

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**1. FAO No. 4772 of 2012 (O&M)
Date of Decision : 22.05.2019**

Harjinder Kaur and anotherAppellants

Versus

Gurpreet Singh and othersRespondents

2. FAO No. 4916 of 2012 (O&M)

Oriental Insurance Co. Ltd.Appellant

Versus

Harjinder Kaur and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gopal Mittal, Advocate
for the appellants in FAO-4772-2012 and
for respondents no. 1 and 2 in FAO-4916-2012.

Mr. Akash Sridhar, Advocate
for Mr. Ashwani Talwar, Advocate
for the appellant in FAO-4916-2012 and
for respondent no. 3 in FAO-4772-2012

Surinder Gupta, J. (Oral)

Both the above captioned appeals have been filed against award dated 18.05.2012 passed by Motor Accident Claims Tribunal, SAS Nagar Mohali (later referred to as 'the Tribunal'), awarding compensation of ₹12,00,000/- to claimants for death of Inderjeet Singh (later referred to as 'the deceased') in a motor vehicle accident with car bearing registration no. PB-10-CT-1363 (later referred to as 'the offending vehicle').

2. In both the appeals, appellants (claimants as well as Insurance Company) have raised the issue of quantum of compensation awarded by the Tribunal, as such, detailed facts of the case are being skipped for the sake of brevity and appeals have been taken up together for disposal.

3. Tribunal assessed amount of compensation awarded to claimants as follows:-

(i)	Name of the deceased	Inderjeet Singh
(ii)	Age of the deceased	21 years
(iii)	Date of accident	23.07.2010
(iv)	Income of the deceased	₹10000 per month
(v)	½ of (iv) deducted towards personal expenses of the deceased	(₹10000-5000) = ₹5000 per month
(vi)	Amount of dependency after multiplier of 17 applied	(₹5000X12X17) = ₹1020000
(vii)	Compensation towards loss of future prospects	₹160000
(viii)	Compensation towards loss of estate	₹20000
Total		₹12,00,000

4. Learned counsel for the appellant-Insurance Company in FAO-4916-2012 has argued that the Tribunal has relied on salary certificate of the deceased produced by PW-4 Naresh Kumar, which was not duly proved. These were marked documents, as such, salary of the deceased, which he was drawing from Sachdeva Engineering College for Girls could not be taken as ₹7000/-. PW-3 Kamaljit Singh proved part time income of the deceased as ₹5000/- per month and the Tribunal while assessing income of the deceased has wrongly taken the same as ₹10,000/- per month.

5. Learned counsel for the claimants-appellants in FAO-4772-2012 has argued that the deceased was earlier working with IICE Computer Education Centre and getting ₹10,000/- per month as salary. Thereafter, he left the job in November, 2009 and joined Sachdeva Engineering College for Girls on monthly salary of ₹7000/-. He continued working with IICE Computer Education Centre as part time worker on salary @ ₹5000/- per month. The salary of deceased drawn from both the institutions has been

duly proved by documentary evidence. Though, he was also getting allowances for maintenance of lab etc. but even if those allowances be ignored his salary comes to ₹12000/- per month. He further submits that deceased was 21 years of age and as per observations of the Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, multiplier attracted in this case is 18, while the Tribunal has applied the same as 17.

6. To prove employment of deceased with IICE Computer Education Centre, claimants examined Kamaljit Singh, Proprietor of IICE Computer Education Centre as PW-3, who has placed on record copy of attendance register of the deceased and certificate regarding salary of ₹5000/- paid to the deceased. PW-4 Naresh Kumar, Accountant in Sachdeva Engineering College for Girls has placed on record appointment letter of the deceased as PW-4/B, vide which he was appointed as Networking Lab. Technician-cum-Instructor at the monthly salary of ₹7000/-. He also produced on file salary certificate of July, 2010 as mark 'A'. He has stated in his cross-examination that salary of the deceased @ ₹7000/- per month was deposited in his bank account till July, 2010, when he met with accident.

7. From the above evidence, it is proved that claimants have brought on record ample and cogent evidence to prove that the deceased was employed with Sachdeva Engineering College for Girls and was also working as part time worker with IICE Computer Education Centre, thereby getting ₹12000/- per month as salary.

8. Learned counsel for claimants-appellants (in FAO-4772-2012) has not pressed for inclusion of other allowances, which the deceased was getting towards his salary.

9. In view of evidence on record, I find no merit in submission of learned counsel for Insurance Company that the Tribunal has taken income of the deceased on higher side. Salary of the deceased as proved on record is ₹12000/- per month, which the Tribunal has taken as ₹10000/- per month and the same deserves to be enhanced to ₹12000/- per month. As per law settled by Apex Court in case of *Pranay Sethi (supra)*, claimants are also entitled to 40% addition in income of the deceased towards loss of future prospects and a sum of ₹30,000/- under the conventional heads.

10. Keeping in view the above discussion, the compensation to which claimants are entitled is reassessed as follows:-

(i)	Income of the deceased	₹12000 per month
(ii)	40% of (i) above added towards loss of future prospects	(₹12000+4800) = ₹16800 per month
(iii)	½ of (ii) above deducted towards personal expenses	(₹16800- ₹8400) = ₹8400 per month
(iv)	Compensation after multiplier of 18 is applied	(₹8400X12X18)= ₹1814400 per annum
(v)	Compensation towards loss of estate	₹15000
(vi)	Compensation towards funeral expenses	₹15000
Total		₹18,44,400

11. As a sequel of my above discussion, appeal filed by claimants (FAO-4772-2012) has merit and is accepted. The award of the Tribunal is modified and the compensation allowed to claimants-appellants for death of **Inderjeet Singh** is enhanced from ₹12,00,000/- to ₹18,44,400/- while the appeal (FAO-4916-2012) filed by **insurer** of the offending vehicle i.e.

Oriental Insurance Company Ltd. is dismissed.

12. Learned counsel for the claimants-appellants has submitted that claimant-appellant no. 2-Ajaib Singh has died, as such, the entire enhanced amount of compensation may be ordered to be paid to claimant-appellant no. 1-Harjinder Kaur, mother of the deceased.

13. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeals till actual realization. Insurance Company, being insurer of the offending vehicle, will deposit the entire enhanced amount of compensation in bank account of claimant-appellant no. 1-Harjinder Kaur or pay the same to her through demand draft.

May 22, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No