

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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

(1) FAO-1380-2017(O&M)

The New India Assurance Company Ltd.
Versus
Sanjeev Kumar and others
...Appellant
...Respondents

(2) FAO-1381-2017(O&M)

The New India Assurance Company Ltd.
Versus
Smt.Mukesh Devi and others
...Appellant
...Respondents

(3) FAO-1394-2017(O&M)

The New India Assurance Company Ltd.
Versus
Smt.Murti Devi and others
...Appellant
...Respondents

(4) FAO-1395-2017(O&M)

The New India Assurance Company Ltd.
Versus
Smt.Kailasho Devi and others
...Appellant
...Respondents

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...Appellant

Versus

...Respondents

...Appellants

Versus

...Respondents

...Appellants

Versus

...Respondents

...Appellants

Versus

...Respondents

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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(9) FAO-4096-2017(O&M)

Amrik Singh

...Appellant

Versus

Satnam Singh and others

...Respondents

Date of Decision:-16.7.2019

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vinod Gupta, Advocate
for the appellant in FAO-1380, 1381, 1394, 1395 and 1396 of
2017.

Mr.Sandeep Kotla, Advocate
for the appellants in FAO-2867, 2868, 2869 and 4096 of
2017.

Mr.Rajneesh Malhotra, Advocate
for HDFC Ergo General Insurance Company in all the
appeals.

H.S. MADAAN, J.

By this order, I shall dispose of nine FAOs i.e. FAO-1380,
1381, 1394, 1395 and 1396 of 2017 filed on behalf of appellant – New
India Assurance Company Ltd., FAO-2867, 2868, 2869 of 2017 filed on
behalf of claimants and FAO-4096 of 2017 filed on behalf of Amrik
Singh - owner, which have arisen out of the same accident.

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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Briefly stated, facts of the case as per version of the petitioners/claimants are that on 1.11.2012, Mahabir along with Ramesh, Mohkam, Bani Singh and Sanjeev Kumar were travelling in a Maruti car bearing registration No.HR03-E-1777 going from Kaul towards Karnal; that the car was being driven by Mahabir at a very moderate speed on the left hand side of the road; that when the car reached near Jyoti Private School, a little ahead of village Kaul, towards Karnal side on Kaul-Karnal road, then a canter bearing registration No.HR67-1911(hereinafter referred to as the offending canter) was parked on the road with a punctured tyre, however, it was so done without observance of any caution and its parking lights were also off; that no barricade had been raised around it; that Mahabir driver of Maruti car could not anticipate that the vehicle would be parked on the road without any indication or caution and by the time, he realized presence of the canter on the road, it was too late and the car struck against the canter, resultantly all occupants of the car sustained multiple injuries; that out of the five occupants, three died at the spot, however, all of them were shifted to General Hospital, Kaithal; that an FIR No.97 dated 1.11.2012 for the offences under Sections 283, 337, 427 and 304-A IPC was registered against respondent No.1 – Satnam Singh.

The legal representatives of deceased Mahabir, namely, his

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FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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wife – Smt.Mukesh, minor son – Master Himanshu, minor daughter – Baby Annu Devi and mother – Smt.Bimla Devi had brought a claim petition bearing MACT Case No.00108 of 2013 under Section 166 of Motor Vehicles Act against respondents i.e. Satnam Singh – driver, Surjeet – owner and the New India Assurance Company Ltd. - insurer of the offending canter, claiming compensation. In addition to that Amrik Singh – owner and HDFC Ergo General Insurance Company Ltd. - insurer of the Maruti car bearing registration No.HR-03-E-1777 were also impleaded as respondents No.4 and 5, respectively.

The legal representatives of deceased Ramesh @ Rameshwar, namely, his wife – Smt.Murti Devi and nine others had also filed a claim petition bearing MACT Case No.RBT/00017 of 2015 against those very respondents claiming compensation.

The legal representatives of deceased Mohkam Singh, namely his wife Smt.Kailasho Devi and three mothers had also brought a claim petition bearing MACT Case No.RBT/00019 of 2015 against the abovesaid respondents, craving for grant of compensation.

The petitioner/claimant Sanjeev Kumar had also knocked at the door of Motor Accidents Claims Tribunal, Karnal filing a claim petition bearing MACT Case No.RBT/00018 of 2015 against those very respondents claiming compensation on account of suffering injuries in the

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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motor vehicular accident.

The petitioner/claimant Bani Singh too had filed a claim petition bearing MACT Case No.RBT/00109 of 2015 against those very respondents claiming compensation on account of suffering injuries in the motor vehicular accident.

Petitioner Amrik Singh, owner of the Maruti car bearing registration No.HR-03-E-1777 had also brought a separate claim petition bearing MACT Case No.RBT/00020 of 2015 against the respondents i.e. Satnam Singh – driver, Surjeet – owner and the New India Assurance Company Ltd. - insurer of the offending vehicle claiming compensation on account of damage to his ill-fated Maruti car.

Since all the six claim petitions arose out of the same accident, those were consolidated vide order dated 26.5.2015 and tried together by Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as 'Tribunal' also).

Notices of the claim petitions were issued to the respective respondents, who put in appearance and offered a contest. Issues on merits were framed. The parties were afforded adequate opportunities to lead their evidence.

After hearing arguments, learned Motor Accidents Claims Tribunal, Karnal vide award dated 2.11.2016 accepted the claim petitions

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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except the one filed by Amrik Singh, which was dismissed.

However, Mukesh Devi and others - claimants in MACT Case No.00108 of 2013, Smt.Murti Devi and others, claimants in MACT Case No.RBT/00017 of 2015, Smt.Kailasho Devi and others claimants in case No.RBT/00019 of 2015 felt that the compensation awarded to them was on lower side, whereas the insurance company was of the view that the compensation awarded to the claimants in those cases and in the petitions filed by petitioner/injured Sanjeev Kumar and Bani Singh was on higher side and Amrik Singh felt aggrieved by the dismissal of his claim petition and, they have approached this Court by way of filing the appeals, notices of which were given to the respective respondents.

I have heard learned counsel for the parties besides going through the record.

Firstly taking up FAO-1381-2017 filed on behalf of the insurance company of the offending canter against the award passed in MACT Case No.00108 of 2013 filed by Smt.Mukesh Devi and others and FAO-2869-2017 filed on behalf of those claimants for enhancement of compensation.

The Tribunal in view of the pleadings of the parties and considering the evidence brought on file, had come to the conclusion that rashness and negligence on the part of Satnam Singh – respondent No.1

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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was responsible for the accident inasmuch as he had parked the offending canter in question on the road for the purpose of changing its punctured tyre but had not bothered to barricade it or put on the parking lights or the reflector, which might have given a warning signal to the traffic coming on the road and deceased Mahabir, who was driving the ill-fated Maruti car could not be made to share blame for the accident. As such plea of contributory negligence raised on behalf of respondent No.3 – insurance company was rejected.

Learned counsel for the insurance company is raking up that plea again submitting that the driver of the Maruti car should have been vigilant enough so as to apply brakes in time to avoid hitting the canter and respondent No.1 – Satnam Singh cannot be held to be solely responsible for the accident, therefore, it should be taken as a case of contributory negligence.

Learned counsel for the claimants has vehemently contested this contention submitting that Mahabir driver of the ill-fated car would not have expected that the canter would be parked on the road in such a manner without putting on the parking lights and reflector or barricading canter and would not have anticipated that the canter would be standing on the road in such a way so as to apply the brakes in time, as such he cannot be made to share blame for the accident. The Tribunal has dealt

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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with that aspect in detail discussing the evidence adduced by the parties and the legal position also and relying upon ratio of the judgment **Mewa Devi and others Vs. Ram Kumar and others 2016(2) PLR 739** as well as **United India Insurance Company Ltd. Versus Rani Kaushal and others 2016(3) PLR 771**, concluded that the petitioners had successfully proved that the accident in question took place due to sole negligence of driving of the driver of the offending vehicle by respondent No.1 and there is no negligence on the part of the driver of the ill-fated Maruti Car leading to happening of the accident. It has to be taken note that respondent No.1 had not appeared in the witness-box to depose that he was not rash and negligent or that the driver of the ill-fated car had contributed to the accident by want of care and caution on his part. The oral as well as documentary evidence brought on file by the claimants to prove that the accident in question had taken place solely on account of rash and negligent act on behalf of Satnam Singh – respondent No.1 has virtually gone un rebutted. Therefore, the same is to be relied upon. As such, I do not see any reason to differ with the Tribunal on that score and I do not find any reason to accept the plea of the learned counsel for the insurance company that it was a case of contributory negligence. Accordingly that plea stands rejected.

Next coming to the contention of learned counsel for the

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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appellant – insurance company that the compensation awarded to the claimants is on the higher side. The Tribunal had taken the age of deceased Mahabir to be 28 years. However, the version of the claimants that he was a driver by profession and employed with M/s Jai Bhole Travels Pvt. Ltd. Karnal getting salary of Rs.15,000/- per month besides other perks was rejected for the reason of non-production of proof of income of the deceased. He was taken to be an unskilled labourer and his income was assessed to be Rs.6,000/- per month.

Learned counsel for the insurance company has argued that at the time of the accident, wages of unskilled labourer were quite less to be precise Rs.4,967/- per month. However, I find that no ground is there to reduce such monthly income. As per the case of the claimants, the deceased Mahabir was working as a driver. The name of his alleged employer has also been mentioned. However, no satisfactory evidence with regard to income of deceased could be brought on the file by the claimants but one thing, which points out towards his working as driver is the fact that he was driving the ill-fated car at the relevant time, which shows that his avocation being that of a driver cannot be brushed aside lightly. A person working as a driver could have earned more than Rs.6,000/- per month at the relevant time but in absence of clear and cogent evidence in that regard, I accept the figure of Rs.6,000/- per month

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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as his income.

The Tribunal has awarded 50% of that amount towards future prospects. However, in view of the ratio of authority *National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009*, in such an eventuality 40% of the amount is to be added towards future prospects. Doing that the monthly income of the deceased comes out to Rs.6,000 + 2400 = Rs.8,400/-.

The Tribunal has deducted 1/3rd of the amount towards personal expenses. Whereas in terms of the ratio of authority *Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr., 2009(3) RCR(Civil)77* where the number of dependent family members is 4 to 6, deduction towards self-expenses is to be taken as 1/4th. Doing that the dependency of claimants comes out to Rs.6,300/- per month, annual dependency comes out to Rs.6,300 x 12 = Rs.75,600/-.

The Tribunal has used multiplier of 17, which keeping in view the age of the deceased has been properly used. Doing that the compensation payable comes out to Rs. 75,600 x 17 = 12,85,200/-.

The Tribunal has awarded a sum of Rs.25,000/- as expenses on burial and last rites, Rs.1,00,000/- to petitioner/claimant No.1 Smt.Mukesh Devi towards loss of consortium and Rs.2 lakhs to claimants No.2 and 3 towards love and affection. In view of citation *National*

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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Insurance Company Limited Versus Pranay Sethi and Ors.(supra), the

claimants are entitled to get compensation under conventional heads i.e. Rs.15,000/- on account of loss of estate, Rs.40,000/- towards loss of consortium and Rs.15,000/- as funeral expenses, total Rs.70,000/-. The total compensation comes out to Rs. 12,85,200 + 70,000 = 13,55,200/-.

The Tribunal has wrongly awarded compensation of Rs.15,49,000/-. The same is reduced to Rs.13,55,200/- payable by all the respondents jointly and severally. The claimants would be entitled to get interest @ 7.5% per annum from the date of filing of the claim petition till actual realization on the amount of Rs.13,55,200/-. The directions regarding deposit of shares and other terms and conditions in the impugned Award shall remain the same. However, the share of the claimants shall be reduced proportionately.

The appellant – insurance company shall be entitled to recover the difference in amount from the claimants as per law by way of filing an execution application before the Motor Accidents Claims Tribunal, Karnal.

With such modification, the **FAO-1381-2017** filed on behalf of the insurance company is allowed partly with costs.

Consequently, **FAO-2869-2017** filed on behalf of the claimants Smt.Mukesh Devi and others for enhancement of compensation

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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stands dismissed.

Now taking up FAO-1394-2017 filed on behalf of the insurance company of the offending canter against the award passed in MACT Case No.RBT/00017 of 2015 filed by Smt.Murti Devi and others and FAO-2868-2017 filed on behalf of those claimants for enhancement of compensation.

The Tribunal on the basis of evidence adduced before it took age of deceased Ramesh Kumar @ Rameshwar to be 38 years. Though according to the claimants, the deceased was an agriculturist as well as a labourer and used to earn Rs.15,000/- per month and he was employed with M/s Akshay Service Centre, Sitamai getting salary of Rs.8,000/- per month. The claimants had examined PW9 Akshay Kumar, who had stated that deceased Ramesh Kumar @ Rameshwar was working with him at his service station and used to get more than Rs.15,000/- per month. But the Tribunal had rejected his testimony and considered the deceased to be an unskilled labourer. However, I find that under the circumstances, the deceased should have been taken to be more than an unskilled labourer. Therefore, his income assessed as Rs.6,000/- per month cannot be taken to be on higher side.

The Tribunal has awarded 50% of that amount towards future prospects. However, in view of the ratio of authority **National Insurance**

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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Company Limited Versus Pranay Sethi and Ors.(supra), in such an eventuality 40% of the amount is to be added towards future prospects. Doing that the monthly income of the deceased comes out to Rs.6,000 + 2400 = Rs.8,400/-.

The dependent family members in this case happened to be 10. The Tribunal has deducted $\frac{1}{5}$ th of the amount towards personal expenses, which was done properly as per the ratio of authority **Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr.(supra)**. Doing that the dependency of claimants comes out to Rs.6,720/- per month, annual dependency comes out to Rs.6,720 x 12 = Rs.80,640/-.

The Tribunal has used multiplier of 15, which keeping in view the age of the deceased has been properly used. Doing that the compensation payable comes out to Rs. 80,640 x 15 = 12,09,600/-.

The Tribunal has awarded a sum of Rs.25,000/- as expenses on burial and last rites to the claimants, Rs.1,00,000/- to petitioner/claimant No.1 Smt.Murti Devi towards loss of consortium and Rs.2 lakhs to claimants No.2 to 8 towards love and affection. In view of citation **National Insurance Company Limited Versus Pranay Sethi and Ors.(supra)**, the claimants are entitled to get compensation under conventional heads i.e. Rs.15,000/- on account of loss of estate,

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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Rs.40,000/- towards loss of consortium and Rs.15,000/- as funeral expenses, total Rs.70,000/-. The total compensation comes out to Rs. 12,09,600 + 70,000 = 12,79,600/-.

The Tribunal has wrongly awarded compensation of Rs.16,21,000/-. The same is reduced to Rs.12,79,600/- payable by all the respondents jointly and severally. The claimants would be entitled to get interest @ 7.5% per annum from the date of filing of the claim petition till actual realization on the amount of Rs.12,79,600/-. The directions regarding deposit of shares and other terms and conditions shall remain the same as mentioned in the Award passed by the Tribunal. However, the share of the claimants shall stand reduced proportionately.

The appellant – insurance company shall be entitled to recover the difference in amount from the claimants as per law by way of filing an execution application before the Motor Accidents Claims Tribunal, Karnal.

With such modification, the **FAO-1394-2017** filed on behalf of the insurance company is allowed partly with costs.

Consequently, **FAO-2868-2017** filed on behalf of the claimants Smt.Murti Devi and others for enhancement of compensation stands dismissed.

Next taking up FAO-1395-2017 filed on behalf of the

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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insurance company of the offending canter against the award passed in MACT Case No.RBT/00019 of 2015 filed by Smt.Kailasho Devi and others and FAO-2867-2017 filed on behalf of those claimants for enhancement of compensation.

The Tribunal considering that Mohkam Singh deceased had retired on 31.3.2003 from post of Sub-Inspector on attaining the age of 58 years and had died on 1.11.2012, took his age as 67 years and 9 months, which was correctly done. The Tribunal considering statement of PW10 Vikram Kumar, Head Cashier, PNB, Nigdhu, Karnal, who had brought the summoned record with regard to pension record of the deceased Mohkam Singh stating that last pension amount of deceased was Rs.10,820/- and after his death, Smt.Kailasho Devi was receiving family pension at the rate of Rs.6,520/-, deducted that amount finding monthly loss to the petitioners as Rs.694/-, annual loss Rs.8,328/-, to make it round figure Rs.8,330/-. Considering the age of deceased, multiplier of 5 was used in view of judgment **Sarla Verma & Ors.** (supra), which was done correctly. The total amount comes out to Rs.41,650/-. No addition towards future prospects was granted and rightly so considering the age of deceased at the time of accident.

The Tribunal has awarded a sum of Rs.25,000/- as expenses on burial and last rites to the claimants, Rs.1,00,000/- to

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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petitioner/claimant No.1 Smt.Kailasho Devi towards loss of consortium.

However, in view of citation **National Insurance Company Limited**
Versus Pranay Sethi and Ors.(supra), the claimants are entitled to get compensation under conventional heads i.e. Rs.15,000/- on account of loss of estate, Rs.40,000/- towards loss of consortium and Rs.15,000/- as funeral expenses, total Rs.70,000/-. The total compensation comes out to Rs. 41,650 + 70,000 = 1,11,650/-.

The Tribunal has wrongly awarded compensation of Rs.1,66,650/-. The same is reduced to Rs.1,11,650/- payable by all the respondents jointly and severally. The claimants would be entitled to get interest @ 7.5% per annum from the date of filing of the claim petition till actual realization on the amount of Rs.1,11,650/-. The directions regarding deposit of shares and other terms and conditions shall remain the same as given in the Award except the proportionate decrease in the shares of the claimants.

The appellant – insurance company shall be entitled to recover the difference in amount from the claimants as per law by way of filing an execution application before the Motor Accidents Claims Tribunal, Karnal.

With such modification, the **FAO-1395-2017** filed on behalf of the insurance company is allowed partly with costs.

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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Consequently, **FAO-2867-2017** filed on behalf of the claimants Smt.Kailasho Devi and others for enhancement of compensation stands dismissed.

Further taking up FAO-1380-2017 filed on behalf of the insurance company of the offending canter against the award passed in MACT Case No.RBT/00018 of 2015 filed by injured Sanjeev Kumar and FAO-1396-2017 filed on behalf of the said insurance company against the award passed in MACT Case No.RBT00109 of 2015 filed by injured Bani Singh.

Coming to MACT Case No.RBT/00018 of 2015 filed on behalf of injured Sanjeev Kumar. In addition to his own statement appearing as PW5 supporting his case, he had also examined PW12 Naveen Dharma, Technician, PGI, Chandigarh, who had brought the summoned record pertaining to patient Sanjeev Kumar, who was admitted in their institute on 2.11.2012 and discharged on 8.11.2012. He had proved copy of treatment record as Ex.PW12/A and bill Ex.PW12/B. The claimant had placed on record medical bills Ex.P10 to Ex.P28 to the tune of Rs.36,344/-. The compensation was awarded to him as per details below:

1.	Medical bills amount to	Rs.36,344/-
2.	Loss of future earning on account of permanent disability to the tune of	Nil

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

3.	Physical and mental pain suffered by injured	Rs.5,000/-
4.	Special diet to the tune of	Rs.3,000/-
5.	Loss of amenities & loss of expectation of life to the tune	Nil
6.	Transportation charges	Rs.5,000/-
7.	Attendant charges	Nil
	Total	Rs.59,344 or to say Rs.49,345/-.

Coming to MACT Case No.RBT/00109 of 2015 filed on behalf of injured Bani Singh. In addition to his own statement appearing as PW6 supporting his case, he had also examined PW8 Dr.Akash Manga, who had deposed that Bani Singh was admitted in their hospital on 2.11.2012 with history of road side accident at village Dhand, District Karnal and he was discharged on 6.11.2012. He had proved his discharge summary Ex.P7/A and bills Ex.P7/B, copy of MLR Ex.P9. The petitioner/claimant had placed on record medical bills Ex.29 to Ex.P40 to the tune of Rs.5,390/-. The Tribunal held that it was proved on record that Bani Singh had sustained multiple injuries in the accident and awarded compensation as under:

1.	Medical bills amount to	Rs.5,390/-
2.	Loss of future earning on account of permanent disability to the tune of	Nil
3.	Physical and mental pain suffered by injured	Rs.3,000/-

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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4.	Special diet to the tune of	Rs.3,000/-
5.	Loss of amenities & loss of expectation of life to the tune	Nil
6.	Transportation charges	Rs.3,000/-
7.	Attendant charges	Nil
	Total	Rs.14,390/-.

As far as compensation awarded to injured Sanjeev Kumar and Bani Singh, I find that the compensation awarded to them is somewhat on lower side. There is absolutely no scope for denial of compensation to them or reducing the compensation already awarded. Since neither they have filed any appeal for enhancement nor cross-objections have been submitted by them in that regard, as such I refrain from enhancing the amount of compensation awarded to them by Motor Accidents Claims Tribunal, Karnal. However, there is no scope for setting aside the award with regard to grant of compensation awarded to Sanjeev Kumar and Bani Singh or reduction of compensation awarded to them by the Tribunal.

Therefore, the **FAO-1380-2017** and **FAO-1396-2017** so filed by the insurance company are without any merit and stand dismissed accordingly.

Lastly taking up FAO-4096 of 2017 filed by Amrik Singh - owner of ill-fated Maruti Car against the passed in MACT Case

FAO-1380-2017(O&M);
FAO-1381-2017(O&M);
FAO-1394-2017(O&M);
FAO-1395-2017(O&M);
FAO-1396-2017(O&M);
FAO-2867-2017(O&M);
FAO-2868-2017(O&M);
FAO-2869-2017(O&M); and
FAO-4096-2017(O&M)

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No.RBT/00020 of 2015.

There is solitary statement of petitioner Amrik Singh in support of his case. He has not examined any mechanic, surveyor or loss assessor or for that matter any technical person, who might have examined the car and found any damage thereto, if so, quantified the loss caused in monetary terms. Similarly, no cogent and convincing evidence has come on record to show that how much was the amount required to be spent to make the car roadworthy again. As a matter of fact, this witness had deposed that he had sold his damaged car to a junk dealer. He has not disclosed for how much amount, he has sold the car to the junk dealer. There is nothing to show that the car was not in such a condition that it could be got repaired and made roadworthy. Solitary statement of claimant, which is self-serving in absence of any corroborative evidence does not go to prove his case. The Tribunal by giving legal and valid reasoning has rejected his claim and I do not see any reason to differ with the same.

Therefore, **FAO-4096 of 2017** filed by Amrik Singh - owner of ill-fated Maruti Car stands dismissed being devoid of any merit.

16.7.2019

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No