IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 30.01.2018

FAO No.5458 of 2013 (O&M)

New India Assurance Co. Ltd. ...Appellant

Versus

Ajmer Kaur and others ...Respondents

FAO No.4698 of 2014 (O&M)

Ajmer Kaur and another ...Appellants

Versus

Jagpinder Singh and others ...Respondents

FAO No.5459 of 2013 (O&M)

New India Assurance Co. Ltd. ...Appellant

Versus

Nachhatar Kaur and others ...Respondents

FAO No.5848 of 2014 (O&M)

Nachhatar Kaur and another ...Appellants

Versus

Jagpinder Singh and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Prabhjot Kaur, Advocate
for the appellants in FAO Nos.5848 and 4698 of 2014.

Mr. R.C. Gupta, Advocate
for the insurance company.
****

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.5458 and 5459 of 2013 and 4698 and 5848 of 2014 as these have emerged out of the same accident dated 21.03.2012 in which Varinder Singh and Sukhwinder Singh (since deceased) sustained injuries due to rash and negligent driving of truck No.PB23-G-9897 by Jagpinder Singh son of Darshan Singh.

FAO No.5458 of 2013 has been filed by the insurance company to assail the award qua death of Varinder Singh and claimants in the said case have filed FAO No.4698 of 2014 for enhancement of compensation.

FAO No.5459 of 2013 has been filed by the New India Assurance Co. Ltd. (hereinafter to be referred as 'the insurance company') to assail the award passed in favour of Nachhtar Kaur and another in regard to death of Sukhwinder Singh whereas FAO No.5848 of 2014 has been filed by the claimants seeking enhancement of compensation.

FAO No.5458 of 2013 and No.4698 of 2014

The Tribunal has awarded compensation to the tune of Rs.5,39,200/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Addition in income for future prospects	40%
3. Multiplier	14
4. Deduction for personal expenses	50%
5. Loss of dependency	Rs.5,29,200/-
6. Expenses on transportation of dead body and last rites	Rs.10,000/-

Counsel for the claimants would urge that the deceased was 21 years old unmarried son of the claimants, therefore, appropriate multiplier in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** should be 18. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal on the premise that adequate compensation has been allowed.

The Tribunal has assessed loss of dependency by applying multiplier of 14 on the basis of age of parents of the deceased. In view of the enunciation laid down in **Sarla Verma's case** (supra), **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315** and **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**, appropriate multiplier in the given circumstances would be 18. The addition in income and deduction for personal expenses allowed by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.6,80,400/- (Rs.4500 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses).

Under conventional heads, claimants shall be entitled to Rs.30,000/- namely expenses on funeral Rs.15,000/- and loss of estate Rs.15,000/-.

The total compensation comes to Rs.7,10,400/- and the additional amount is Rs.1,71,200/- (7,10,400 – 5,39,200), payable with interest @ 7.5% per annum from the date of petition till realization to mother of the deceased.

To be fair to the insurance company, counsel has submitted that driver of offending vehicle did not possess a valid licence at the time of occurrence. This plea of the insurance company is not tenable in view of the fact that there was an endorsement of transport on the driving licence effective on the day of accident.

For the foregoing reasons, the appeal filed by claimants is partly allowed in the aforesaid terms. However, the appeal preferred by the insurance company fails and is accordingly dismissed.

No order as to costs.

FAO No.5848 of 2014 and No.5459 of 2013

With regard to death of Sukhwinder Singh, the Tribunal has awarded compensation to the tune of Rs.5,39,200/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Addition in income for future prospects	40%
3. Multiplier	14
4. Deduction for personal expenses	50%
5. Loss of dependency	Rs.5,29,200/-
6. Expenses on transportation of dead body and last rites	Rs.10,000/-

As facts and circumstances of the instant case are identical to that of death of Varinder Singh, additional amount of Rs.1,71,200/- is payable with interest @ 7.5% per annum from the date of petition till realization to mother of the deceased.

For the foregoing reasons, the appeal filed by claimants is partly allowed in the aforesaid terms. However, the appeal preferred by the insurance company fails and is accordingly dismissed.

No order as to costs.

30.01.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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