₹ 24,58,600/- in favour of the claimants along with interest at 9% per annum from the date of filing of claim petition till realization. Since the deceased was working as a Salesman with M/s Bajaj & Company and used to get ₹16,000/- per month, his income was assessed as ₹16,000/- per month. Considering the age of the deceased as 45 years, the Tribunal applied 30% increase in income of the deceased as future prospects and accordingly, assessed the monthly income to be ₹20,800/- which was taken as ₹2,49,600/- annually. Since there were four claimants, the Tribunal deducted 1/4th income of the deceased towards his personal expenses and accordingly, the annual dependency of the family was assessed at ₹1,87,200/-. The Tribunal applied a multiplier of 13 and accordingly, the amount of compensation was assessed at ₹24,33,600/-. Since the claimant-wife had lost her husband in the accident, she was granted ₹10,000/- towards consortium. The claimants were also granted ₹10,000/- towards medical expenditure and transportation and ₹5,000/- towards funeral expenses. In this manner, total compensation was calculated as ₹24,58,600/-.

Mr. Pabbi, learned counsel for the Insurance Company has argued that in view of judgment of Hon'ble Apex Court rendered in ***National Insurance Company Limited Versus Pranay Sethi and others-2017(4) RCR (Civil) 1009***, present case requires 25% addition in income of the deceased instead of 30% as awarded by the Tribunal. Similarly, the Tribunal has awarded a higher rate of interest and as held in ***Pranay Sethi's case*** (supra), the rate of interest should be 7.5% per annum. He has further argued that the appeal filed by the respondents-claimants i.e. FAO No.8227 of 2015 is delayed by 342 days and, therefore, in the event of appeal being accepted or the award being modified, the claimants are not entitled for interest for the period for which the delayed appeal has been filed.

On the other hand, learned counsel for the respondents-claimants, who have also filed their separate appeal i.e. FAO No.8227 of 2015 titled as ***'Anita and others Versus Devinder Singh and others'*** seeking enhancement of compensation, has argued that as per the Driving Licence, the date of birth of the deceased was 08.07.1971 (Ex.P4), but the Tribunal considered the age of the deceased as 45 years on the premise that in the postmortem report, the age of the deceased has been reflected as 48 years. The accident took place on 16.04.2013 and, therefore, on the date of accident, the deceased was 42 years of age. He has further argued that even if the age of the deceased is taken to be 45 years, the Tribunal was required to apply multiplier of 14 instead of 13. The claimants are also entitled compensation under the conventional heads.

I have heard learned counsel for the parties.

There is no dispute that Ravinder Kumar died in the accident. The Tribunal has considered the age of the deceased as 45 years. As per the postmortem report, the age of the deceased is shown to be 48 years but at the same time, the age of the deceased as per the driving licence (Ex. P4) is shown to be 08.07.1991. Therefore, the Tribunal has taken the age of the deceased in between 40 to 48 and has come to the conclusion that the deceased was 45 years of age. Therefore, this Court finds that there is no scope for interference so far as the age of the deceased is concerned. However, as held by the Hon'ble Supreme Court in ***<u>Sarla Verma Versus</u>***

***Delhi Transport Corporation and another-2009(6) SCC 121***, the age of the deceased if considered as 45 years, the Tribunal was required to apply multiplier of 14 instead of 13. Similarly, the award passed by the Tribunal requires modification to the extent that the deceased being self-employed, future prospects were required to be assessed @ 25% instead of 30%. However, the claimants are entitled compensation under the conventional heads also, as held in ***Pranay Sethi's case*** (supra). Accordingly, with the assistance of the counsel for the parties, this Court finds that the award is required to be modified in the following manner:-

| **Heads** | | **Calculation** |
|---|---|---|
| Monthly Income | | ₹16,000 |
| Future prospects (%age) | 25% | ₹4,000 |
| Total monthly income (monthly income + Future prospects) | | ₹20,000 |
| Annual income (total monthly income x 12) | | ₹2,40,000 |
| Deductions (towards personal expenses of deceased) | ¼ | |
| Annual dependency | | ₹1,80,000 |
| Multiplier (annual dependency x multiplier) | 14 | |
| Total loss of dependency | | ₹25,20,000 |
| Conventional heads: | | |
| Loss of Estate | | ₹15,000 |
| Funeral expenses | | ₹15,000 |
| Loss of consortium | | ₹40,000 |
| Total amount of compensation | | ₹25,90,000 |
| Amount already awarded | | ₹24,58,600 |
| Enhancement | | ₹1,31,400 |

Accordingly, an amount of ₹1,31,400 is enhanced over and above the amount already granted by the Tribunal. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of claim petition till its realization. It is made clear that as the appeal has been preferred by the claimants after a delay of 342 days, they shall not be entitled for any interest for this period.

With the aforesaid modifications in the award, both the appeals are disposed of.

**(HARI PAL VERMA)**
**JUDGE**

08.02.2018
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No