

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211(1)

FAO-8874-2014 (O&M)

Sudha Devi and others

.....Appellants

Versus

Narender Kumar and others

.....Respondents

(2)

FAO-3845-2014(O&M)

New India Assurance Company Limited

.....Appellant

Versus

Sudha Devi and others

.....Respondents

Date of Decision:16.02.2018

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Ajit Sihag, Advocate,
for the appellants in FAO-8874-2014 and
for respondent Nos.1 to 5 in FAO-3845-2014.

Mr. Vipul Sharma, Advocate and
Mr. Paul S. Saini, Advocate,
for the appellant in FAO-3845-2014 and
for respondent No.3 in FAO-8874-2014.

Mr. Manoj Makkar, Advocate,
for respondent Nos.1 and 2 in FAO-8874-2014 and
for respondent Nos.6 and 7 in FAO-3845-2014.

HARI PAL VERMA, J.(Oral)

CM-24172-CII-2014

For the reasons stated in the application, same is allowed and
the delay of 65 days' in filing the appeal is condoned.

FAO-8874-2014 (O&M)

These two identical appeals bearing FAO No.8874 of 2014

No.3845 of 2014 (**New India Assurance Company Limited Versus Sudha Devi and others**), are being decided together, vide this common order as both these cases are arising out of the same award. However, for the facility of reference, facts are being culled out from **FAO No.8874-2014** filed by the appellants-claimants seeking enhancement of compensation on account of death of Manoj Kumar, who died in a motor vehicular accident, which took place on 30.10.2011.

The accident is not in dispute. In the claim-petition preferred by the claimants under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of Manoj Kumar, who was about 30 years of age, the MACT has awarded a total compensation of ₹24,72,344/-.

As per claim petition, deceased Manoj Kumar (since deceased) along with his brother Pawan Kumar met with an accident when they were returning from Bharat Nagar on a motorcycle being driven by Pawan Kumar. Manoj Kumar received severe and serious injuries, whereas Pawan Kumar sustained minor injuries. Deceased Manoj Kumar was taken to the General Hospital, Bhiwani for treatment, from there taking into consideration multiple, grievous and fatal injuries, he was shifted to CMC Hospital, Hisar but during the course of treatment, he died on 31.10.2011. An FIR No.582 dated 30.10.2011 under Sections 279, 337 IPC was registered in the case.

Considering the age of the deceased as 30 years and noticing the fact that the deceased was an A.C. Mechanic and also dealing in the business of sale and purchase of the old vehicles, the MACT has assessed his income ₹12,000/- per month, though the claimants have claimed his income as ₹25,000/- per month. The claimants are widow, two minor sons

and old parents i.e. five claimants. Considering the age and income of the deceased, the MACT applied the multiplier of 17 and made 1/4th deduction from the income so assessed.

Learned counsel for the appellants has argued that the compensation though awarded by the MACT requires modification as the MACT has granted future prospects @ 30% instead of 40% as held in the case of **National Insurance Company Limited Versus Pranay Sethi and others**, 2017 (4) R.C.R (Civil) 1009. Similarly, no amount of compensation was awarded under the conventional heads. Even the interest awarded on the total compensation is on the lower side and instead of 6%, the MACT was required to grant interest @ 7.5% per annum.

On the other hand, learned counsel for respondent No.3- Insurance Company has argued that there was no justification with the MACT to award compensation by considering the monthly income of the deceased as ₹12,000/- per month. At the most, the deceased was a skilled labourer and therefore, minimum wages as prescribed by the Govt. were required to be considered while granting compensation to the claimants.

I have heard the learned counsel for the parties.

During the course of arguments, it has been brought to the notice of this Court that Manoj Kumar was working as an A.C. Mechanic and had taken a shop in Auto Market, Bhiwani for which admittedly, he was paying rent @ ₹2,050/- per month. The claimants have pleaded that he was working as an A.C. Mechanic and also dealing with the sale/purchase of old vehicles. Once it is established that the deceased could afford to pay rent of shop of ₹2,050/- P.M., it can be inferred that he must be earning around ₹12,000/- per month and therefore, this Court finds that no interference is

warranted as far as the monthly income of the deceased-Manoj Kumar so assessed by the MACT. Normally, a person who is earning the wages equivalent to that of a skilled labourer cannot afford to pay a rent of ₹2,050/- per month.

Deceased Manoj Kumar has left behind a widow, two minor sons and old parents, therefore, the MACT has rightly applied 1/4th deductions. In view of the law laid down by the Hon'ble Apex Court in **Pranay Sethi's case(supra)**, the claimants are entitled to future prospects @ 40% as the deceased Manoj Kumar was aged about 30 years at the time of accident. Similarly, under the conventional heads, the claimants are entitled for an amount of ₹70,000/-. In the case of **Pranay Sethi(supra)**, the Hon'ble Supreme Court has awarded interest @ 7.5% per annum to the claimants, therefore, the interest awarded by the MACT is modified @ 7.5% per annum. Since the appeal has been filed after a delay of 65 days, the claimants shall not be entitled to interest for this period.

Accordingly, the award dated 04.12.2013 passed by the MACT is modified and the compensation, to which the claimants are entitled, is computed as follows:-

Monthly income	:	₹12,000/-
Future prospects (40%)	:	₹4,800/-
Total monthly income	:	₹16,800/-
Annual income	:	₹2,01,600/-
Deductions (1/4 th)	:	₹1,51,200/-
Multiplier (₹1,51,200 x 17)	:	₹25,70,400/-
Medical expenses	:	₹30,544/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-

Total amount of compensation	:	₹26,70,944/-
Amount already awarded	:	₹24,72,344/-

Enhanced amount	:	₹1,98,600/-
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With the aforesaid modification in the award, FAO No.8874 of 2014 stands disposed of whereas FAO No.3845 of 2014 stands dismissed.

February 16, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No