

FAO-94-2016 (O&M)
FAO-96-2016 (O&M)
FAO-95-2016 (O&M) and
FAO-543-2016 (O&M)

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

229

Date of Decision : 13.11.2018

FAO-94-2016 (O&M)

Smt. Anuradha Chaudhary and others

....Appellants

vs.

Nand Lal Singh and others

....Respondents

229-A

FAO-96-2016 (O&M)

Bhavya Chaudhary

....Appellant

vs.

Nand Lal Singh and others

....Respondents

229-B

FAO-95-2016 (O&M)

Smt. Anuradha Chaudhary

....Appellants

vs.

Nand Lal Singh and others

....Respondents

229-C

FAO-543-2016 (O&M)

Smt.Saroj Chaudhary

....Appellants

vs.

Nand Lal Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

**Present: Mr. Dinesh Arora, Advocate
for the appellant(s).**

**Mr. Sachin Ohri, Advocate
for respondent-insurance company.**

AJAY TEWARI, J. (Oral)

This order shall dispose of the aforesaid four appeals as arises out of the same accident.

These four appeals have been filed against the award dated 10.9.2015 passed by Motor Accident Claims Tribunal, Rohtak awarding compensation of Rs. 12,50,000/- in FAO-94-2016, Rs. 2,69,000/- in FAO No. 96-2016, Rs. 1,10,000/- in FAO-95-2016 and Rs.5,32,000/- in FAO-543-2016 alongwith interest @ 7.5% per annum on account of death of Rahul Chaudhary and injuries sustained by claimants in an accident.

Since limited points have been urged detailed reference to the facts is not required.

FAO-94-2016

In this appeal, learned counsel for the appellants has argued that the Tribunal erred in taking income of the deceased only Rs. 1 lakh per annum. He has pointed out that deceased was an advocate of fourteen years standing and was working as a Junior Advocate with Mr. Rajesh Saharan, Advocate. Mr. Rajesh Saharan, Advocate had appeared in witness box and had testified that deceased was his Junior and had proved on record that he was paying a sum of Rs. 1,06,000/- odd per year as junior fee to the deceased. He had further testified that apart from the junior fee deceased was also earning Rs. 15,000 to 16,000 per month independently. It is the contention of the learned counsel that as per the Income Tax Act at the relevant time, the taxable income started from Rs.2.50 lakhs and it is his

contention that in this case it should be taken at that amount since it is inconceivable that an Advocate would continue to practice for about 1 ½ decades even if he was earning ridiculously low amount of Rs. 8,000/- per month. Counsel for the insurance company has argued that there was no documentary evidence to prove income of the deceased more than Rs.1,06,000/- odd and has prayed that the income should not be increased. In my considered opinion, the arguments of both the learned counsel are too extreme though there is some merit in both of them. In view of the entire conspectus of facts, I deem it appropriate to fix the income of the deceased at Rs. 2 lakhs per year.

Counsel for the appellants has further argued that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 40% future prospects has to be granted. Counsel for the insurance company is not in a position to deny this fact. Consequently, I award 40% future prospects.

Counsel for the appellants has stated that under the conventional heads, Rs. 1,25,000/- had been awarded by the Tribunal. He has argued that in view of “***Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others***” in ***Civil Appeal No. 9581 of 2018*** decided on 18.9.2018 all the four claimants i.e. widow, two minor children and aged mother would be entitled to consortium/filial consortium @ Rs.40,000/-, apart from Rs.30,000 for funeral expenses and loss of estate. Learned counsel for the insurance company is not in a position to deny this

fact. In the circumstances, I award Rs.65,000/- more under the conventional heads.

Counsel for the appellants has further pointed out that in the judgment of Magma General Insurance Company Limited (supra) the Supreme Court has awarded interest at the rate of 12% per annum on the entire compensation. In view of this judgment, I also award 12% interest per annum on the entire compensation from the date of filing of the claim petition till the date of payment.

It is made clear that apart from the individual shares, 50% will go to the appellant No.1, 20% will go to the each appellant No.2 and 3 and 10% will go to the appellant No.4. The share of the minors be put in a fixed deposit till they attain the age of the majority.

FAO-543-2016

In this appeal, learned counsel for the appellant has argued that the appellant had suffered multiple injuries with fractures of ribs, pelvis and both humerus, floating elbow and fracture of right forearm which cause 40% permanent disability but for pain and suffering, special diet and attendant only a sum of Rs. 25,000/- has been awarded and that too only for pain and suffering. He has further pleaded that the appellant was admitted to the hospital twice and had also undergone surgeries. In the circumstances, I deem it appropriate to award a sum of Rs. 68,000/- more for pain and suffering, special diet and attendant.

Counsel for the appellant has further pointed out that in the judgment of Magma General Insurance Company Limited (supra) the

Supreme Court has awarded interest at the rate of 12% per annum on the entire compensation. In view of this judgment, I also award 12% interest per annum on the entire compensation from the date of filing of the claim petition till the date of payment.

FAO-95-2016

In this appeal, learned counsel for the appellant has argued that due to this accident the appellant had suffered many injuries and the Tribunal has awarded only Rs.10,000/- for pain and suffering which is very low. Consequently, I award Rs. 20,000/- more for pain and suffering.

Counsel for the appellant has further pointed out that in the judgment of Magma General Insurance Company Limited (supra) the Supreme Court has awarded interest at the rate of 12% per annum on the entire compensation. In view of this judgment, I also award 12% interest per annum on the entire compensation from the date of filing of the claim petition till the date of payment.

FAO-96-2016

Learned counsel for the appellant has argued in this accident the appellant had sustained many injuries and the Tribunal has awarded only Rs.10,000/- for pain and suffering which is very low. Consequently, I award Rs.31,000/- more for pain and suffering, special diet and attendant.

Counsel for the appellant has further pointed out that in the judgment of Magma General Insurance Company Limited (supra) the Supreme Court has awarded interest at the rate of 12% per annum on the entire compensation. In view of this judgment, I also award 12% interest per

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annum on the entire compensation from the date of filing of the claim
petition till the date of payment.

All the appeals stand disposed of with the abovesaid
modifications.

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

13.11.2018
anuradha

(AJAY TEWARI)
JUDGE

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