

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

**FAO No.6065 of 2015 (O&M)
Date of decision: 15.2.2018**

Daljit Singh

....Appellant

Versus

Krishan Kumar and others

....Respondents

FAO No.6066 of 2015 (O&M)

Daljit Singh

....Appellant

Versus

Balwant Singh and others

....Respondents

FAO No.6398 of 2015 (O&M)

Daljit Singh

....Appellant

Versus

Chhotu Ram and others

....Respondents

FAO No.6400 of 2015 (O&M)

Daljit Singh

....Appellant

Versus

Girdhari Lal and others

....Respondents

FAO No.6065 of 2015 (O&M) & Connected matters)

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FAO No.6401 of 2015 (O&M)

Daljit Singh

....Appellant

Versus

Amar Singh and others

....Respondents

**FAO No.5730 of 2011 and
Cross Objections No.70-CII of 2012 (O&M)**

Daljit Singh

....Appellant

Versus

Saroj and others

....Respondents

A N D

FAO No.5731 of 2011 (O&M)

Daljit Singh

....Appellant

Versus

Krishna Devi and others

....Respondents

**FAO No.4795 of 2007 with
Cross Objections No.16-CII of 2011(O&M)**

Amar Singh and others

.. Appellants

Vs.

Aroor Singh and others

.. Respondents

**FAO No.4796 of 2007 with
Cross Objections No.17-CII of 2011 (O&M)**

Krishan Kumar and others

.. Appellants

Vs.

Aroor Singh and others

.. Respondents

**FAO No.4797 of 2007 with
Cross Objections No.18-CII of 2011 (O&M)**

Chhotu Ram and another

.. Appellants

Vs.

Aroor Singh and others

.. Respondents

**FAO No.4798 of 2007 with
Cross Objections No.19-CII of 2011 (O&M)**

Balwant Singh and others

.. Appellants

Vs.

Aroor Singh and others

.. Respondents

**FAO No.4799 of 2007 with
Cross Objections No.20-CII of 2011(O&M)**

Girdhari Lal and others

.. Appellants

Vs.

Aroor Singh and others

.. Respondents

A N D

**FAO No.3257 of 2010 with
Cross Objections No.94-CII of 2010 (O&M)**

Smt.Krishna Devi and others

.. Appellants

Vs.

Arud Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mrs.Balwinder Kaur, Advocate for the appellants in FAO Nos.6065, 6066, 6398, 6400 and 6401 of 2015 and for Cross Objection Nos.16 to 20-CII of 2011 in FAO No.4795 to 4799 of 2007, and Cross Objection No.94-CII of 2010 in FAO No. 3257 of 2010.

Sh.N.R.Dahiya, Advocate for the appellant(s) in FAO Nos.5730 and 5731 of 2011.

Mr.Amit Jain, Advocate for respondents No.1 and 2 in FAO No.5731 of 2011 and Cross Objection No.70-CII of 2012 in FAO No.5730 of 2011.

Mr.D.R.Bansal, Advocate for respondent No.3 in FAO Nos.4795 to 4799 of 2007 and Cross Objections No.16-CII to 20-CII of 2011
for respondent No.5 in FAO No.6065 of 2015
for respondent No.7 in FAO No.6066 of 2015
for respondent No.4 in FAO No.6398 of 2015
for respondent No.8 in FAO No.6400 of 2015
for respondent No.7 in FAO No.6401 of 2015.

Mr.Shashi Kumar Yadav, Advocate for respondent No.10-Oriental Insurance Company in FAO No.5730 of 2011.

Mr.Vipul Sharma, Advocate for Mr.Paul S.Saini, Advocate for respondent-National Insurance Company in FAO No.3257 of 2010 and Cross Objections No.94-CII of 2010, FAO No.5731 of 2011 and FAO No.5730 of 2011 and Cross Objections No.70-CII of 2012.

Mr.Vivek Khatri, Advocate for the appellants in FAO Nos.4795 to 4799 of 2007, 3257 of 2010,
for respondents No.1 & 2 in FAO No.6400 of 2015,
for respondents No.1 to 5 in FAO Nos.6401 & 6066 of 2015,
for respondents No.1 and 2 in FAO No.6398 of 2015.

Mr.Vinod Chaudhari, Advocate for respondent No.5-Oriental Insurance Company in FAO Nos.4795 to 4799 of 2007.

AJAY TEWARI, J. (Oral)

C.M No.19253 CII of 2015 in FAO No.6066 of 2015

For the reasons recorded, this application is allowed and delay of 58 days in filing the appeal is condoned.

C.M No.20083 CII & 20085 CII of 2015 in FAO No.6398 of 2015

For the reasons recorded, these applications are allowed and delay of 19 days in refiling and 58 days in filing the appeal is condoned.

C.M No.20088 CII & 20090 CII of 2015 in FAO No.6400 of 2015

For the reasons recorded, these applications are allowed and delay of 41 days in refiling and 58 days in filing the appeal is condoned.

C.M No.20091 CII of 2015 in FAO No.6401 of 2015

For the reasons recorded, this application is allowed and delay of 77 days in refiling the appeal is condoned.

FAO No.6065 of 2015 and connected matters

These are thirteen Appeals and seven Cross Objections.

The brief facts of the case are that an accident had taken place on 14.3.2004 at 10.30 a.m. in the area of village Akkawali, Tehsil Tohana, District Fatehabad between jeep bearing registration No. HR-22B-5755 and truck bearing registration No.RJ 13G/6416 driven by Aroor Singh and owned by Daljit Singh. Seven deaths took place as a result of the collision. Five claim applications were filed at Fatehabad (hereinafter referred to as the 'Fatehabad cases') while two claim applications were filed at Hisar (hereinafter referred to as the 'Hisar cases') for compensation for the death of the persons. The same have been allowed.

In both sets of cases, the Tribunals held that both the driver Aroor Singh and the driver of the jeep were equally negligent for the

accident. Further, the Courts found that the driving license of Aroor Singh was fake and held that the insurer would be liable to pay the award in the first instance in respect of the amount awarded for the negligence of Aroor Singh and it could recover the same from the owner Daljit Singh.

It would also be necessary to mention here that that owner Daljit Singh was proceeded against ex parte in both sets of the claim applications at Hisar and Fatehabad and consequently, awards were passed ex parte against him. On coming to know about the same from the execution proceedings of the award, he approached the Tribunals to file applications under Order 9 Rule 13 CPC praying for setting aside the award/s on the ground that he had been proceeded against ex parte illegally. Both the Tribunals dismissed his applications. Five appeals bearing FAO Nos.6065, 6066, 6398, 6400 and 6401 of 2015 in the Fatehabad cases have been filed by Daljit Singh for setting aside the exparte award dated 6.4.2007 and the final order dated 16.12.2014 dismissing his application for setting aside the exparte proceedings under Order 9 Rule 13 of the CPC.

FAO Nos.4795 to 4799 of 2007 have been filed by claimants for enhancement of compensation whereas Cross Objections No.16-CII to 20-CII of 2011 in the above said appeals, have been filed by Daljit Singh for setting aside the exparte award of the Tribunal dated 6.4.2007 and for staying the proceedings of the aforesaid appeals during the pendency of his application under Order 9 Rule 13 of the CPC (before the tribunal). FAO No.3257 of 2010 has been filed by the claimants for enhancement of compensation while Cross Objection No.94-CII of 2010 has been filed by Daljit Singh in one of the Hisar cases for setting aside the exparte award of the Tribunal dated 25.8.2008 and for staying the proceedings of the

aforesaid appeals during the pendency of his application under Order 9 Rule 13 of the CPC before the tribunal.

FAO Nos.5730 and 5731 of 2011 have been filed by Daljit Singh in the Hisar cases wherein he has claimed that the order rejecting his application under Order 9 Rule 13 of the CPC and the exparte Award should be set aside. Cross Objection No.70-CII of 2012 has been filed by the claimants in FAO No.5730 of 2011 for enhancement of compensation.

The first question which is to be decided in this group of appeals relates to the exparte proceedings having been resorted to against Daljit Singh. In these cases, Mrs. Balwinder Kaur, Advocate is appearing on behalf of the appellant Daljit Singh in the Fatehabad cases while Sh. N.R.Dahiya, Advocate is appearing for appellant Daljit Singh in the Hisar cases.

In the applications filed in the Fatehabad cases, the appellant had stated that he was never properly served and had come to know about the case/s only from the notice of the execution and had moved the application/s immediately thereafter. As regards the first contention, the Tribunal noticed that the appellant had accepted that his address was correct and then after considering the testimony of the process server came to the conclusion that the appellant had infact refused to accept notice. As regards the second plea, the Tribunal noticed that in his testimony, the respondents had admitted that he had come to know about the award 2-3 years ago and had thereafter come to Fatehabad to find out about the case. On the basis of this acceptance, the Tribunal came to the conclusion that the appellant had not moved the application within 30 days of knowledge.

Learned counsel is not able to show how this finding is wrong.

Consequently, this claim with regard to the Fatehabad cases is dismissed.

As regards the Hisar cases, the appellant Daljit Singh had averred in his application that he had engaged Sh. Amit Singla, Advocate who had informed him that he need not to come but thereafter, the said Advocate shifted to Chandigarh and stopped appearing and it was only from the summons received from the executing Court that the appellant had come to know about the award and had filed the application/s immediately thereafter. The Tribunal, however, noticed that originally the counsel Mr. Amit Singla, Advocate had appeared for the appellant but the appellant was proceeded against ex parte on 5.6.2007 because no written statement was filed on his behalf despite grant of opportunities and thus there was no good ground for setting aside the ex parte proceedings.

Learned counsel has vehemently argued that once the appellant had engaged a counsel and had thereafter, come to the Court immediately on the knowledge of the award, the action of the Tribunal was too harsh because no negligence is attributed to the counsel. Further, he has argued that in para 7 of the original award, it is mentioned as follows:

“Notice of the petition was given to the respondents. Since none put in appearance on behalf of respondents No.1 and 2 despite service, they were proceeded against ex parte. Respondent No.4 Sunder in claim petition No.6 was given up as he had also expired in the accident.”

As per him, this clearly shows that the Tribunal had given a finding which was not in consonance with a zimni order dated 5.6.2007 and this fact has not been appreciated by the Court in the impugned order.

In my considered opinion, both these arguments are misconceived. This Court cannot be blind to the conduct of Daljit Singh.

His vehicle is admittedly involved in the accident in which people had died. He has refused the service in Fatehabad cases and had been duly served in the Hisar cases also. Even in Hisar cases, it is not the case of the appellant that after having signed the power of attorney with Sh. Amit Singla, Advocate he ever approached him to file reply or to ask him about the progress of the case. It is not as if the case was decided on the date when he was proceeded ex parte i.e. on 5.6.2007 but it was actually decided after 14 ½ months on 25.8.2008.

Learned counsel has relied upon paras 3 and 4 of the judgment passed by the Supreme Court in **Malkiat Singh and another Vs. Joginder Singh and others AIR 1998 SC 258.**

“3. The appellants went to enquire about the proceedings in the case from their counsel. On 6.6.1992, on their enquiry, their counsel informed them that he had pleaded “no instructions as a result of which they were proceeded ex parte and the suit has been decreed ex parte on 8.2.1992. The appellants then engaged another counsel and on 10.6.1992, filed an application under Order 9 Rule 13 CPC for setting aside the order dated 18.11.1991 and the ex parte judgment and decree dated 8.2.1992. While that application was pending adjudication, the appeal filed by the appellants against their conviction and sentence was heard by this Court. On 7.3.1995, the order of conviction and sentence was set aside.

The trial Court dismissed the application filed by the appellants under Order 9 Rule 13 CPC on 22.1.1996. Their appeal failed before the learned District Judge on 18.10.1996. The High Court dismissed the civil revision filed by them in limine on 13.12.1996. Hence this appeal by Special leave.

4. We have heard learned counsel for the parties in this appeal and perused the record.

There is no denying the fact that the appellants had engaged a

counsel to defend them in the civil suit. The counsel for the appellants pleaded “no instructions” but the court did not issue any notice to the appellants, who were admittedly not present on the date when their counsel reported no instructions in the court. It is nobody's case that the counsel informed them after he had reported no instructions to the court. The appellants only came to know about the order dated 18.11.1991 and the ex parte decree dated 8.2.1992 when they approached their counsel on 6.6.1992. It was within four days thereafter that the appellants filed an application under Order 9 Rule 13, CPC for setting aside the order dated 18.11.1991 and the decree dated 8.12.1992.

The appellants in their application clearly pleaded that they were neither careless nor negligent and as soon as they learnt about the ex parte decree dated 8.2.1992 and the order dated 18.11.1991, they filed the application to set aside the order and ex parte decree. A perusal of the record also reveals that the appellants were neither careless nor negligent in defending the suit. They had engaged a counsel and were following the proceedings. In this fact situation, the trial Court, which had admittedly not issued any notice to the appellants after their counsel had reported no instructions, should have, in the interest of justice, allowed that application and proceeded in the case from the stage when the counsel reported no instructions. The appellants cannot, in the facts and circumstances of the case, be said to be at fault and they should not suffer. In taking this view, we are fortified by a judgment of this Court in **Tahil Ram Issardas Sadarangani and others v. Ramchand Issardas Sadarangani and another, 1993(2) RCR (Criminal) 617 : 1993 (Supp.) 3 SCC 256** wherein the bench opined :-

“It is not disputed in the present case that on March 15, 1974 when Mr. Adhia, Advocate withdrew from the case, the petitioners were not present in court. There is nothing on the record to show as to whether the petitioners had the notice of the hearing of the case on that day. We are

of the view, when Mr.Adhia withdrew from the case, the interests of justice required, that a fresh notice for actual date hearing should have been sent to the parties. In any case in the facts and circumstances of this case we feel that the party in person was not at fault and as such should not be made to suffer.”

It would be profitable to notice the chronology of events of that case. The suit was filed on 16.8.1989 and those appellants had appeared in Court through counsel. The case was going on and after more than 2 years on 18.11.1991 their counsel pleaded no instructions after two witnesses of the plaintiff had been cross examined. Within 2 ½ months i.e. on 8.2.1992, they were proceeded against ex parte. Less than three months later, the suit was decreed ex parte and within a period of 4 months thereafter, they moved the application for setting aside the ex parte judgment and decree. Observations in paragraphs 3 and 4 have to be read in that context. Their Lordships in para 4 have specifically mentioned that those appellants were neither careless nor negligent in defending the suit and were following the proceedings.

In the present case, admittedly after engaging the counsel in the year 2004, the appellant as per his own showing never bothered to find out about the cases for six years. In the circumstances, no fault can be found with the order of the Tribunal dismissing the applications under Order 9 Rule 13 CPC in the Hisar cases also.

Coming next to the next common issue of driving license of Aroor Singh. The Tribunals noticed that he had placed on record driving license No.15641/86 dated 30.5.1986. In both sets of cases, the Insurance Company had examined employees of Licensing Authority RTO Dehradun, who had testified that DL No.15641/86 dated 30.5.1986 was fake because

serial No.15641 was reached only in the year 1988 and it was on this basis that both the Tribunals held independently that Aroor Singh did not have a valid driving license.

Learned counsel appearing for Daljit Singh in the Fatehabad cases has argued that one Sh. Mohinder Kumar an employee of the DTC office Ganga Nagar had appeared and stated that the license of Aroor Singh was validly renewed from Ganga Nagar. As per learned counsel when Aroor Singh was employed by Daljit Singh, Daljit Singh might have been misled by this license and therefore, in view of judgment in **National Insurance Company Limited Vs. Swaran Singh and others 2004 (2) RCR(Civil) 114**, Insurance Company could not be entitled to recover the amount paid.

Learned counsel appearing for Insurance Company, however, argues that for claiming this benefit, it was necessary that the owner Daljit Singh appeared and stated before the Court that he had appointed Aroor Singh after seeing his license, believing it to be valid and after having subjected him to driving test. But in this case, Daljit Singh never appeared in the Court and therefore, this condition was not satisfied.

In my considered opinion, the argument of the counsel for Insurance Company has to be accepted. It was for Daljit Singh to come and state before the Court that he had employed Aroor Singh after seeing driving license and believing it to be valid as laid down by the Supreme Court in **National Insurance Company Limited Vs. Swaran Singh and others (supra)**. Consequently, this argument is rejected.

Second contention raised by the learned counsel which is common to FAO Nos.6065, 6066, 6398, 6400, 6401 of 2015 and 5730 and 5731 of 2011 and Cross Objection No.94-CII of 2010 is that the Tribunal

erred in apportioning negligence at 50%. As per her, two eye witnesses Wazir Singh and Jagat Singh (who are common in both the sets of cases) have testified in their examination-in-chief that the truck was being driven at an excessive speed and rashly and negligently and the truck driver lost control and struck into the jeep. However, in the cross examination they accepted that the site plan which was prepared by the police Annexure R-1 depicted the correct position. As per her, if this is so it is clear that at the time when accident took place, the truck was being driven on its correct side while jeep was being driven on wrong side i.e. extreme right of the road and in view of this admission, the fault of the truck driver should have been 0% rather than 50%.

Mr. Vinod Chaudhari, Advocate, appearing for Oriental Insurance Company (insurer of the jeep) has, however, defended the finding of the Tribunal.

In my opinion, the arguments of both the learned counsel cannot be accepted in entirety. What emerges from the testimony is that the truck driver was driving his truck at an excessive speed but on his side while it was the jeep driver who was driving the jeep on the wrong side of the road. Consequently, negligence of both the drivers cannot be fixed at 50% each. I hold that the negligence of the jeep driver was 75% while that of the driver of the truck was 25%.

FAO Nos.4795 to 4799 of 2007, 3257 of 2010 and Cross Objection No.70-CII of 2012 relate to the quantum and will be taken up individually.

FAO No.4795 of 2007 (O&M)

This appeal relates to inadequate compensation awarded for the

death of Mahesh Kumar. Learned counsel has argued that once the dependents were four i.e. widow, parents and two children, the deduction of $\frac{1}{3}^{\text{rd}}$ was excessive and could only have been $\frac{1}{4}^{\text{th}}$. Consequently, deduction is taken to be $\frac{1}{4}^{\text{th}}$. He has further argued that as per the decision of the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) RCR (Civil) 1009**, multiplier had to be 18. Counsel for the respondents have not been able to deny this also. Counsel for the Insurance Company has argued that in view of **National Insurance Company Limited Vs. Pranay Sethi's case (supra)**, compensation under the conventional heads has to be Rs.70,000/- and future prospects have to be given at 40%. In this view of the matter, the monthly income in the case of Mahesh Kumar would be Rs.2205/- (after adding the future prospects and deducting personal expenses). After applying multiplier of 18 and adding the amount of Rs.70,000/-, the total compensation comes to **Rs.5,46,280 (Rs.2205x12x18+Rs.70,000/-)**. FAO No.4795 of 2007 is allowed to the above extent. Interest on the enhanced amount would be 7%.

FAO No.4796 of 2007 (O&M)

This appeal relates to inadequate compensation awarded for the death of Bhal Singh. Learned counsel has argued that once the dependents were widow and parents, the deduction of $\frac{1}{3}^{\text{rd}}$ was excessive and could only have been $\frac{2}{3}^{\text{rd}}$. Consequently, deduction is taken to be $\frac{2}{3}^{\text{rd}}$. He has further argued that as per the decision of the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, multiplier had to be 18. Counsel for the respondents have not been able to deny this also. Counsel for the Insurance Company

has argued that in view of **National Insurance Company Limited Vs. Pranay Sethi's case (supra)**, compensation under the conventional heads has to be Rs.70,000/- and future prospects have to be given at 40%. In this view of the matter, monthly income in the case of Bhal Singh would be Rs.1960/- (after adding the future prospects and deducting personal expenses). After applying multiplier of 18 and adding the amount of Rs.70,000/-, the total compensation comes to **Rs.4,93,360/- (Rs.1960x12x18+70,000/-)**. Interest on the enhanced amount would be 7%.

FAO No.4796 of 2007 is allowed to the above extent. Interest on the enhanced amount would be 7%.

FAO No.4797 of 2007(O&M)

This appeal relates to inadequate compensation awarded for the death of Subhash. Learned counsel has argued that the dependents were parents. Learned counsel has argued that once the dependents were parents, the deduction of 1/3rd was excessive and could only have been 1/4th. Learned counsel has argued that the Tribunal has erred in taking multiplier as per the age of the parents whereas as per the judgment in **National Insurance Company Limited Vs. Pranay Sethi's case (supra)** it has to be as per the age of the deceased. Counsel for the respondent has accepted this by arguing that since only the parents are the dependents, dependency should be 1/2 and there could be no consortium and under the conventional heads, the compensation could only be Rs.30,000/-. In this view of the matter, monthly income in the case of Subhash would be Rs.1470/- (after adding the future prospects and deducting personal expenses). After applying multiplier of 18 and adding the amount of Rs.30,000/-, the total compensation comes to **Rs.3,47,520/- (Rs.1470x12x18+30,000/-)**. FAO

No.4797 of 2007 is allowed to the above extent. Interest on the enhanced amount would be 7%.

FAO No.4798 of 2007(O&M)

This appeal relates to inadequate compensation awarded for the death of Naresh Kumar. Learned counsel has argued that once the dependents were four i.e. widow, parents and two children, the deduction of 1/3rd was excessive and could only have been 1/4th. Consequently, deduction is taken to be 1/4th. He has further argued that as per the decision of the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) RCR (Civil) 1009**, multiplier had to be 18. Counsel for the Insurance Company has argued that in view of **National Insurance Company Limited Vs. Pranay Sethi's case (supra)**, compensation under the conventional heads has to be Rs.70,000/- and future prospects have to be given at 40%. In this view of the matter, monthly income in the case of Naresh Kumar would be Rs.2205/- after adding the future prospects and deducting personal expenses. After applying multiplier of 18 and added the amount of Rs.70,000/-, the total compensation comes to **Rs.5,46,280/-(Rs.2205x12x18+70,000/-)**.

FAO No.4798 of 2007 is allowed to the above extent. Interest on the enhanced amount would be 7%.

FAO No.4799 of 2007(O&M)

This appeal relates to inadequate compensation awarded for the death of Rajender Kumar. Learned counsel has argued that once the dependents were four i.e. widow, parents and three children, the deduction of 1/3rd was excessive and could only have been 1/4th. Consequently, deduction is taken to be 1/4th. He has further argued that as per the decision

of the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) RCR (Civil) 1009**, multiplier had to be 18. Counsel for the respondents have not been able to deny this also. Counsel has argued that in view of **National Insurance Company Limited Vs. Pranay Sethi's case (supra)**, compensation under the conventional heads has to be Rs.70,000/- and future prospects have to be given at 40%. In this view of the matter, monthly income in the case of Rajender Kumar would be Rs.2205/- after adding the future prospects and deducting personal expenses. After applying multiplier of 18 and adding the amount of Rs.70,000/-, the total compensation comes to **Rs.5,46,280 (2205x12x18+70,000/-)**.

FAO No.4799 of 2007 is allowed to the above extent. Interest on the enhanced amount would be 7%.

Cross Objection No.70-CII of 2012 in FAO No.5730 of 2011

In Hisar cases, there is one Cross Objection filed by the claimant i.e. Cross Objection No.70-CII of 2012 in FAO No.5730 of 2011 wherein the claimant has sought enhancement. Learned counsel has argued that as per the unrebutted testimony of Rajpal, it was established that the deceased Sunder was employed as a driver and consequently, the statement made by Rajpal that the salary was Rs.5000/- could not have been ignored only because there was no documentary proof. As per learned counsel and as per the index of minimum wages, the minimum wages of a labour would be Rs.2100/- and that of a driver could not be less than Rs.5000/-. Learned counsel for the respondents have, however, argued that even if it can be accepted that the deceased was a driver yet the facile argument of the learned counsel for the claimants/Cross objectors cannot be accepted and

have defended the award of Rs.3000/-. In my considered opinion, the arguments of both the parties are too extreme and consequently, I deem it appropriate to fix the income at Rs.3900/-. The Supreme Court has now decided in **National Insurance Company Limited vs. Pranay Sethi's case (supra)** that an amount of ₹ 70,000/- has to be awarded. After adding future prospects @ 40% and deducting personal expenses at 1/3rd, total compensation comes to **Rs.8,12,560/- (Rs.3900+40%=Rs.5460-1/3rd=Rs.3640x12x17+70,000/-)**. Since the deceased was the driver of the jeep on whom 75% of the negligence has been apportioned, the claimants would be entitled only to 25% of the total compensation (original + enhanced).

Cross Objection No.70-CII of 2011 is allowed to the above extent. Interest on the enhanced amount would be 7%.

FAO No.3257 of 2010 and Cross Objection No.94-CII of 2010

This appeal relates to inadequate compensation awarded for the death of Balwan Singh, who was aged 23 years. It transpired that the salary of the skilled labourer was at Rs.3900/-. Counsel has argued that as per the decision of the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) RCR (Civil) 1009**, multiplier had to be 18. Counsel for the respondents have not been able to deny this also. Counsel for the Insurance Company has argued that in view of **National Insurance Company Limited Vs. Pranay Sethi's case (supra)**, compensation under the conventional heads has to be Rs.30,000/- and future prospects have to be given at 40%. In this view of the matter, the monthly income in the case of Balwan Singh would be Rs.2730/- after adding the future prospects, deducting 1/2 personal expenses. After applying multiplier of 18 and adding the amount of Rs.30,000/-, the total

compensation comes to **Rs.6,19,680/- (2730x12x18+30,000/-)**.

FAO No.3257 of 2010 is allowed to the above extent. Interest on the enhanced amount would be 7%. Cross Objection No.94-CII of 2010 is dismissed.

All the appeals and Cross Objections are disposed of accordingly.

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

(AJAY TEWARI)
JUDGE

15.2.2018
Meenu/kk

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