

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

(1)

**FAO No.5397 of 2013 (O&M)
Date of Decision: April 03, 2018.**

Narma Devi

.....APPELLANT(s).

VERSUS

Mange Ram and others

.....RESPONDENT(s).

(2)

FAO No.5400 of 2013 (O&M)

Usha Rani and others

.....APPELLANT(s).

VERSUS

Mange Ram and others

.....RESPONDENT(s).

(3)

FAO No.2262 of 2014 (O&M)

Anita Devi and others

.....APPELLANT(s).

VERSUS

Mange Ram and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Subhash Godara, Advocate
for the appellant (s).

Mr. Ashok Mathur, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

for disposal by common order as these arise from common award dated 28.02.2013 passed by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the tribunal'). The appellants in all these three appeals have sought enhancement of compensation awarded by the tribunal for death of Sudhan aged 56 years (FAO-5397-2013), Ramphal aged about 36 years (FAO-5400-2013) and Rajinder aged 30 years (FAO-2262-2014) in a motor vehicle accident on 26.12.2010 with Eicher Canter bearing registration No.HR-69/9093 (later referred to as 'the offending vehicle').

As the only issue involved in these appeals relate to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

FAO-5397-2013

Learned counsel for the appellant has confined his submission for grant of future prospects and compensation under the conventional heads as per the law settled by Hon'ble Apex Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009*. He has argued that the deceased had left behind widow and one son but the tribunal has deducted 1/2 from his income instead of 1/3rd towards his personal expenses.

Learned counsel for respondent No.3-insurance company has not disputed the grant of compensation as per law settled by Hon'ble Apex Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)* but has argued that son of deceased Sudan was major as he was aged about 22 years at the time of filing of the claim petition, as such, the only dependant on the deceased was his wife and the tribunal has

rightly deducted 1/2 from his income towards personal expenses.

The accident in this case took place in the year 2010 when son of the claimant namely Ram Chander was about 20 years of age. A boy of 20 years is dependant on his father even if he is major. At this age, the children are pursuing their studies or preparing to establish their lives. As per the law settled by Hon'ble Supreme Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121***, which has been approved in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***, 1/3rd deduction is to be made from the income of the deceased towards his personal expenses. The claimants are also entitled to grant of 10% addition in the income of the deceased, who was 56 years of age at the time of his death, towards future prospects. Keeping in view the fact that accident has taken place in the year 2010, a lump sum amount of ₹50,000/- is awarded for loss of consortium, loss of estate and funeral expenses.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased (as assessed by the tribunal)	₹4350 per month
(ii)	10% of above (i) to be added as future prospects	(₹4350+₹435)= ₹4785 per month
(iii)	Deduction of 1/3 rd towards personal expenses of the deceased	(₹4785-₹1595)= ₹3190 per month
(iv)	Compensation after multiplier of 9 is applied	(₹3190X12X9)= ₹344520
(v)	Compensation under conventional heads i.e. loss of consortium, loss of estate and funeral expenses	₹50000
(vi)	Treatment expenses	₹4000
Total		₹3,98,520/-

FAO-5400-2013

Learned counsel for the appellants has argued that deceased Ramphal has left behind four dependants and as per the law settled by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)***, 1/4th from the income of the deceased could be deducted towards his personal expenses while the tribunal has made deduction of 1/2 from his income on this score. The deceased was a permanent employee and as per the law settled by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)***, which has been approved in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***, the claimants are entitled to addition of 50% in the income of the deceased towards future prospects along with compensation under the conventional heads.

Learned counsel for respondent No.3-insurance company has argued that the deceased has left behind his widow, a minor son and mother. Father Kiru Ram, claimant No.4 was not dependant on the deceased, as such, 1/3rd of the income of the deceased is to be deducted from his income towards personal expenses. However, he has not disputed the grant of compensation to the claimants as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***.

The deceased was employed as Manager in HDFC Life Insurance Company. The tribunal has taken his income as ₹3,40,101/- per annum after deducting conveyance allowance and income tax. As the

deceased had left behind three dependants (after excluding his father from the list of dependants), $1/3^{\text{rd}}$ is to be deducted from his income towards personal expenses. The claimants are also entitled to 50% addition in the income of the deceased towards future prospects, besides a sum of ₹50,000/- for loss of consortium, loss of estate and funeral expenses.

As a sequel of may above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased (as assessed by the tribunal after deducting conveyance allowance and income tax)	₹340101 (rounded of ₹340100) per annum
(ii)	50% of above (i) to be added as future prospects	(₹340100+₹170050) ₹510150 per annum
(iii)	Deduction of $1/3^{\text{rd}}$ towards personal expenses of the deceased	(₹510150-₹170050) = ₹340100 p.a.
(iv)	Compensation after multiplier of 15 is applied	(₹340100X15)= ₹5101500
(v)	Compensation under conventional heads i.e. loss of consortium, loss of estate and funeral expenses	₹50000
<i>Total</i>		₹51,51,500/-

FAO-2262-2014

Learned counsel for the appellants has argued that the income of the deceased was taken as a daily wager and as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***, the claimants are entitled to 40% addition in the income of the deceased towards future prospects along with compensation under the conventional heads.

Learned counsel for the respondent No.3-insurance company has argued that the tribunal while computing the amount of compensation allowed for the death of Rajinder, aged 30 years has awarded compensation

of ₹70,000/- towards loss of love and affection, which is not admissible as per law settled by Hon'ble Apex Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*. He has, however, not disputed grant of addition in the income of the deceased towards future prospects and compensation under the conventional heads as per the law settled by Hon'ble Apex Court in the above-referred citation.

Deceased Rajinder was 30 years of age. The claimants are entitled to 40% addition in the income of the deceased towards his future prospects, besides this a lump sum compensation of ₹50,000/- under the conventional heads i.e. loss of consortium, loss of estate and funeral expenses is also allowed.

In view of above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased (as assessed by the tribunal)	₹4350 per month
(ii)	40% of above (i) to be added as future prospects	(₹4350+₹1740)= ₹6090 per month
(iii)	Deduction of 1/4 th towards personal expenses of the deceased	(₹6090-₹1522)= ₹4568 per month
(iv)	Compensation after multiplier of 17 is applied	(₹4568X12X17)= ₹931872
(v)	Compensation under conventional heads i.e. loss of consortium, loss of estate and funeral expenses	₹50000
<i>Total</i>		₹9,81,872/-

As a sequel of my above discussion, all the appeals FAO No.5397 of 2013, FAO No.5400 of 2013 and FAO No.2262 of 2014 have merits and are allowed.

In FAO No.5397 of 2013, the award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from

₹2,88,900/- to ₹3,98,520/- for death of Sudhan. The enhanced amount of compensation shall be shared by the appellants-claimants as follows:-

- | | | |
|-----|---------------------------|-------|
| (1) | Claimant No.1-Narma Devi | : 60% |
| (2) | Claimant No.2-Ram Chander | : 40% |

In FAO No.5400 of 2013, the award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹26,65,500/- to ₹51,51,500/- for death of Ramphal. The enhanced amount of compensation shall be shared by the appellants-claimants as follows:-

- | | | |
|-----|------------------------------------|-------|
| (1) | Claimant No.1-Usha Devi-widow | : 50% |
| (2) | Claimant No.2-Neeraj, minor son | : 30% |
| (3) | Claimant No.3-Sunehri Devi, mother | : 20% |

In FAO No.2262 of 2014, the award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹7,66,052/- to ₹9,81,872/- for death of Rajinder. The enhanced amount of compensation shall be shared by the appellants-claimants as follows:-

- | | | |
|-----|-----------------------------------|------------|
| (1) | Claimant No.1-Anita Devi-widow | : 40% |
| (2) | Claimants No.2 & 3-minor sons | : 25% each |
| (3) | Claimant No.4- Narma Devi, mother | : 10% |

Liability to pay the amount of compensation in all the appeals shall be as per the award. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the appeal till actual realisation. Respondent No.3-insurance company will deposit the shares of appellants-claimants in all the appeals, who are major, in their bank accounts or pay the same through demand drafts. The share of appellant No.2 in FAO No.5400 of 2013 and appellants No.2 and 3 in FAO No.2262 of 2014, who as per the memo of parties are minors, will be deposited in

It is, however, made clear that the bank may take the documents regarding the age of the minors as required at the time of deposit of the amount and the minors shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in their names after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually gives to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be apportioned equally amongst other surviving claimants.

April 03, 2018.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No