

1. FAO No. 1268 of 2016(O&M)
Date of Decision: May 03 , 2019.

Versus

Versus

- *****

This judgment shall dispose of FAO No.1268 of 2016 (Sheela and others v. Tarsem Singh and others) and FAO No.3283 of 2016 (Sushma v. Tarsem Singh and others) as both the appeals arise out of a common award dated 07.08.2015 passed by the learned Motor Accident Claims Tribunal, Sonapat

(hereinafter referred to as, the 'Tribunal').

FAO No.1268 of 2016 has been filed by the legal heirs of deceased-Satyawan seeking enhancement of compensation awarded to them by the learned Tribunal on account of death of Satyawan in a motor vehicle accident, which took place on 18.02.2014. FAO No.3283 of 2016 has been filed by the injured/claimant – Sushma seeking enhancement of compensation awarded to her on account of the injuries suffered by her in the said accident.

Brief facts necessary for adjudication of the case are that, two separate petitions under Section 166 of Motor Vehicles Act were preferred by the appellants seeking compensation i.e., MACT Petition No.1524 of 2014 by the injured – Sushma on account of injuries and disability suffered by her in a motor vehicle accident, which took place on 18.02.2014 and MACT Petition No.1525 of 2014 by the legal heirs of Satyawan on account of his death in the said motor vehicle accident. It was averred that Satyawan (deceased), Jogender and Sushma were going towards Sonapat in an auto-rickshaw on 18.02.2014. At about 10.30 a.m., when they reached near Bahalgarh chowk, a truck bearing registration No.PB-13Y-9212, being driven by respondent No.1-Tarsem Singh in a rash and negligent manner, came from the side of village Khewra and struck against the auto-rickshaw. As a result thereof, the auto-rickshaw turned turtle and the occupants therein suffered injuries. The injured were removed to Government Hospital, Sonapat for treatment. However, Satyawan succumbed to his injuries. FIR No.37 dated 18.02.2014 (Ex.P32) was lodged in respect to the accident on the statement of PW7 Satbir.

Both the petitions were decided together vide common award dated 07.08.2015. Learned Tribunal on consideration of the facts and evidence on

record held that the accident in question took place due to the rash and negligent driving of offending truck bearing registration No. PB-13Y-9212 by respondent No.1-Tarsem Singh. This finding of the learned Tribunal has attained finality.

In MACT Petition No.1524 of 2014 filed by claimant-Sushma (appellant in FAO No.3283 of 2016) on account of the injuries and disability suffered by her, the learned Tribunal awarded a total sum of ₹72,064/- as compensation to her vide impugned award, which is detailed hereunder:-

- | | | |
|--|---|-------------|
| 1. Medical Bills | : | Rs.57,564/- |
| 2. Hospitalization including attendant expenses etc. | : | Rs.4,500/- |
| 3. Pain and sufferings | : | Rs.5,000 |
| 4. Transportation, diet etc. | : | Rs.5,000 |

In Claim Petition No.1525 of 2014, filed by the claimants (appellants in FAO No.1268 of 2016) on account of death of Satyawar, the learned Tribunal awarded a total sum of ₹9,49,000/- as compensation to the claimants vide impugned award. Income of the deceased was assessed as ₹7,000/- per month. Deduction to the extent of 1/4th on account of personal expenses was effected and multiplier of 13 was applied. A sum of ₹1,00,000/- on account loss of consortium was awarded to the claimant-widow. ₹25,000/- was awarded towards funeral expenses, besides, ₹5,000/- for loss of estate.

Aggrieved therefrom, the present appeals have been filed by the claimants seeking enhancement of the compensation.

In respect to FAO No.1268 of 2016, learned counsel for the appellants does not challenge income of the deceased as assessed by the learned Tribunal. It is however submitted that increment on account of future prospects

should be afforded. It is further submitted that the appellants have no objection in case the compensation under the conventional heads is reworked in terms of the judgments of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333**. In respect to FAO No.3283 of 2016, it is submitted that meagre amount has been awarded to the injured-appellant on account of pain and suffering as well as transportation, diet etc. It is thus prayed that the amount of compensation awarded to the appellants in both the appeals be enhanced accordingly.

Learned counsel for respondent No.3 – Insurance Company however submits that just and reasonable compensation has been awarded by the learned Tribunal as per the facts and evidence on record. In respect to FAO No.1268 of 2016, it is submitted that the compensation awarded under the conventional heads is excessive. Dismissal of the appeals is prayed for.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding the injuries suffered by appellant – Sushma and death of Satyawar in the motor vehicle accident in question being caused by the rash and negligent driving of truck bearing registration No.PB-13Y-9212 by respondent No.1 – Tarsem Singh. Neither is there a dispute regarding liability of the Insurance Company in this case.

As regards the claim petition filed by the appellants in FAO No.1268 of 2016, deceased-Satyawan was admittedly 50 years old at the time of the

accident. There is no dispute regarding income of deceased-Satyawan as assessed by the learned Tribunal to be ₹7,000/- per month. The same is accordingly upheld.

However, claimants are entitled to addition in income at the rate of 10% on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in Pranay Sethi's case (supra). Deduction of 1/4th towards personal expenses has been correctly effected by the learned Tribunal. Multiplier of 13 has been rightly applied as well. Instead of ₹1,00,000/-, appellant No.1 is entitled to ₹40,000/- towards loss of spousal consortium and appellants No.2, 3 and 4 are entitled to ₹40,000/- on account of loss of parental consortium in view of the judgment of the Hon'ble Supreme Court in Magma General Insurance Company Ltd. (supra) as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others). Instead of ₹25,000/- and ₹5,000/- on account of funeral expenses and loss of estate, respectively, awarded by the learned Tribunal, appellants are held entitled to ₹15,000/- each on the said counts.

Appellants-claimants in FAO No.1268 of 2016 are, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	7,000 p.m. i.e. 84,000/- per annum
2.	Total income after addition at the rate of 10% on account of future prospects	84,000 + (84,000 x 10%) = 92,400
3.	Net income after 1/4 th deduction on account of personal expenses	92,400 – (92,400 x 1/4) = 69,300
4.	Total dependancy after applying a multiplier of 13	(69,300 x 13) = 9,00,900

5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 to 4	40,000
Grand Total		₹10,10,900/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

As regards the claim petition filed by claimant Sushma (appellant in FAO No.3283 of 2016), there is no dispute that she suffered injuries in the motor vehicle accident, in question. Medical bills were proved on record. However, learned counsel for the appellant is unable to deny that the petitioner, aged 36 years, did not suffer any permanent disability, though she did remain hospitalized for three days. As per the medical record, which is available on record, she complained of pain on her left shoulder with difficulty in movement. It is also a matter of record that she has also suffered fracture of her hand. Discharge card is available on record.

Keeping in view the facts and circumstances, it is considered appropriate to award a sum of ₹10,000/-, instead of ₹5,000/- on account of pain and suffering. A sum of ₹5,000/- each towards transportation and special diet is awarded instead of a consolidated sum of ₹5,000/-.

Though there is no specific evidence on record regarding the work

of tailoring and running a dairy by the claimant, the nature of injuries would necessarily have rendered her incapable to work for at least one month. Therefore, a sum of ₹7,000/- is awarded to the injured-claimant on account of loss of income. Sum of ₹57,564/- and ₹4,500/- awarded by the learned Tribunal towards medical bills and hospitalization including attending expenses etc. are maintained.

Appellant-Sushma is, thus, entitled to compensation detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Pain and sufferings	₹10,000
2.	Medical bills	₹57,564
3.	Hospitalization including attendant expenses etc.	₹4,500
4.	Loss of income	₹7,000
5.	Transportation	₹5,000
6.	Special diet	₹5,000
Grand Total		₹89,064/-

Amount already awarded by the Tribunal to the appellant/claimant under various heads shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of petition till realization.

With the abovesaid modification in the amount of compensation, both the appeals are disposed of.

May 03 , 2019.
'om'

(LISA GILL)
JUDGE

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