

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

FAO No.2636 of 2012(O&M)
Decided on:14.05.2019

Naranjan SinghAppellant

versus

Ashwani Kumar and othersRespondents

FAO No.2637 of 2012(O&M)

Surinder KaurAppellant

versus

Ashwani Kumar and othersRespondents

CORAM : HON'BLE MR.JUSTICE DR.RAVI RANJAN

Present: Mr.Parveen Kumar, Advocate,
for the appellants in both the appeals.

Mr.S.S.Aviraj, Advocate for
Mr.Onkar Singh, Advocate
for respondent no.2.

Ms.Monika Jangra, Advocate for
Mr.Ravinder Arora, Advocate,
for the respondent No.3-Insurance Company.

DR.RAVI RANJAN, J. (Oral Judgement)

In view of the fact that both the appeals arise out of the same impugned decision of the Motor Accident Claims Tribunal (Adhoc) Fast Track Court, Hoshiarpur, they are being considered together for their final disposal, without calling for the record of the Tribunal as it has been urged at the bar also that, in view of the issue involved, summoning the record

would not be necessary.

2. I have heard learned counsel for the appellant as well as respondents no.2 and 3.

Both the appeals have been preferred assailing the decision dated 18.11.2011 passed by the Motor Accident Claims Tribunal (Adhoc), Fast Track Court, Hoshiarpur, by which, though the appellant of FAO No.2637 of 2012, v.i.z., Surinder Kaur, being mother of the deceased has been awarded compensation amount, the appellant in FAO No.2636 of 2012 being father of the deceased, has not been considered while deciding the issue of dependency, holding that there is no evidence on record to show that he was dependent upon the deceased son.

3. The appellant-Surinder Kaur filed FAO No.2637 of 2012 for enhancement of awarded amount on diverse grounds. It has been submitted that though it has been stated in the claim application that the deceased was working as driver and was getting salary of Rs.5,000/- per month and further, he was also engaged in cultivating the land by taking it on lease and was running a small dairy also earning Rs.5,000/- per month, the Tribunal has assessed income of the deceased merely at Rs.4,000/- per month without assigning any reason. However, it appears from the impugned decision that nothing was brought on record in support of such assertion regarding the income of deceased and no document of lease or any evidence to that effect or regarding running a small dairy could be proved by the claimants. Regarding salary of Rs.5,000/- per month being a driver also nothing could be produced by the claimants, in support of the assertion.

Though the Tribunal has assessed the income of the deceased at Rs.4,000/- per month and it does not appear that any reason has been

assigned for that but from the minimum rate of wages prevalent in the State of Punjab on 01.03.2010, a copy of which was produced by the learned counsel for the appellants at the time of hearing, it appears that for a skilled upper category the minimum wage fixed was Rs.3899 per month. In such a situation, in my considered view, the assessed income of Rs.4,000/- by the Tribunal cannot be faulted with.

4. The second ground which has been taken for the purpose of enhancement is that the multiplier has been chosen on the basis of age of the claimant and has been taken as '5' which is contrary to the decision of the Hon'ble Apex Court rendered in **Sarla Verma vs. Delhi Transport Corporation, 2009(3)RCR(Civil)77**, and, thereafter, by a Constitution Bench of the Hon'ble Supreme Court in **National Insurance Company Limited vs. Pranay Sethi, 2017(4)RCR(Civil)1009**. It is quite clear therefrom that the age of the deceased has to be taken into account for selection of multiplier. As per **Sarla Verma (supra)**, in such a situation, as admittedly the deceased was of 24 years of age at the time of death, the suitable multiplier would be 18. This aforesaid point raised by the appellants could not be controverted by the learned counsel appearing for the respondents. As such, it is held that the suitable multiplier in the case in hand would be 18.

5. It is next contended that nothing has been given towards future prospects. This issue is no longer *res integra* having been finally decided by the Constitution Bench in **Pranay Sethi (supra)** and as per paragraph 61(iv) thereof, addition of the 40% of the established income would be warranted for consideration of total dependency as the deceased was less than 40 years

of age at the time of death. Learned counsel appearing for the respondents, in view of the law settled by the Hon'ble Apex Court, is not in a position to controvert this claim of the appellants.

6. It is next contended that the under the head of funeral expenses only Rs.10,000/- has been given whereas nothing has been given under the other conventional heads. I find force in the submission made on behalf of the appellants. In view of the decision rendered by the Apex Court in **Pranay Sethi (Supra)** and also in **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others, 2018(4)RCR(Civil)333**, Rs.15,000/- should have been granted towards the funeral expenses, whereas Rs.15,000/- for loss of estate and Rs.40,000 for loss of filial consortium should have been added by the Tribunal while calculating the compensation amount.

7. So far the appellant-Naranjan Singh of FAO No.2636 of 2012, is concerned, who is the father of the deceased, in view of the decision of the Apex Court in **Sarla Verma (supra)** the Tribunal has rightly held that he cannot be considered as a dependent upon the deceased for considering the issue of annual dependency. It is urged on behalf of the appellants that the claimant-Naranjan Singh, being 75 years old and since his age has not been put to question by the respondents in the proceedings, the Tribunal should have considered him to be dependent upon the deceased. However, in my considered view the same would make no difference as even if it is assumed that there were two dependents of the deceased who was unmarried, in any case, one-half of the income would have to be deducted towards his personal expenditure. Thus, this issue, being a redundant one

has not been pressed at the time of hearing by learned counsel for appellants.

However, at the same time, in view of the decision rendered by the Apex Court in **Magma General Insurance (supra)**, both the parents would be entitled for loss of filial consortium. As such, the appellant-Naranjan Singh would also be entitled for the same at Rs.40,000/-. Accordingly, the amount of compensation is recalculated and modified as under:

Sr. No.	Head	Compensation Awarded
i.	Income	Rs.4,000/-
ii.	Future Prospects	1600 (40% of the income, i.e.Rs.4,000)
iii	After addition of future prospects	1600 (i.e. 40% of the income)+Rs.4,000 =Rs.5,600/-
iv	Deduction towards personal expenditure	Rs.2800/- (i.e. ½ of the total income of Rs.5,600)
v	Total income	Rs.2,800
vi	Multiplier	18
vii	Loss of future income	2800 X 12 X 18 = 604800
viii	Funeral expenses	Rs.15,000/-
ix	Loss of Estate	Rs.15,000/-
x	Loss of filial consortium	Rs.80,000 (Rs.40,000 payable to each of the appellants i.e, Naranjan Singh and Surinder Kaur)
	Total	Rs.7,14,800/-

Total compensation amount Rs.7,14,800/- would carry interest at the rate of 6% per annum to be calculated from the date of filing of the claim petition till the payment.

It is made clear that if the payment has not been made of the amount awarded by the Tribunal alongwith interest at the rate of 6% per annum within 10 months from the date of Award then the interest charged would be at the rate of 9% per annum.

In the result, FAO No.2636 of 2012 is allowed in part and FAO No.2637 of 2012 also stands allowed to the extent as indicated above.

The Award prepared by the Tribunal stands modified as above.
However, there would be no order as to costs.

Let a photocopy of this order be placed on the file of the connected appeal.

May 14, 2019
dharamvir

(DR. RAVI RANJAN)
JUDGE

Whether speaking/reasoned	:	Yes
Whether Reportable	:	Yes