

**XOBJC No. 240-CII of 2017 in/and
FAO No. 1397 of 2017 (O&M) and
FAO No. 8001 of 2017 (O&M)**

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

**XOBJC No. 240-CII of 2017 in/and
FAO No. 1397 of 2017 (O&M)
Date of Decision: July 09, 2019**

1. The New India Assurance Co. Ltd.

..... Appellants(s)

Versus

Balwant Singh and others

..... Respondent(s)

FAO-8001 of 2017 (O&M)

2. Balwant Singh

..... Appellants(s)

Versus

Gurjant Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

**Present: Mr. Vinod Gupta, Advocate
for the appellant in FAO-1397-2017 and
for respondent no.3 in FAO-8001-2017.**

**Ms. Neha Rana, Advocate for
Mr. Abhimanyu Singh, Advocate
for respondent no.1 in FAO-1397-2017 and
for the appellant in FAO-8001-2017.**

None for respondent-Gurjant Singh.

**Ms. Monika Jangra, Advocate
for respondent no.3 in FAO-1397-2017 and
for respondent no.2 in FAO-8001-2017.**

**Mr. Gursimranjit Singh, Advocate
for respondent no.4/cross-objector in FAO-1397-2017.**

LISA GILL, J. (oral)

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This judgment shall dispose of FAO-1397-2017 and Cross Objections-240-CII-2017 (The New India Assurance Company Ltd. Vs. Balwant Singh and others) as well as FAO-8001-2017 (Balwant Singh Vs. Gurjant Singh and others) as both the above noted appeals/cross-objections arise out of a common award dated 14.12.2016, passed by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal).

Two claim petitions were filed seeking compensation for the death of Rahul in a motor vehicle accident, which took place on 23.07.2015. MACP No. 408 of 2015 was filed by Balwant Singh, father of the deceased and MACP No. 561 of 2015 was filed by Aarti, widow of the deceased. The claimants sought compensation on account of the death of Rahul, who was claimed to be working as an agriculturist and engaged in dairy farming as well. Learned Tribunal decided both the claim petitions vide award dated 14.12.2016.

Considering the evidence on record, learned Tribunal held that Rahul lost his life in the motor vehicle accident, which took place on 23.07.2015, due to the rash and negligent driving of the offending truck bearing registration No. PB-10-DS-4891, by its driver Gurjant Singh-respondent no.1. While considering the income of the deceased to be Rs.12,150/- per month, after addition of 50% increment on account of future prospects, a sum of Rs.18,34,600/- was awarded to the claimant, which is detailed as under:-

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<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	12,150/- per month
2.	Total income after deduction of 1/3 rd on account of personal and living expenses of deceased	12,150 - 4050 = 8,100/-
3.	Total dependency after applying a multiplier of 18	8,100 x 18 x 12 = 17,79,600/-
4.	Loss of consortium to widow	50,000/-
5.	Funeral expenses	25,000/-
6.	Transportation	10,000/-
	Grand Total	Rs.18,34,600/-

FAO No. 1397 of 2017 has been filed by the insurance company, challenging the quantum of compensation. XOBJC No. 240-CII of 2017 has been filed by the widow and FAO No. 8001 of 2017 has been filed by the father of the deceased seeking enhancement of the compensation awarded by the learned Tribunal.

Learned counsel for the insurance company submits that the compensation awarded by the learned Tribunal is in violation of the guidelines laid down by Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. Moreover, income of the deceased has been wrongly assessed as Rs.12,150/- per month. It is further submitted that compensation under the conventional heads be also reduced.

Learned counsel for the cross-objector and the appellant in FAO No.8001 of 2017 submit that the compensation awarded by the learned Tribunal should be enhanced. There is sufficient evidence on record to show

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that the deceased was earning more than the income as assessed by the learned Tribunal. The deceased was an agriculturist and was also engaged in dairy farming. His father owns 9 acres of land. It is prayed that the compensation should thus be enhanced.

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

There is no dispute regarding death of Rahul in the motor vehicle accident, which took place on 23.07.2015, due to the rash and negligent driving of the offending truck bearing registration No. PB-10-DS-4891, by its driver Gurjant Singh-respondent no.1. The deceased was admittedly 19 years old at the time of the accident and had got married approximately 7 months prior to the accident in question. Learned counsel for the claimants/cross objector are unable to point out any evidence on record to indicate the exact income of the deceased at the time of the accident. Minimum wages in the State of Haryana at the time of the accident i.e. 23.07.2015 were Rs.5,886/- per month. Therefore, the income of the deceased has been wrongly assessed as Rs.8,100/- per month without reference to any evidence on record. In fact, learned Tribunal has specifically observed that there is no definite proof of the exact income of the deceased for the calculation of compensation, therefore, his income can be calculated while treating the deceased to be an unskilled labourer. However, without reference to the minimum wages prevalent in the State of Haryana, at the relevant time, income of the deceased has been incorrectly assessed as Rs.8,100/- per month. Keeping in view the facts and

circumstances of the case and the fact that there is no specific evidence on record to indicate the exact income of the deceased, at best it can be held that the claimants would be entitled to loss of managerial skills while accepting the deceased to be an agriculturist. Income of the deceased is thus assessed as Rs.6,500/- per month.

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*, 40% increment instead of 50% has to be afforded on account of future prospects. As the deceased was admittedly 19 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. Deduction of 1/3rd was correctly effected by learned Tribunal. Claimant-widow is entitled to a sum of Rs.40,000/- instead of Rs.50,000/- awarded towards loss of spousal consortium. Appellant/claimant - Balwant Singh (in FAO-8001-2017) is entitled to Rs.40,000/- for loss of filial consortium. Instead of a sum of Rs.35,000/- awarded towards funeral expenses and transportation, claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate.

Appellant/cross-objector/claimants 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 # 6,500 x 12	78,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	78,000+31,200 (78,000 x 40%) = 1,09,200/-

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3.	Income after 1/3 rd deduction on account of personal and living expenses of the deceased	1,09,200 – 36,400 (1,09,200 x 1/3 rd) = Rs. 72,800/-
4.	Total dependency after applying a multiplier of 18	72,800 x 18 = 13,10,400/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of spousal consortium to widow	40,000/-
8	Loss of filial consortium to appellant-Balwant Singh	40,000/-
	Grand Total	Rs.14,20,400/-

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, FAO-1397-2017 is partly allowed whereas XOBJC-240-CII-2017 and FAO-8001-2017 are dismissed.

July 09, 2019.

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**(LISA GILL)
JUDGE**

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