IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. FAO No. 7515 of 2016(O&M)

Date of Decision: August 26 , 2019.

Reliance General Insurance Company Ltd. ...... APPELLANT(s)

Versus

Devi Kumari and others ...... RESPONDENT (s)

2. FAO No. 3160 of 2018(O&M).

Devi Kumari and others ...... APPELLANT(s)

Versus

Faruk and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjeev Kodan, Advocate
for the appellant in FAO No.7515 of 2016 and
for respondent No.3 in FAO No.3160 of 2018.

Mr. Navkiran Singh, Advocate
for respondents No.1 to 3 in FAO No.7515 of 2016 and
for the appellants/claimants in FAO No.3160 of 2018.

Mr. Vishal Yadav, Advocate for
Mr. Ajay Ghangas, Advocate
for respondents No.5 and 6 in FAO No.7515 of 2016 and
for respondents No.1 and 2 in FAO No.3160 of 2018.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

This judgment shall dispose of FAO No.7515 of 2016 (Reliance

General Insurance Co. Ltd. v. Devi Kumari and others) and FAO No.3160 of 2018 (Devi Kumari and others v. Faruk and others), which arise out of the impugned award dated 17.08.2016 passed by the learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as, the 'Tribunal').

FAO No.7515 of 2016 has been filed by the Insurance company seeking reduction of the compensation awarded to the claimants, whereas FAO No.3160 of 2018 has been filed by the claimants seeking enhancement thereof.

Brief facts necessary for the adjudication of the case are that, the claimants, who are the widow, minor children and mother of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Rohtash. It is pleaded in the claim petition that Rohtash died due to the injuries suffered by him in a motor vehicle accident which took place on 19.01.2013. FIR No.8 dated 19.01.2013 under Sections 279/304A IPC was registered against driver of the offending vehicle in respect to the accident. The deceased was 44 years old at the time of the accident. He was working as a S.S. Teacher in Govt. Senior Secondary School, Dahar, District Panipat, drawing a salary of ₹39,600/- per month. Compensation to the tune of ₹85 lakhs was claimed.

Learned Tribunal on consideration of the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of the offending truck-traila bearing registration No. RJ-14GC-6525 by its driver, respondent – Faruk. Learned Tribunal while assessing income of the deceased-Rohtash as ₹39,094/- per month, awarded a total sum of ₹22,10,200/- to the claimants. Deceased was held to be 44 years old at the time of the accident. Deduction to the extent of 1/4th on account of personal expenses was effected. Split multiplier was applied by the learned Tribunal. ₹50,000/- each was awarded to the claimants on account of loss of love and affection, besides, ₹1,00,000/- to the claimant-widow on account of loss of consortium. ₹5,000/- on account of loss of estate and ₹25,000/- towards funeral expenses was awarded to the claimants.

Learned counsel for Insurance company submits that excessive compensation has been awarded under the conventional heads, which should be reduced. It is further submitted that no ground for enhancement of the compensation is made out. It is, thus, prayed that appeal filed by the insurance company be allowed and that of the claimants be dismissed.

Learned counsel for the claimants, on the other hand, submits that the learned Tribunal has wrongly applied the split multiplier. Moreover, increment on account of future prospects has not been afforded. It is, thus, prayed that the appeal filed by the claimants be allowed.

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

There is no dispute regarding death of Rohtash in a motor vehicle accident which took place on 19.01.2013 due to the rash and negligent driving of the offending vehicle bearing registration No.RJ-14GC-6525 by respondent -Faruk. Finding of the learned Tribunal in this regard has attained finality. There is further no dispute regarding the age of the deceased to be 44 years at the time of the accident or the fact that he was working as a S.S. Teacher in the Govt. Senior Secondary School, Dahar. Income of the deceased has been correctly assessed as ₹39,094/- per month after deduction of the component of income tax.

Learned counsel for the parties are *ad idem* that in terms of the judgment of the Hon'ble Supreme Court in **Reliance General Insurance Co.Ltd. Versus Shashi Sharma and others,** ***2016 ACJ 2723***, the amount to be received by the claimants under the Haryana Compassionate Assistance to the Dependants of the Deceased Government Employees Scheme, 2006 (hereinafter referred to as the '2006 Scheme') has to be deducted from the total compensation awarded in the present proceedings.

In terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***, claimants are entitled to addition in income at the rate of 30% on account of future prospects. Deduction to the extent of $1/4^{th}$ has been rightly effected on account of personal expenses.

Learned Tribunal has erred in applying a split multiplier of 9 (2+7) in this case. It has been held by Hon'ble Supreme Court in **Puttamma and others v. K.L.Narayana Reddy and another,** ***(2013) 15 SCC 45*** that in normal circumstances a split multiplier should not be applied. Accordingly, multiplier of 14 is to be applied in this case. Claimants are entitled to ₹15,000/- towards funeral expenses instead of ₹25,000/- and another ₹15,000/- on account of loss of estate, instead of ₹5,000/-. Claimant, widow of the deceased-Rohtash, is entitled to ₹40,000/- towards loss of spousal consortium, children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium and mother of the deceased is entitled to ₹40,000/- towards loss of filial consortium. Reference in this regard can gainfully be made to 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 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	39,094 per month i.e., 4,69,128 per annum
2.	Total income after addition at the rate of 30% on account of future prospects	4,69,128 + (4,69,128 **x** 30%) = 6,09,866
3.	Deduction of 1/4th on account of personal expenses	6,09,866 – (6,09,866 **x** 1/4) = 4,57,399
4.	Total dependancy after applying a multiplier of 14	(4,57,399 **x** 14) = 64,03,586
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to claimant-widow	40,000
8.	Loss of parental consortium to claimants-children	40,000
9.	Loss of filial consortium to claimant-mother	40,000
	Grand Total	₹65,53,586/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. As mentioned in the foregoing paras, the amount to be received by the claimants under the 2006 Scheme has to be deducted from the total awarded compensation. Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Manner of disbursement shall remain the same as determined by the learned Tribunal.

Accordingly, FAO No.7515 of 2016 filed by the Insurance company is dismissed with no order as to cost. FAO No.3160 of 2018 filed by the claimants is disposed of with the modification in the amount of compensation as above.

(LISA GILL)
JUDGE

August 26 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No