

1. FAO No. 4489 of 2017 (O&M)
Date of Decision : 22.05.2019

Versus

2. FAO No. 5281 of 2017 (O&M)

Versus

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Mr. Rajesh K. Sharma, Advocate
for respondent no. 3.

Surinder Gupta, J.

Both the above captioned appeals have been filed by claimants-appellants seeking enhancement of compensation allowed by Motor Accident Claims Tribunal, Fatehabad (later referred to as ‘the Tribunal) vide award dated 05.09.2016, on account of death of Amajit @ Lappu Ram and Angrej, in a motor vehicle accident with Ritz Car bearing registration no. HR-20-Z-5477 (later referred to as ‘the deceased’).

2. Tribunal awarded compensation for death of **Amarjit @ Lappu Ram (FAO-4489-2017)** as follows:-

(i)	Name of the deceased	Amarjit @ Lappu Ram
(ii)	Age of the deceased	Between 51 to 55 years (date of birth of deceased was 01.01.1960)
(iii)	Income of the deceased	₹6000 per month

(iv)	1/3 rd of (iii) deducted towards personal expenses of the deceased	(₹6000-2000)=₹4000 per month
(v)	Annual income after multiplier of 11 applied	(₹4000X12X11) = ₹528000
(vi)	Compensation towards loss of consortium	₹100000
(vii)	Compensation towards funeral expenses	₹32000
Total		₹6,60,000

3. Tribunal awarded compensation for death of **Angrej (FAO-5281-2017)** as follows:-

(i)	Name of the deceased	Angrej
(ii)	Age of the deceased	25 years
(iii)	Income of the deceased	₹6000 per month
(iv)	50% of (iii) added towards loss of future prospects	(₹6000+₹3000)= ₹9000 per month
(iv)	1/4 th of (iv) deducted towards personal expenses of the deceased	(₹9000-₹2250)=₹6750 per month
(v)	Annual income after multiplier of 18 applied	(₹6750X12X18) = ₹1458000
(vi)	Compensation for loss of care and guidance for minor children	₹100000
(vii)	Compensation towards loss of consortium	₹100000
(viii)	Compensation towards funeral expenses	₹22000
Total		₹16,80,000

4. Learned counsel for the appellants has argued that both deceased-Amarjit @ Lappu Ram and Angrej were in the business of sale and purchase of buffalos and were also running business of dairy farming, thereby earning ₹15,000/- to ₹20,000/- per month. Even if claimants have failed to produce any document regarding income of the deceased, Tribunal could at least take minimum wages as on 01.01.2016 while computing amount of compensation.

5. Learned counsel for respondent no. 3-Insurance Company has argued that Tribunal in the absence of any documentary evidence rightly assessed income of both the deceased as ₹6000/- per month, which was prevailing minimum wages. Though, in the case of Amajit @ Lappu Ram, Tribunal has not allowed any addition in income of the deceased towards loss of future prospects but in case of Angrej 50% addition has been allowed which as per law settled in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009** is to be reduced to 40% and compensation allowed in both the cases under the conventional heads is to be confined to ₹70,000/- in place of ₹1,32,000/- awarded to claimants for death of Amarjit @ Lappu Ram and ₹2,22,000/- awarded to claimants for death of Angrej.

6. It is admitted fact that claimants could not produce any evidence regarding income/business of both the deceased. The accident had taken place on 11.12.2015, as such, I deem it appropriate to take minimum wages as notified by Labour Commissioner, Haryana w.e.f. 01.01.2016. Deceased-Amarjit @ Lappu Ram was of the age of about 55 years, as such, had a long experience in life. I take his minimum wages as prescribed for a semi skilled worker w.e.f. 01.01.2016, which was ₹8,375.01 ps. per month, rounded off to ₹8400/- per month. As per law settled in case of **Pranay Sethi (supra)**, claimants are also entitled to 10% addition in income of the deceased towards loss of future prospects and compensation of ₹70,000/- under the conventional heads.

7. Keeping in view the above discussion, the compensation to which the claimants are entitled for death of **deceased-Amarjit @ Lappu Ram**, is reassessed as follows:-

(i)	Income of the deceased	₹8400 per month
(ii)	10% of (i) above added towards loss of future prospects	(₹8400+840) = ₹9240 per month
(iii)	1/3 rd of (ii) above deducted towards personal expenses	(₹9240- ₹3080) = ₹6160 per month
(iv)	Compensation after multiplier of 11 is applied	(₹6160X12X11)= ₹813120 per annum
(v)	Compensation towards loss of consortium	₹40000
(vi)	Compensation towards loss of estate	₹15000
(vii)	Compensation towards funeral expenses	₹15000
Total		₹8,83,120 (rounded off to ₹883150)

8. Deceased-Angrej was 25 years of age. Though, learned counsel for respondent no. 3 has alleged that he was 27 years of age but this fact is not proved from any document. His salary can be taken as unskilled worker, which was ₹7976.20 ps. rounded off to ₹8000/- per month as on 01.01.2016 as per letter dated 05.04.2016 of Labour Commissioner, Haryana. Claimants are also entitled to 40% addition in income of the deceased towards loss of future prospects and ₹70,000/- under the conventional heads as per law settled in case of ***Pranay Sethi (supra)***.

9. Keeping in view the above discussion, the compensation to which the claimants are entitled for death of **deceased-Angrej**, is reassessed as follows:-

(i)	Income of the deceased	₹8000 per month
(ii)	40% of (i) above added towards loss of future prospects	(₹8000+3200)=₹11200 per month
(iii)	1/4 th of (ii) above deducted towards personal expenses	(₹11200- ₹2800) = ₹8400 per month
(iv)	Compensation after multiplier of 18 is applied	(₹8400X12X18)= ₹1814400 per annum
(v)	Compensation towards loss of consortium	₹40000

(vi)	Compensation towards loss of estate	₹15000
(vii)	Compensation towards funeral expenses	₹15000
Total		₹18,84,400

10. As a sequel of my above discussion, these appeals have merit and are accepted. The award of the Tribunal is modified and the compensation allowed to claimants-appellants for death of **Amarjit @ Lappu Ram (in FAO-4489-2017)** is enhanced from **₹6,60,000/-** to **₹8,83,150/-**. The enhanced amount of compensation shall be shared by claimants-appellants in this appeal, as follows:-

- (i) Appellant no. 1-Banso Devi (wife) : 80%
- (ii) Appellant no. 2-Bawa (son) : 10%
- (iii) LRs of appellant no. 3-Angrej (son) : 10%

11. For death of **Angrej (in FAO-5281-2017)** the amount of compensation is enhanced from **₹16,80,000/-** to **₹18,84,000/-**, which shall be shared by claimants-appellants as follows:-

- (i) Appellant no. 1-Jaspreet Kaur (wife) : 60%
- (ii) Appellants no. 2 to 4 (children) : 10% each
- (iii) Appellant no. 5 (mother) : 10%

12. The enhanced amount of compensation in both the appeals will carry interest @ 7.5% per annum from the date of filing of the appeals till actual realization. Respondent No.3-Insurance Company, being insurer of the offending vehicle, will deposit the share of claimants-appellants, who are major, in their bank accounts or pay the same to them through demand drafts.

13. The share of claimants, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It

is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their names after the date of their attaining majority. The above direction has been issued to save claimants from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after attaining the age of majority. Claimant-Jaspreet Kaur, being mother and natural guardian of minor claimants shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their up bringing.

14. In the event of demise of any of the claimant(s) before or after disposal of this appeal, compensation of his/her share shall be paid to surviving claimant(s).

May 22, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No