

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

1. **FAO No. 5657 of 2016**
Date of Decision: March 14, 2019.

SBI General Insurance Company Ltd. APPELLANT(s)

Versus

Raj Dulari and others RESPONDENT (s)

2. **FAO No. 5821 of 2016**

Renu APPELLANT(s)

Versus

Jasan @ Joshan Singh and others RESPONDENT (s)

3. **FAO No. 6724 of 2016**

Raj Dulari and another APPELLANT(s)

Versus

Jasan and others RESPONDENT (s)

4. **FAO No. 7309 of 2016.**

Renu APPELLANT(s)

Versus

Jasan @ Joshan Singh and others RESPONDENT (s)

5. **FAO No. 7426 of 2016.**

Renu APPELLANT(s)

Versus

Jasan @ Joshan Singh and others RESPONDENT (s)

6. **FAO No. 5830 of 2016.**

Renu APPELLANT(s)

Versus

Jasan @ Joshan Singh and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Satpal Dhamija, Advocate
for the appellant in FAO No.5657 of 2016 and
for respondent No.3 in FAO Nos.5821, 5830, 7426 and
7309 of 2016 and 6724 of 2016.

Mr. Ashwani Gaur, Advocate
for the appellants in FAO Nos.5821, 5830, 7426 and 7309 of 2016
for respondent No.3 in FAO No.5657 of 2016.

Mr. D.S.Nain, Advocate
for the appellants in FAO No.6724 of 2016,
for respondents No.1 and 2 in FAO No.5657 of 2016 and
for respondents No.4 to 5 in FAO No.5821 of 2016.

Mr. Nitin Kamboj, Advocate for
Mr. Munish Mittal, Advocate
for respondent No.1 in FAO Nos.5821, 5830, 6724, 7426 and
7309 of 2016.
for respondent No.4 in FAO No.5657 of 2016.

LISA GILL, J.

This judgment shall dispose of FAO No.5657 of 2016, FAO No.5821 of 2016, FAO No.6724 of 2016, FAO No.7309 of 2016, FAO No.5830 of 2016 and FAO No.7426 of 2016. All the abovenoted appeals arise out of a common award dated 22.04.2016 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, the 'Tribunal') whereby four claim petitions i.e., MACP No.228 of 2015, MACP No.346 of 2015, MACP No.347 of 2015 and MACP No.349 of 2015 filed by the claimants under Sections 166/140 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act') were decided together.

Facts for the sake of convenience are being extracted from FAO No.5821 of 2016.

Brief facts which are common in all the appeals are that, Parveen Kumar (deceased) alongwith his wife –Renu (a claimant) and children – Mayank and Anshika (both deceased) were going on their motorcycle on 20.05.2015 from Kurukshetra to Pehowa. They were followed by Hukam Chand, paternal uncle of Parveen Kumar, on a separate motorcycle. When Parveen Kumar and his family reached near Tali Farm on Kurukshetra-Pehowa road at about 5.30 p.m., an Innova car bearing registration no.HR-41C-5555 came from the opposite side. Said Innova car was being driven by respondent-Jasan @ Joshan in a rash and negligent manner at a very high speed without blowing its horn. The Innova car while overtaking a vehicle on its side came on wrong side of the road and hit the motorcycle of Parveen Kumar, due to which Parveen Kumar and his family members fell down on the road. They received grievous injuries. Parveen Kumar died at the spot. Other three injured were shifted to Saraswati Mission Hospital, Pehowa where both the children – Mayank and Anshika were declared dead. Claimant – Renu was referred to PGI, Chandigarh. FIR No.219 dated 20.05.2015 under Sections 279/337/304A IPC was registered against the driver of the offending vehicle, respondent No.1 –Jasan @ Joshan at Police Station Pehowa. Four claim petitions as mentioned above were preferred by the claimants seeking compensation on account of death of Parveen Kumar, both the children and on account of injuries suffered by Renu in the said motor vehicle accident.

Claim petitions were contested by the respondents. Separate written statements were filed by respondents No.1 and 2 as well as respondent No.3- insurance company. It was pleaded that the accident did not take place as alleged and if the accident is proved to have occurred as alleged, it was due to the sole negligence of Parveen Kumar who himself was responsible for the same, as he

was driving the motorcycle without observing traffic rules with three pillion riders. Replication to the written statement on behalf of respondents No.1 and 2 was filed.

Following issues were framed by the learned Tribunal on the basis of pleadings of the parties:-

- 1. Whether Parveen Kumar, Anshika and Mayank died and claimant Renu suffered injuries due to accident caused on 20.05.2015 by rash and negligent driving of Innova Car bearing registration No.HR-41C-5555 by respondent No.1 as alleged? OPP
- 2. Whether the claimants in all the claim petitions are entitled to compensation, if so how much and from whom? OPP
- 3. Whether respondent No.1 did not have valid and effective driving license at the time of the accident, if so to what effect? OPR-3
- 4. Whether respondent No.2 has violated the terms and conditions of the insurance police, if so to what effect? OPR-3
- 5. Relief

Learned Tribunal on consideration of the facts, circumstances and evidence on record concluded that the accident in question took place due to the sole negligence of the driver of Innova vehicle bearing registration No.HR-41C-5555. Parveen Kumar, Mayank and Anshika lost their lives and claimant –Renu received injuries in the said accident.

In MACP No.228 of 2015, compensation of ₹19,16,200/- was awarded by the learned Tribunal to the claimants on account of death of Parveen Kumar. Detail of the compensation awarded in the said petition is as under:-

Income assessed	Rs.10,200/- per month
Increase in income towards future prospects @ 30%	Rs.13,260/- per month
Age of the deceased Parveen Kumar	40 years
Multiplier applied	15
Deduction effected	1/3 rd
Total dependency	Rs.15,91,200/-

Transportation and funeral expenses	Rs.25,000/-
Loss of consortium to the widow	Rs.1,00,000
Loss of estate to claimants No.1 to 3	Rs.1,00,000
Loss of love and affection to claimants No.1 and 2 @50,000	Rs.1,00,000/-
Total =	Rs.19,16,200/-

In respect to MACP No.346 of 2015, learned Tribunal awarded a sum of ₹1,66,889/- to claimant-Renu on account of the injuries suffered by her in the aforesaid accident, which is detailed as under:-

1.	Expenses relating to medical treatment, hospitalization and medicines	Rs.21,289/-
2.	Expenses relating to transportation, special diet and attendant	Rs.15,000/-
3.	Loss of earnings during the period of treatment	Rs.30,6000/-
4.	Loss of future earnings on account of disability	Nil
5.	Future medical expenses	Nil
6.	Damages for pain, suffering and trauma as a consequence of the injuries	Rs.50,000/-
7.	Loss of amenities	Rs.50,000/-
8.	Loss of expectation of life (shortening of normal longevity)	Nil
	Total =	Rs.1,66,880/-

In respect to MACP Nos.347 and 349 of 2015, learned Tribunal awarded a sum of ₹2,25,000/- each on account of death of Mayank and Anshika.

Aggrieved of the quantum of compensation, the claimants have preferred separate appeals seeking enhancement thereof. FAOs No.5821 and 6724 of 2016 arising out of MACP No.228 of 2015 are separate appeals filed by the widow and parents of the deceased. FAOs No.5830 and 7426 of 2016 have been filed for enhancement of compensation on account of death of the children.

FAO No.7309 of 2016 has been filed seeking enhancement of compensation on

account of injuries suffered by claimant-Renu. Insurance company, it is to be noted, has filed only one appeal challenging the verdict of the learned Tribunal in MACP No.228 of 2015 which was filed seeking compensation on account of death of Parveen Kumar.

Learned counsel for the Insurance company argues that the accident in question, as pleaded, is not proved from the evidence on record. Eye-witness of the accident, namely, Hukam Chand paternal uncle of Parveen Kumar, has not been examined. Furthermore, even in case the accident in question is proved to have occurred as stated, negligence on the part of the deceased – Parveen Kumar is apparent on the face of it. It is contended that three persons were riding pillion on one motorcycle. Therefore, it is submitted that after holding Parveen Kumar guilty of contributory negligence, appropriate deduction should be effected on this count from the total compensation awarded to the claimants.

Learned counsel for the Insurance company further argues that the learned Tribunal has grossly erred in assessing income of the deceased –Parveen Kumar to be ₹10,200/- per month on the basis of rates of wages fixed by the Deputy Commissioner for persons to be employed in government departments on contract in certain exigencies (hereinafter referred to as 'DC Rates') in the district of Kurukshetra. It is argued that the DC Rates are not reflective of the actual wages earned in the area. Minimum wages as fixed under the Minimum Wages Act would lend uniformity to dispensation in the present matters. Therefore, it is the wage as fixed under the Minimum Wages Act which should be a criterion or guideline for assessing income of the deceased in a case where no documentary evidence is produced by the claimants. It is submitted that in the present case

there is no evidence, whatsoever, to indicate that the deceased was running a Karyana Shop, earning an amount of ₹40,000/- per month as claimed. Income tax returns sought to be relied upon by the claimants were filed subsequent to the death of Parveen Kumar. Moreover, Karyana Shop was not closed down after the death of Parveen Kumar. Therefore, at best, income of the deceased could be assessed by way of loss of managerial skills. Minimum wages in the State of Haryana at the time of the accident i.e., 20.05.2015 were ₹5,812/- per month for an unskilled labourer and ₹5,942/- for skilled labourer. Therefore, income as assessed by the learned Tribunal should be reduced. Moreover, compensation under the conventional heads, it is contended, is excessive and should be reduced. It is submitted that there is no ground whatsoever for any enhancement of compensation as prayed for by the claimants in their respective appeals. It is thus prayed that the appeal filed by the Insurance company be allowed and those of the claimants be dismissed.

Learned counsel for the claimants refute the averments as above while submitting that the learned Tribunal has afforded meagre compensation inasmuch as there is clear and cogent evidence to show that the claimant was earning much more than ₹10,200/- per month as assessed by the learned Tribunal. Learned counsel for the claimants submits that the very argument on behalf of the Insurance company that Karyana Shop being run by the deceased -Parveen Kumar was not closed down, means that the Insurance company accepted running of the said shop. Moreover, three insurance policies (Ex.P46 to Ex.P50 and Ex.P52) have been produced on record to show that premium for the same was being paid by the deceased for the said policies. Therefore, Parveen Kumar

must necessarily be earning much higher income than the one assessed by the learned Tribunal.

It was further submitted by learned counsel for the claimants that meagre compensation has been afforded on account of death of two children – Mayank and Anshika, which should be enhanced, while learned counsel for the Insurance company urged that the award should be as per the parameters laid down under Section 163A of the Act.

Learned counsel for the claimants further submits that in respect to the injuries received by the claimant -Renu, it is proved on record that she suffered a compressed fracture of L1 (spine). PW4 Dr. Vikas has proved the injuries suffered by the claimant-Renu. Surgery was required to be conducted. Just and reasonable compensation, it is submitted, has not been afforded by the learned Tribunal. Therefore, compensation awarded on account of death of Parveen Kumar, Mayank, Anshika as well as on account of injuries received by Renu be enhanced. Appeal filed by the Insurance company, it is submitted, be dismissed.

I have heard learned counsel for the parties and have gone through the photocopy of the record, produced by them in Court.

FAO No.5657 of 2016,
FAO No.5821 of 2016 and
FAO No.6724 of 2016

As per the pleadings, a motor vehicle accident took place on 20.05.2015 at 5.30 p.m. near Tali Farm on Kurukshetra-Pehowa road when Parveen Kumar (deceased) alongwith his wife –Renu (a claimant) and children – Mayank and Anshika (both deceased) were going on their motorcycle. They

were followed by Hukam Chand, paternal uncle of Parveen Kumar, on a separate motorcycle. An Innova car bearing registration No.HR-41C-5555 was coming from the opposite side being driven by respondent No.1-Jasan @ Joshan in a rash and negligent manner at a very high speed without blowing its horn. The Innova car while overtaking a vehicle proceeding ahead of it in the same direction, came on the wrong side of the road and struck against the motorcycle of Parveen Kumar, due to which Parveen Kumar and his family members fell on the road. They received grievous injuries. Parveen Kumar died at the spot. The other three injured were shifted to Saraswati Mission Hospital, Pehowa where both the children – Mayank and Anshika were declared dead. Claimant – Renu was referred to PGI, Chandigarh. She suffered serious injuries. FIR No.219 under Sections 279/337/304A IPC, Police Station Pehowa was registered on the same day at about 10.17 p.m. Registration of the FIR (Ex.P1) was prompt and immediate. Final report (Ex.P2) under Section 173 Cr.P.C. presented by the police authorities against the driver of the offending Innova car after proper investigation of the matter, is available on the file as Ex.P2. Post-mortem reports of Parveen Kumar, Anshika and Mayanak are also on record. I do not find any justification to hold that the accident in question is not proved to have taken place on 20.05.2015 by virtue of the factum of Hukam Chand not being examined by the claimants. It is pertinent to note that PW5 Renu, an injured witness, duly testified before the learned Tribunal and specifically deposed about the manner in which the accident took place. It is clearly narrated in the FIR as well as by PW5 Renu that the offending Innova car was being driven at a high speed in a rash and negligent manner. It came from the opposite side while overtaking another vehicle on the road, without blowing its horn and struck

against the motorcycle being driven by Parveen Kumar. It is categorically stated that the said Innova car had come on the wrong side of the road and hit against the motorcycle which was being driven at a moderate speed on the correct side of the road. The Hon'ble Supreme Court in **Mangla Ram v. Oriental Insurance Company Ltd. and others, 2018(5) SCC 656** and **Sunita v. RSTRC, CA No.1665 of 2019 (arising out of SLP (civil) No.33757 of 2018, decided on 14.02.2019**, reiterated that the claimants in proceedings under this Act are required to prove their case on the touchstone of preponderance of probabilities and court is not to be swayed by technicalities, niceties or mystic maybes. In **Sunita's case** (supra), it was held that just because one of the eye-witnesses was not examined, it is not a ground to reject the claimants version in the light of cogent evidence available on record. In the present case, the claimants have successfully proved their case on the basis of clear and cogent evidence.

Similarly, the argument that by virtue of four people riding on one motorcycle, there has to be a necessary inference or presumption of contributory negligence, is not acceptable. Merely because there was a head on collision does not lead to an inference that there is contributory negligence on the part of the deceased in any manner. The number of persons riding the motorcycle being excessive, cannot per-se, be a ground to conclude that there is an element of contributory negligence on the part of the deceased. It was incumbent upon the respondents to have proved that it was the number of riders on the motorcycle, which was one of the causative factors of the accident in question. In the present case, the offending vehicle admittedly struck against the motorcycle (proceeding on its correct side) while overtaking another vehicle. In this situation, it is

unjustified to hold that the deceased was guilty of any contributory negligence. Reference in this regard can gainfully be made to the judgment of the Hon'ble Supreme Court in **Kumari Kiran v. Sajjan Singh, 2015 (1) SCC (Civil) 570** and Full Bench decision of the **Madhya Pradesh High Court in Devi Singh v. Vikram Singh and others, 2008 (2) RCR (Civil) 107.**

It is pertinent to note, at this stage, that while raising the ground of the accident not having been caused by the offending vehicle alongwith the plea of contributory negligence on the part of the deceased, the Insurance company has chosen to file only one appeal to challenge the decision of the learned Tribunal in MACP No.228 of 2015. In the facts and circumstances of the case, I do not find any ground, whatsoever, to interfere in the finding returned by the learned Tribunal on Issue No.1, which is accordingly upheld.

The question, whether it is the minimum wage notified under the Minimum Wages Act or the DC Rate which is to be taken as a parameter or the guidelines to be followed, while assessing income of the deceased when specific documentary evidence is not forthcoming, has been dealt with by this Court in decision of even date i.e., 14.03.2019 in FAO No.2110 of 2016 (**Shri Ram General Insurance Company Ltd. v. Beant Kaur and others**). Relevant paras read as under:-

“In respect to the DC Rates, it is not in dispute that they are not of a statutory character. DC Rates necessarily vary even within the districts in one particular State. Fixation of such rates are contingent on various factors including the question of availability of a particular kind of labour, worker or a specialised employee in that area. Assessment or fixation of the DC Rates is not necessarily based upon any specific guidelines or criterion which is specifically

laid down on a scientific or substantive basis. Said rates are primarily laid down to meet any contingencies while appointing any person on contract basis to work for the government departments. There are no specific or set principles or guidelines for fixation of the DC Rates as specifically provided under the Minimum Wages Act. In the case of DC Rates, it is not in dispute that they have no statutory basis or sanction. Moreover, these rates are dependent upon a number of local factors which necessarily differ from district to district.

It is further not in dispute that both the States of Punjab and Haryana notified/fixed the minimum rates of wages in respect of scheduled employments. As per notification dated 27th June, 2007 issued by the Labour Department, State of Haryana, it is stated that the minimum rates of wages being fixed/revised are linked with the Haryana State Working Class Consumer Price Index Number (base year 1972-73 = 100) with July, 2007, as the base month. The rate of neutralisation will be Rs.2.31 per point on the rise or fall of the consumer price index number, adjustment in wages shall be made six monthly i.e. 1st January and 1st July, every year after taking into account the average rise or fall in the Haryana State Working Class Consumer Price Index number half yearly ending December and June respectively. Subsequently vide notification dated 14.08.2014, rate of neutralisation in the State of Haryana was Rs.5.50 per point. Similar, notifications are issued by the State of Punjab as well, wherein minimum wages for employees in various sectors are fixed. The said wages are subject to periodic revisions. Minimum wages are admittedly revised/increased periodically taking into account various relevant aspects such as the price inflation etc. Minimum wages so fixed, needless to say, are applicable throughout the State in a uniform manner in the unorganised sector. They are not subject to variation from district to district.

There is merit in the proposition that in cases where no evidence is brought on record by the claimants to prove the income

of the deceased/injured, it is the minimum wages as fixed under the Minimum Wages Act which should be taken as the 'primary' guiding factor while assessing the income for the purpose of calculation of the compensation to be awarded under the Motor Vehicles Act.

At the same time, it is not possible to hold that in all situations where no documentary evidence is brought on record, it is the minimum wage as fixed under the Minimum Wages Act which alone is to be assessed as the income of the deceased/injured de hors the facts and circumstances of a particular case. Doubtlessly, minimum wage fixed under the Minimum Wages Act provides a sound criterion/guideline and benchmark to assess the income of the deceased/injured in such cases, but at the same time, the tribunal/Court cannot be confined or restricted to the same. It is open to the tribunal/Court to assess the income at a rate which may be higher than the minimum wage so notified keeping in view the evidence on record in that particular case.

It is relevant to note that even if there is no specific documentary evidence to prove the income, but oral evidence led by the claimants inspires confidence and is corroborated by some attending circumstances, it is open to the Court/tribunal to assess income at a rate higher than the minimum wage or assess the same as per DC Rates. There can be no straitjacket or strict criterion laid down in these proceedings under a statute which is admittedly a beneficial piece of legislation. The same necessarily has to vary from case to case depending upon the evidence on record. Needless to say, such assessment at the same time has to be reasonable, logical, based on the evidence on record and not whimsical and arbitrary. The Hon'ble Supreme Court in **Ramachandrappa v. Manager, Royal Sundram Alliance Insurance Company Limited, (2011) 13 SCC 236** held as under:-

“14. We hasten to add that in all cases and in all circumstances, the Tribunal need not accept the claim of the claimant in the absence of supporting material. It depends on the facts of

each case. In a given case, if the claim made is so exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guess work, which may include the ground realities prevailing at the relevant point of time.”

The Hon'ble Supreme Court in **Jakir Hussein v. Sabir and others, 2015(2) R.C.R (Civil)141** has held that,

“the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage, as per the State government notification alone may at times fail to meet the requirements that are needed to maintain the basic quality of life since it is not inclusive of factors of cost of living index.”

It has been held in a plethora of judgements by the Hon'ble Supreme Court that it is the duty of the tribunal/Court to award 'just compensation'. Motor Vehicles Act is admittedly a beneficial legislation, therefore to circumscribe the scope of assessment of income of the deceased/injured to the minimum wages as may be notified under the Minimum Wages Act would not be justified. Needless to say, assessment of income in cases where no specific documentary evidence is led in support of the claim, such assessment would be dependent upon the facts and circumstances of each case. There may be instances where oral evidence alongwith other supporting evidence on record may inspire confidence. There has to be a sound evaluation of the oral evidence and supporting circumstances in the factual matrix of each particular case. The Tribunal/Court while keeping in view the minimum wage fixed under the Minimum Wages Act as the basic criterion at the outset would proceed to determine whether income of the deceased/injured is to be assessed at any higher level keeping in view the evidence on record. This in my considered view, would be the correct approach

to follow in such cases.”

In the present case, the claimants contended that income of the deceased, aged 40 years was ₹40,000/- per month while running a Karyana Shop. Reliance was placed by the claimants on the income tax returns of the deceased for the assessment years 2014-15 and 2015-16. Income of the deceased -Parveen Kumar is reflected to be ₹3,54,153/- under the head 'Business' for the assessment year 2014-15 and ₹4,81,077/- for the assessment year 2015-16. It is further a matter of record that income tax returns sought to be relied on (Ex.P44, Ex.P44/A, Ex.P45 and Ex.P45/A) were filed after the death of Parveen Kumar. The claimants have not produced any ITR filed prior to the death of Parveen Kumar. There is no evidence to show the income tax which may been remitted by Parveen Kumar prior to his death. It is thus rightly observed by the learned Tribunal that the said income returns cannot be relied upon for assessing income of the deceased.

Reference is also made to the insurance policies, premium of which was being paid by the deceased. Perusal of the said policies reveals that the premium is not very high for any of the said policies and the same cannot be indicative of a higher income of the deceased. However, a perusal of the record does indicate that the deceased was running a Karyana shop. PW1 Raj Dulari specifically deposed in this respect. In response to a suggestion put forth on behalf of the Insurance company, PW1 Raj Dulari truthfully responded that said shop was being run by her younger son – Sandeep Kumar after the death of her husband. She specifically denied that income of the deceased was not more than ₹3,000/- per month being a casual labourer. PW5 Renu also deposed that her husband was running a Karyana shop. There is indeed no evidence to rebut the

claim set forth by the claimants that Parveen Kumar was running a Karyana shop. In fact the suggestion on behalf of Insurance company that the shop was not closed down, is telling.

In the given facts and circumstances of the case, I do not find any ground to reduce income of the deceased –Parveen Kumar from ₹10,200/- per month merely on the ground that having considered the deceased to be an unskilled labourer, the learned Tribunal should have fixed his wages as notified under the Minimum Wages Act. It is a settled position that said income of ₹10,200/- per month can also be easily assessed to be loss of value of the managerial services rendered by the deceased.

The deceased –Parveen Kumar was 40 years old at the time of the accident. Increase in income at the rate of 25% instead of 30% on account of loss of future prospects is to be afforded keeping in view the 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 rightly effected and multiplier of 15 has been correctly applied as well by the learned Tribunal. Instead of ₹25,000/- on account of transportation and funeral expenses, the claimants are held entitled to ₹15,000/- and instead of ₹1,00,000/- on account of loss of estate, the claimants are held entitled to ₹15,000/- in view of the judgment of the Hon'ble Supreme court in **Pranay Sethi's** case (supra). Instead of ₹1,00,000/-, the claimant-widow is held entitled to a sum of ₹40,000/- on account of loss of spousal consortium and instead of ₹50,000/- each, ₹40,000/- is afforded to the parents of the deceased (appellants in FAO No.6724 of 2016) for loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court

in Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333 as well as decision dated 14.03.2019 in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Appellant-claimants in FAO No.5821 and 6724 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	10,200 p.m. i.e. ₹1,22,400/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	1,22,400 + (1,22,400x25%) = 1,53,200
3.	Net income after 1/3 rd deduction on account of personal expenses	1,53,200 – (1,53,200 x 1/3) = 1,02,200
4.	Total dependancy after applying a multiplier of 15	(1,02,200 x 15) = 15,33,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to the widow	40,000
8.	Loss of filial consortium to the parents	40,000
Grand Total		₹16,83,000/-

The appellants are, thus, entitled to ₹16,83,000/- instead of ₹19,16,200/-. Rate of interest as afforded by the learned Tribunal is maintained. Ratio of apportionment as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

FAO No.7309 of 2016

In respect to MACP No.346 of 2015 filed by claimant-Renu seeking compensation on account of injuries suffered by her, learned counsel for the

claimant/appellant has vehemently argued that loss of future earnings should have been afforded by the learned Tribunal. However, there is no evidence on record to indicate that the claimant/appellant suffered any permanent disability due to the injuries suffered by her in the motor vehicle accident in question. PW4 Dr. Vikas of Saraswati Missal Hospital stated that claimant -Renu was admitted to their hospital on 21.05.2015 due to the injuries suffered by her in a road side accident. She was discharged on 24.05.2015. PW4 Dr. Vikas proved Discharge slip (Ex.P6), investigation slip (Ex.P7) and receipts (Ex.P8 to Ex.P32). It is categorically stated that the patient suffered spinal injuries (compressed fracture L-1). The medico legal examination, it is stated by PW4 Dr. Vikas, was conducted by Dr. V.K.Gupta of Saraswati Mission Hospital, Pehowa on 21.05.2015. Medical evidence on record does not indicate that the claimant Renu suffered any permanent disability due to the injuries in question. Learned Tribunal has afforded just and reasonable compensation which does not call for any further enhancement.

Learned counsel for the appellant is unable to point out any illegality or infirmity in respect to MACP No.346 of 2015 vide impugned award dated 22.04.2016 passed by the learned Motor Accident Claims Tribunal, Kurukshetra.

FAO No.5830 of 2016 and
FAO No.7426 of 2016

In respect to MACP No.347 of 2015 and MACP No.349 of 2015, learned Tribunal has assessed notional income of both the children to be ₹15,000/- per annum and awarded a sum of ₹2,49,500/- each in both the claim petitions. It is not in dispute that the deceased child –Anshika was aged about 10 years and a student of 5th standard. Deceased –Mayank was aged about 11 years

and a student of 6th standard. Hon'ble Supreme Court in **Krishan Gopal and another v. Lala and others, 2013(4) RCR (Civil) 276** assessed notional income of a 10 year old child to be ₹30,000/- per annum in respect to an accident which took place in the year 1992. While referring to Krishan Gopal's case (supra), a coordinate Bench of this Court in FAO No.3964 of 2014 (Chet Ram and another v. Gautam Kumar and others) decided on 21.09.2017 has assessed the notional income of a child aged 8 years to be ₹50,000/- per annum.

In the given facts and circumstances of the case, there is no impediment in assessing the notional income of the deceased children, aged 10 and 11 years, as ₹50,000/- per annum each. Multiplier of 15 in terms of the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77** is applied. Sum of ₹50,000/- under the conventional heads is awarded.

Claimant/appellant is, thus, entitled to compensation of ₹8,00,000/- [7,50,000 (15x50,000) +50,000] in both FAO Nos.5830 and 7426 of 2016. Rate of interest as awarded by the learned Tribunal is maintained.

FAO Nos.5830 and 7426 of 2016 are disposed of with abovesaid modification in the amount of compensation. FAO No.5657 of 2016 filed by the Insurance company is partly allowed. FAO Nos.5821, 6724 and FAO No.7309 of 2016 filed by the claimants are dismissed.

March 14 , 2019.
'om'

(LISA GILL)
JUDGE

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