

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

(1)

**FAO No.5081 of 2013 (O&M)
Date of Decision: May 09, 2019.**

Mani Ram and another

.....APPELLANT(s).

VERSUS

Jai Parkash and others

.....RESPONDENT(s).

(2)

FAO No.5082 of 2013 (O&M)

Avtar Kaur and others

.....APPELLANT(s).

VERSUS

Jai Parkash and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Namit Sharma, Advocate
for the appellant (s).

Mr. Rajesh K. Sharma, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the tribunal') vide award dated 08.04.2013 allowed compensation of ₹7,45,900/- for death of Manod Kumar, son of appellants (in FAO No.5081 of 2013) and ₹7,17,000/- for death of Gurdeep Singh, husband of appellant

No.1 and father of appellants No.2 and 3 (in FAO No.5082 of 2013), in a motor vehicle accident with Scorpio vehicle bearing registration No.HR-26BD-5742.

As the only issue pressed in these appeals relates to quantum of compensation as awarded by tribunal, detailed facts of the case are being skipped for the sake of brevity.

The compensation awarded by the tribunal for death of Manod Kumar, was computed as follows:-

(i)	Name of the deceased	Manod Kumar
(ii)	Date of accident	19.09.2010
(iii)	Age of the deceased	24 years
(iv)	Income of the deceased	₹4500 p.m.
(v)	30% addition in the income of the deceased towards loss of future prospects	₹4500+1350= ₹5850 p.m.or ₹70200/- per annum
(vi)	Deduction towards personal expenses 1/2	₹70200-35100=₹35100 p.a.
(vii)	Multiplier applied 18	₹35100X18 = ₹631800/-
(viii)	Funeral expenses	₹2000
(ix)	Loss of estate	₹2500
(x)	Medical expenses	₹109600
Total		₹7,45,900/-

The compensation awarded by the tribunal for death of Gurdeep Singh, was computed as follows:-

(i)	Name of the deceased	Gurdeep Singh
(ii)	Date of accident	19.09.2010
(iii)	Age of the deceased	35 to 40 years
(iv)	Income of the deceased	₹4500 p.m.
(v)	30% addition in the income of the deceased towards loss of future prospects	₹4500+1350= ₹5850 p.m.or ₹70200/- per annum
(vi)	Deduction towards personal expenses 1/3	₹70200-23400=₹46800 p.a.
(vii)	Multiplier applied 15	₹46800X15 = ₹702000/-

(viii)	Loss of consortium	₹5000
(ix)	Last rites and funeral expenses	₹10000
<i>Total</i>		₹7,17,000

Learned counsel for the appellants in FAO No.5081 of 2013 has confined his submission only for grant of compensation as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***. He has argued that deceased Manod Kumar was 24 years of age and as such, the claimants are entitled to addition of 40% in the income of the deceased towards loss of future prospects and are also entitled to compensation of ₹30,000/- under the conventional heads i.e. for loss of estate and funeral expenses.

In FAO No.5082 of 2013, learned counsel for the appellants submits that the tribunal took note of age of deceased as mentioned in his post-mortem report as 35 years while observing that he was in the age ground of 35 years to 40 years. As there was no evidence on record to show that deceased was above 35 years of age, there was no reason for the tribunal to assess his age between 35 to 40 years instead of 35 years as mentioned in post-mortem report. The claimants are also entitled to addition of 40% in the income of the deceased towards loss of future prospects instead of 30% allowed by the tribunal and are also entitled to compensation of ₹70,000/- under the conventional heads i.e. for loss of consortium, loss of estate and funeral expenses instead of ₹15,000/- as awarded by the tribunal.

Learned counsel for respondent-insurance company has no objection if the compensation as per the law settled by Hon'ble Apex Court

in case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)* is allowed.

Deceased Manod Kumar was 24 years of age and as per the law settled in case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*, claimants are entitled to addition of 40% in his income towards loss of future prospects and compensation of ₹30,000/- under the conventional heads.

The age of deceased Gurdeep Singh mentioned in post-mortem report is 35 years. The tribunal, in the absence of any evidence on record, took note of this fact but observed that his age was between 35 to 40 years. There was nothing on record to shows that deceased Gurdeep Singh was of the age above 35 years, as such, the tribunal had no reason to assess his age between 35 to 40 years. I am of the considered opinion that the age of deceased Gurdeep Singh could be taken as 35 years and consequently, multiplier of 16 will be applicable in this case while computing the amount of compensation. Claimants are also entitled to 40% addition in the income of the deceased towards loss of future prospects and compensation of ₹70,000/- under the conventional heads.

As a sequel of my above discussion, the compensation to which the claimants in both the appeals are entitled, is reassessed as follows:-

FAO No.5081-2013

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹4500 per month
(ii)	40% of above (i) to be added as loss of future prospects	(₹4500+₹1800)= ₹6300 per month
(iii)	Deduction of 1/2 towards personal expenses of the deceased	(₹6300-₹3150)= ₹3150 per month

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(iv)	Compensation after multiplier of 18 is applied	(₹3150X12X18)= ₹680400
(v)	Loss of estate	₹15000
(vi)	Funeral expenses	₹15000
(vii)	Medical expenses as awarded by the tribunal	₹109600
<i>Total</i>		₹8,20,000/-

FAO No.5082-2013

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹4500 per month
(ii)	40% of above (i) to be added as loss of future prospects	(₹4500+₹1800)= ₹6300 per month
(iii)	Deduction of 1/3 rd towards personal expenses of the deceased	(₹6300-₹2100)= ₹4200 per month
(iv)	Compensation after multiplier of 16 is applied	(₹4200X12X16)= ₹806400
(v)	Loss of consortium	₹40000
(vi)	Loss of estate	₹15000
(vii)	Funeral expenses	₹15000
<i>Total</i>		₹8,76,400/-

Both the aforementioned appeals have merits and are accepted.

The award of the tribunal is modified. Compensation allowed to the appellants-claimants in FAO-5081-2013 is enhanced from ₹7,45,900/- to ₹8,20,000/- for death of Manod Kumar, which shall be apportioned between the claimants as follows:-

- | | | |
|------|----------------------------------|-------|
| (i) | Appellant-claimant No.1-mother | : 80% |
| (ii) | Appellants-claimants No.2-father | : 20% |

Compensation allowed to the appellants-claimants in FAO-5082-2013 is enhanced from ₹7,17,000/- to ₹8,76,400/- for death of Gurdeep Singh, which shall be apportioned between claimants as follows:-

- | | | |
|------|---------------------------------|-------------|
| (i) | Appellant-claimant No.1-widow | : 60% |
| (ii) | Appellants-claimants No.2 and 3 | : 20% each. |

Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realisation. The claimants shall also be entitled to costs of this appeal.

Respondent-insurance company will deposit the shares of appellants-claimants, who are major, in their bank accounts or pay the same through demand drafts. The shares of appellant(s), who as per their age given at the time of filing of the petition is/are still minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minor(s) as required at the time of deposit of the amount and the minor(s) shall not be asked to bring the fresh order from the tribunal to get the payment of the amount deposited in their name after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal.

May 09, 2019.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No