IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(I) FAO No.3440 of 2015 (O&M)
Date of Decision: 06.10.2018.

Reliance General Insurance Company Ltd.

...Appellant

Versus

Anju Devi and others

....Respondents

(II) FAO No.6560 of 2015 (O&M)
Date of Decision: 06.10.2018

Anju Devi and others

...Appellants

Versus

Surender Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Subhash Goyal, Advocate for the appellant in FAO No.3440 of 2015 and for respondent No.3 in FAO No.6560 of 2015.

Ms. Himani Kapila, Amicus Curiae and
Mr. Sandeep Parkash Chahar, Advocate for the appellants in FAO No.6560 of 2015 and for respondent Nos.1 to 4 in FAO No.3440 of 2015.

None for respondent Nos.5 and 6 in FAO No.3440 of 2015.

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B.S.WALIA, J (Oral).

FAO No.3440 of 2015 and
FAO No.6560 of 2015

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FAO No.6560 of 2015.

1. This order shall decide FAO No.3440 of 2015 and FAO No.6560 of 2015, as common questions of law and facts are involved.

2. FAO No.3440 of 2015 has been filed by the Insurance Company seeking setting aside of award dated 11.12.2014 as well as order dated 30.03.2015, passed by the learned Motor Accidents Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal')/seeking reduction of compensation awarded while FAO No.6560 of 2015 has been filed by the claimants seeking enhancement of compensation.

3. Both the appeals are in respect of compensation awarded to the widow, two minor daughters and mother of deceased Lalit, who died in a motor vehicular accident on 15.04.2011. The Tribunal took into account the age of the deceased as 22 years, employment as process server on permanent basis and assessed his monthly income at ₹17,218/-, thereafter by adding 100% of income of the deceased towards future prospects, by making deduction of 1/3rd of the income of the deceased towards his personal expenses, applying multiplier of '18' and by awarding ₹20,000/- on account of transportation and last rites etc., awarded total compensation of ₹49,78,784/-.

4. Learned counsel for the appellant/Insurance Company contended that the appeal was liable to be allowed and award modified by reducing the addition of income of the deceased towards future prospects from 100% to 50%. Learned counsel for the appellants-claimants on the other hand contended that the income of the deceased had wrongly been reduced by making deduction of 1/3rd towards his personal expenses,

besides the compensation awarded on account of conventional heads was inadequate.

5. I have heard learned counsel for the parties and perused the record.

6. In view of paragraph No.61 (iii) of the decision in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009, where the deceased had a permanent job and was below 40 years of age, 50% of the established income of the deceased less tax component is to be added on account of future prospects while computing compensation.

7. Since in the instant case deceased was employed as process server on permanent basis and was 22 years of age, therefore, 50% of the established income of the deceased minus tax component is liable to be added on account of future prospects while computing compensation.

8. In view of paragraph No.14 of the decision in Sarla Verma Vs. Delhi Transport Corp. and another, 2009 (3) RCR (Civil) 77, where the number of dependent family members of the deceased is 4 to 6, deduction is to be made @ 1/4th and not @ 1/3rd towards personal expenses of the deceased.

9. Admittedly, the deceased left behind four dependants, therefore, deduction @ 1/4th and not 1/3rd of the income of the deceased shall be made towards his personal expenses.

10. As regards appropriate compensation under convention heads, as per paragraph No.61 (viii) of the decision in Pranay Sethi's case (supra), compensation of ₹15,000/-, ₹40,000/- and ₹15,000/- respectively is to be

awarded on account of loss of estate, loss of spousal consortium and funeral expenses. Further as per paragraph No.8.7 of the decision of Hon'ble the Supreme Court in Magma General Insurance Co. Ltd vs. Nanu Ram Alias Chuhru Ram, in Civil Appeal No.9581 of 2018, decided on 18 September, 2018, apart from compensation on account of loss of spousal consortium, children of the deceased are also entitled to award of compensation on account of loss of parental consortium.

11. As regard payment of interest, Hon'ble the Supreme Court in Neeta and others vs. Divisional Manager MSRTC Kolapur 2015 (1) JT 354, in the background of the accident having taken place on 22.03.2011, awarded interest @ 9% per annum. Since, in this case accident took place on 15.04.2011, therefore, it would be in the fitness of things if the interest payable is enhanced from 7.5% to 9% per annum.

12. Accordingly, the appellants/claimants are held entitled to award of ₹15,000/- on account of loss of estate as also ₹15,000/- on account of funeral expenses. As regards loss of consortium, appellant/claimant No.1-wife and two children i.e. appellant/claimant Nos.2 and 3 are held entitled to ₹40,000/- each on account of loss of spousal/parental consortium. However, no amount is payable on account of loss of filial consortium to the mother of the deceased.

13. In the circumstances, the appellants/claimants are held entitled to the following compensation:-

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
1	Income	₹17,218/-	₹17,218/-

FAO No.3440 of 2015
FAO No.6560 of 2015.

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
2	Future Prospects	(100% of ₹17,218/-) = ₹17,218/-	(50% of ₹17,218/-) ₹8609/-
3.	Total Income	₹34,436/-	₹25,827/-
4.	Deduction	1/3rd of ₹34,436/- i.e. ₹11,479/-	1/4th ₹25,827/- i.e. ₹6457/-
5.	Multiplier applied	18	18
6.	Dependency	₹22,957x12x18=₹49,58,712/-	₹19370x12x18=₹41,83,920/-
7.	Transportation and last rites etc.	₹20,000/-	Loss of Estate : ₹15,000/- Funeral Expenses: ₹15,000/- Loss of spousal consortium to appellant/claimant No.1=₹40,000/- Loss of parental consortium to appellant/claimant Nos.2 and 3=₹80,000/- i.e. ₹40,000/- each.
8.	Interest	7.5% per annum	9% per annum
	Total	₹49,78,712/- (wrongly calculated as ₹49,78,784/-	₹43,33,920/-

14. Accordingly, as against the compensation of ₹49,78,712/- awarded by the Tribunal, the appellants/claimants are held entitled to award of compensation of ₹43,33,920/- along with interest @ 9% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

15. Needless to mention, the appellants would be entitled to the award of compensation in proportion to their shares determined by the Tribunal after first making payment of ₹40,000/- each towards loss of spousal/parental consortium to the wife and children of the deceased i.e. appellant/claimants Nos.1 to 3 in FAO No.6560 of 2015. The Insurance Company shall make the payment to the appellants after making deduction

of the tax liability, if any, qua future prospects, in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

16. Accordingly, FAO No.3440 of 2015, filed by the appellant-Insurance Company is partly allowed whereas FAO No.6560 of 2015 filed by the appellants-claimants is disposed of.

(B.S.WALIA)
JUDGE

06.10.2018
rajesh.k.khurana

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