

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

224

Date of Decision : 06.12.2018

1. FAO No.3979 of 2016 (O&M)

Veer Bahadur @ Beer Bahadur and others

..... Appellants

Versus

Jharmal Singh and others

..... Respondents

2. FAO No.4267 of 2016 (O&M)

Gopal Thapa and others

..... Appellants

Versus

Jharmal Singh and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present : Mr. N.K.Malhotra, Advocate  
for the appellants (in both cases).

Mr. Deepak Girotra, Advocate  
for respondent No.3. (FAO-3979-2016).

Mr. Navin Kapur, Advocate  
for respondent No.3 (FAO-4267-2016).

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**AJAY TEWARI, J. (Oral)**

This order shall dispose of above mentioned two appeals.

These are two appeals for enhancement of compensation and for modifying the award dated 16.04.2016 passed by the Motor Accident Claims Tribunal, Rohtak which in turn arose from one accident where two persons namely Arjun and Karishma died on 10.04.2015. Since the liability of the insurance company is not disputed further detailed reference to the facts is not necessary.

**FAO No.3979-2016**

Counsel for the appellants-claimants states that the multiplier has been taken as per the age of the claimants whereas it should be as per the age of the deceased. He has further argued that in view of the judgment of the Supreme Court in the matter of ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298*** the multiplier of 18 has to be applied instead of 13. Counsel for respondent No.3 has accepted this fact. Consequently, it is held that multiplier of 18 has to be applied.

Counsel for the appellants-claimants has argued that in view of the judgment passed in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***, 40% had to be awarded on account of future prospects. Counsel for respondent No.3 is not in a position to deny this. It is held that 40% has to be awarded towards future prospects.

Counsel for respondent No.3, however, points out that under the conventional heads Rs.1,20,000/- has been awarded which is excessive. I find that among the claimants are old mother and unmarried sister and in view of the judgments passed in ***Pranay Sethi (supra)*** and

***Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., 2018 (4) RCR (Civil) 333*** a sum of Rs.40,000/- each had to be granted to the mother and the unmarried sister on account of filial consortium and further sum of Rs.30,000/- had to be awarded on account of funeral expenses and loss of estate. Resultantly, a sum of Rs.10,000/- is reduced.

Since the finding of 50% contributory negligence has not been challenged, the appellants would be entitled to 50% of compensation.

**FAO No.4267 of 2016**

Learned counsel for the appellants-claimants has argued that the compensation of Rs.4,40,000/- awarded for the death of 12 years old girl is highly inadequate.

Learned counsel for respondent No.3 states that the income should be fixed on the basis of a judgment passed by the Supreme Court in ***Krishan Gopal and another Vs. Lala and others, 2013(4) RCR (Civil) 276***. Consequently, a sum of Rs.5,00,000/- is awarded.

Since the finding of 50% contributory negligence has not been challenged, the appellants would be entitled to 50% of compensation.

In view of the judgment passed in ***Magma General Insurance Company Ltd. (supra)*** the enhanced compensation in both the cases would carry interest @12% per annum from the date of filing the claim petition till realization. Rest of the award shall remain unchanged.

Both the appeals are allowed.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

06.12.2018  
*pooja sharma-I*

( AJAY TEWARI )  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | - | Yes/No |
| Whether reportable        | - | Yes/No |