SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

FAO No. 461-2014 (O&M),
FAO No. 470-2014 (O&M) and
FAO No. 471-2014 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO- 461-2014 (O&M)
Date of Decision: April 03, 2019

1. Master Amanpreet Singh

..... Appellants(s)

Versus

Sarinder @ Surinder and others

..... Respondent(s)

FAO- 470-2014 (O&M)

2. Gurmeet Singh and another

..... Appellants(s)

Versus

Sarinder @ Surinder and others

..... Respondent(s)

FAO- 471-2014 (O&M)

3. Santosh and others

..... Appellants(s)

Versus

Sarinder @ Surinder and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gaurav Sethi, Advocate
for the appellants.

None for respondents no.1 & 2.

Mr. Sandeep Suri, Advocate
for respondent no.3 - insurance company.

*****

SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

FAO No. 461-2014 (O&M),
FAO No. 470-2014 (O&M) and
FAO No. 471-2014 (O&M)

LISA GILL, J. (oral)

This judgment shall dispose of FAO-461-2014 (Master Amanpreet Singh Vs. Sarinder @ Surinder and others), FAO-470-2014 (Gurmeet Singh and another Vs. Sarinder @ Surinder and others) as well as FAO-471-2014 (Santosh and othersVs. Sarinder @ Surinder and others) as all the above noted appeals arise out of a common award dated 08.11.2012, passed by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal).

Brief facts necessary for adjudication of the case are that on 19.04.2008, Gurmeet Singh, his wife Harjeet Kaur, sons Harpreet Singh and Amanpreet Singh, father Sukhdev Singh, brother Jaswinder Singh and sister's son Puneet were travelling in a car bearing registration No. PB-10BX-4908 from Radaur to Amritsar. When they reached near village Madoo, a truck bearing registration no. PB-08-AH-5833, came from opposite side went on the wrong side of the road and hit their car, upon which all occupants of the car sustained multiple injuries. Sukhdev Singh, Jaswinder and Puneet died on the spot. Amanpreet Singh and Harpreet Singh were shifted to Apex Hospital, Amritsar. Harpreet Singh succumbed to his injuries on 20.02.2009.

It was pleaded that the accident took place due to the rash and negligent driving of the offending truck bearing registration No. PB-08-AH-5833, by its driver respondent-Sarinder @ Surinder.

Three claim petitions i.e. subject matter of the present appeals, were filed under Section 166 of the Motor Vehicles Act, 1988 before the learned Tribunal.

SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

FAO No. 461-2014 (O&M),
FAO No. 470-2014 (O&M) and
FAO No. 471-2014 (O&M)

FAO No. 461-2014

This appeal has been filed by the appellant-claimant Master Amanpreet Singh, seeking enhancement of the compensation awarded on account of injuries suffered by him in the above said accident. Learned Tribunal awarded a sum of Rs.1,73,800/-, which is detailed as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Cost of treatment	1,58,300/-
2.	Pain and sufferings	10,000/-
3.	Attendant charges	3,000/-
4.	Special diet	1,000/-
5.	Transportation charges	1,500/-
	Total	**Rs. 1,73,800/-**

Learned counsel for the appellant submits that meagre compensation has been awarded by the learned Tribunal whereas the claimant who was a minor child aged 11 years at the time of accident, remained hospitalized for nearly a month. He suffered serious injuries though, no permanent disability was fortunately suffered by him. Compensation should thus be enhanced.

Learned counsel for the respondent-insurance company refutes the same and prays for dismissal of the appeal.

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

SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

It is not in dispute that the appellant who was 11 years old at the time of the accident, suffered multiple serious injuries on his head, liver, spleen etc. apart from fracture. It is not denied that the minor remained admitted in hospital from 19.04.2008 till 06.05.2008. Keeping in view the facts and circumstances of the case, it is considered appropriate to award a sum of Rs.35,000/- on account of pain and sufferings instead of Rs.10,000/- awarded by the learned Tribunal. Claimant is also entitled to a sum of Rs.8,000/- each for attendant charges and special diet instead of Rs.3,000/- and Rs.1,000/- as awarded by the learned Tribunal on this account, besides Rs.2,500/- instead of Rs.1,500/- awarded for transportation charges. Compensation awarded in respect to the medical expenses of Rs.1,58,300/-, as per the bills on record is maintained.

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Cost of treatment	1,58,300/-
2.	Pain and sufferings	35,000/-
3.	Attendant charges	8,000/-
4.	Special diet	8,000/-
5.	Transportation charges	2,500/-
	Total	**Rs. 2,11,800/-**

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 at the rate of 7.5% per annum on the enhanced amount from the date of filing of the claim petition till realization.

SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

FAO No. 461-2014 (O&M),
FAO No. 470-2014 (O&M) and
FAO No. 471-2014 (O&M)

FAO-470-2014

This appeal has been filed by the appellants seeking enhancement of the compensation awarded by the learned Tribunal on account of death of petitioners' son namely Harpreet Singh, who was 9 years old. Learned Tribunal awarded a sum of Rs.13,57,880/-, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Cost of treatment	11,22,880/-
2.	Compensation on account of death of Harpreet Singh	2,25,000/-
3.	Funeral Expenses	5,000/-
4.	Loss of estate	5,000/-
	Total	**Rs. 13,57,880/-**

Learned counsel for the appellants submits that learned Tribunal has erred in awarding only a sum of Rs.2,25,000/- as compensation besides Rs.5,000/- each towards loss of estate and funeral expenses whereas compensation on these counts should have been awarded as per the judgment of the Hon'ble Supreme Court in ***Krishan Gopal and another Versus Lala and others, 2013(4) RCR (Civil) 276***, where a sum of Rs.5 lakhs was awarded. Sole argument raised by Learned counsel for the appellants is that a sum of Rs. 2,75,000/- over and above the sum of Rs.2,25,000/- be awarded i.e. the total of Rs.5,00,000/- apart from the compensation awarded on account of cost of treatment.

Learned counsel for the insurance company is unable to deny that sum of Rs.5,00,000/- was awarded by the Hon'ble Supreme Court in the

SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

case of ***Krishan Gopal's*** case (supra) while taking notional income of a deceased child aged 10 years to be Rs.30,000/- per annum. Therefore, the appellants are held entitled to a sum of Rs. 2,75,000/-, over and above the amount of Rs.2,25,000/- already awarded by the learned Tribunal. The compensation on account of medical treatment is as per the bills and neither has any argument been raised for enhancement of the same.

Appellants-claimants are, thus, entitled to compensation of Rs.16,22,880/-. 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 at the rate of 7.5% per annum on the enhanced amount from the date of filing of the claim petition till realization.

FAO-471-2014

This appeal has been filed by the appellants-claimants seeking enhancement of the compensation awarded by learned Tribunal on account of death of Sukhdev Singh, aged 60 years, in the accident in question. Learned Tribunal while assessing income of the deceased to be Rs.98,942/- per annum, awarded a sum of Rs.4,61,748/-, which is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Gross income	8,245/- per month
2.	Income after deducting 1/3rd as personal living expenses	8,245 - 2,748 = 5,497/-
3.	Compensation after applying multiplier of 7	5,497 x 12 x 7 = 4,61,748/-

SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

4.	Loss of consortium to appellant/claimant no.1 - Santosh	10,000/-
5.	Loss of estate	5,000/-
6.	Funeral expenses	5,000/-
	Total	**4,81,748/-**

Learned counsel for the appellants submits that income of the deceased has wrongly been assessed as Rs.8,245/- per month whereas it should have been assessed on the basis of the income-tax return for the year 2008-2009 (Ex. P-158) wherein his income is reflected as Rs.1,07,460/- per annum. Meagre compensation under the conventional heads, it is stated, has been awarded. Compensation should thus be enhanced.

I have heard learned counsel for the parties.

There is no merit in the argument raised by the learned counsel for the appellants that income of the deceased should be assessed on the basis of income-tax return for the year 2008-2009 (Ex. P-158), as admittedly this income-tax return was filed after the death of Sukhdev Singh. Therefore, learned Tribunal has rightly relied upon income-tax return for the year 2007-2008 (Ex. P-157) and assessed income accordingly. Admittedly, the deceased was more than 60 years old on the date of the accident i.e. 19.04.2008. His date of birth is 06.12.1947. Therefore, there is no justification for affording any increment on account of future prospects in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***. Deduction of 1/3rd was correctly effected by learned Tribunal. Multiplier of

SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

7 was also correctly applied by learned Tribunal. Loss of dependency is rightly assessed by the learned Tribunal. However, appellant no.1 – Santosh is entitled to Rs.40,000/- instead of Rs.10,000/- for loss of consortium. The claimants are entitled to Rs.15,000/- each towards loss of estate and funeral expenses (instead of Rs.5,000/- each awarded by the learned Tribunal on these accounts).

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	**Heads**	**Calculations**
1.	Gross income	8,245/-
2.	Income after deducting 1/3rd as personal living expenses	8,245 - 2,748 = 5,497/-
3.	Compensation after applying multiplier of 7	5,497 x 12 x 7 = 4,61,748/-
4.	Loss of love consortium to claimant no.1 - Santosh	40,000/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
	Total	**5,31,748/-**

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 at the rate of 7.5% per annum on the enhanced amount from the date of filing of the claim 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.

With the modification in the amount of compensation, all the

SUNIL
2019.04.15 13:25
I attest to the accuracy and
authenticity of this document

FAO No. 461-2014 (O&M),
FAO No. 470-2014 (O&M) and
FAO No. 471-2014 (O&M)

appeals are disposed.

April 03, 2019. **(LISA GILL)**
Sunil **JUDGE**

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