IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **FAO No. 2696 of 2005 (O&M)**
Date of decision : September 06, 2019

Anita and others .....Appellants

Versus

Ramesh Chand Yadav and others ....Respondents

2. **FAO No. 2697 of 2005 (O&M)**

Meena Kumari and others .....Appellants

Versus

Ramesh Chand Yadav and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Abhishek Sharma, Advocate for
Mr. Kul Bhushan Sharma, Advocate
for the appellants.

Mr. D.P. Gupta, Advocate
for respondent No. 3.

***

LISA GILL, J.

This judgment shall dispose of FAO No. 2696 of 2005 (Anita and others versus Ramesh Chand Yadav and others) and FAO No. 2697 of 2005 (Meena Kumari and others versus Ramesh Chand Yadav and others) which arise out of award dated 18.11.2003 passed by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as the 'Tribunal').

FAO Nos. 2696 and 2697 of 2005 have been filed by the claimants for enhancement of compensation awarded by the Tribunal on account of death of Bal Kishan alias Ballu and Kanwar Chand, respectively vide award dated 18.11.2003.

Brief facts necessary for adjudication of the case are that the Kanwar Chand alongwith Bal Kishan (both deceased) after unloading the truck bearing registration No. HR-29C-7737 was going to Alipur on 28.02.2000. Kanwar Chand was driving the truck. When their truck reached near Sandeep Farm House in the village Bhondsi, the offending vehicle i.e. a half body Truck bearing registration No. HR-29G-1314 came from opposite side being driven in a rash and negligent manner and struck against the truck driven by Kanwar Chand. As a result thereof, Kanwar Chand and Bal Kishan suffered grievous injuries. Both Kanwar Chand and Bal Kishan succumbed to their injuries. The deceased Bal Kishan, aged 25 years at the time of the accident was stated to be earning a sum of ₹9000/- per month while working as a Mason. The deceased Kanwar Chand, aged 33 years at the time of the accident was stated to be earning a sum of ₹9500/- per month i.e. ₹4500/- per month while working as a driver and ₹4000/- per month by selling milk.

Learned Tribunal while assessing the income of the deceased Kanwar Chand (in MACT No. 133 of 06.06.2003, subject matter of FAO No. 2697 of 2005) to be ₹2400/- per month awarded a sum of ₹3,36,400/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected. Multiplier of 17 was applied. Additionally, a sum of ₹5,000/- on account of loss of consortium was awarded and a sum of ₹5,000/- on account of transportation and funeral expenses.

Learned Tribunal while assessing the income of the deceased Bal Kishan (in MACT No. 134 of 06.06.2003, subject matter of FAO No. 2696 of 2005) to be ₹2400/- per month awarded a sum of ₹3,36,400/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected. Multiplier of 17 was applied. Additionally, a sum of ₹5,000/- on account of loss of consortium was awarded and a sum of ₹5,000/- on account of transportation and funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed these appeals.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased (in both the appeals) assessed as ₹2,400/- per month by the learned Tribunal, however, increment on account of future prospects in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, should be afforded. It is further submitted that compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants (in both the appeals) be reworked accordingly.

Learned counsel for the respondent - insurance company submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 18.11.2003 be upheld.

I have heard learned counsel for the appellants as well as insurance company and have gone through the available file.

There is no dispute that Kanwar Chand and Bal Kishan lost their life in a motor vehicle accident, which took place on 28.02.2000 caused due to the rash and negligent driving of Truck bearing registration

No. HR-29G-1314 by respondent No.1. Finding of the learned Tribunal on this issue has attained finality.

FAO No. 2696 of 2005

There is no dispute regarding income of the deceased Bal Kishan, to be ₹2,400/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹2,400/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹960/-) is afforded, as the deceased was 25 years old at the time of accident, which takes income of the deceased to ₹3360/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77, deduction of $1/3^{rd}$ is to be applied, thereby rendering income of the deceased to be ₹2240/-(3360-1120). Applying a multiplier of 18 instead of 17, dependancy of the claimants is assessed as ₹4,83,840/- (₹2240x12x18). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹5000/-) and loss of estate. The claimant widow is entitled to ₹40,000/- (instead of ₹5000/-) on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others,** appellants No. 2 and 3 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium and appellants No. 4 and 5 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹6,33,840/- detailed as under:-

Loss of dependency (₹2240x12x18)	₹4,83,840/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹6,33,840/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

FAO No. 2697 of 2005

There is no dispute regarding income of the deceased Kanwar Chand, to be ₹2,400/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹2,400/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹960/-) is afforded, as the deceased was 33 years old at the time of accident, which takes income of the deceased to ₹3360/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77, deduction of 1/3rd is to be applied, thereby rendering income of the deceased to be

₹2240/-(3360-1120). Applying a multiplier of 16 instead of 17, dependancy of the claimants is assessed as ₹4,30,080/- (₹2240x12x16). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹5000/-) and loss of estate. The claimant widow is entitled to ₹40,000/- (instead of ₹5000/-) on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others,** appellants No. 2 and 3 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium and appellants No. 4 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹5,80,080/- detailed as under:-

Loss of dependency (₹2240x12x16)	₹4,30,080/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹5,80,080/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, FAO Nos. 2696 and 2697 of 2005 are disposed of.

(Lisa Gill)
Judge

September 06, 2019
rts

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