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

(1) FAO No. 5263 of 2017 (O&M)
Date of Decision: May 28, 2019

Royal Sundaram Alliance Insurance Company Limited
..........APPELLANT

VERSUS

Bachni Devi and others
........RESPONDENTS.

(2) FAO No. 3123 of 2018 (O&M)

Bachni Devi ....APPELLANT

VERSUS

Vikas Kumar and others ....RESPONDENTS.

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amit Goyal, Advocate
for the appellant in FAO No. 5263 of 2017 and
for respondent No. 3 in FAO no. 3123 of 2018.

Mr. Y.S.Turka, Advocate
for the appellants in FAO No. 3123 of 2018 and
for respondent No. 1 in FAO No. 5263 of 2017.

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SURINDER GUPTA, J.

Heard.

Both the above captioned appeals have been taken up together for disposal as the same arises out of the award dated 12.04.2017 passed by the Motor Accident Claims Tribunal, Ambala, (later referred as the Tribunal), allowing compensation of ₹55,28,589/- for the death of Gian Singh (later referred as the deceased), husband of claimant-appellant-Bachni

Devi in a motor vehicle accident with Alto K-10 Car bearing registration No.HR-54C-6737 (later referred as the offending vehicle). Appellant-Royal Sundaram Alliance Insurance Company Ltd. (FAO No.5263 of 2017) has challenged the award on the quantum of compensation awarded by the Tribunal while claimant-Bachni Devi in her appeal (FAO No.3123 of 2018) has sought enhancement of compensation awarded by the Tribunal.

As the only issue in both the appeals relate to the quantum of compensation, the detailed facts of the cases are being skipped for the sake of brevity.

The Tribunal computed the compensation as awarded in this case as follows:

Sr. No.	Heads	Calculation
1	Income of the deceased Gian Singh as per salary certificate Ex. P1	₹84,006/-p.m.
2	Deduction of 1/3rd as personal expenses of deceased	₹28,002/-
3	Balance	₹56,004/-
4	Age of the deceased	57 years
5	Compensation after applying multiplier of 9	₹56,004X12X9=60,48,432
6	Deduction of income tax @ 10%(as calculated by the Tribunal)	₹60,48,432-₹604843=₹5443589
7	Loss of consortium	₹30,000/-
8	Funeral expenses	₹25,000/-
9	Loss of love and affection	₹30000/-
10	Total	₹55,28,589/-

So far as, the income, age and application of multiplier as mentioned in the above calculation chart is concerned, both the parties have no dispute in this regard.

Learned counsel for both the parties submit that they have no objection if the compensation awarded by the Tribunal is reassessed as per the law settled in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***.

The deceased was employed as a Field Officer in Oriental Bank of Commerce at Bilaspur, District Yamuna Nagar. He was 57 years of age, as such, the claimant is entitled to 15% addition in income of the deceased towards loss of future prospects.

With the assistance of both the counsel for the parties, income tax deductible from the salary of deceased, after making deduction of ₹1,50,000/- towards his savings, has been calculated as ₹1,02,400/-. After deducting this income tax, net salary of the deceased is worked out as ₹9,05,600/-per annum.

The only disputed point between the parties is about the deduction made by the Tribunal from income of the deceased towards his personal expenses. The Tribunal has made this deduction as $1/3^{rd}$ while learned counsel for the appellant-Royal Sundaram Alliance Insurance Company Ltd. has argued that wife of the deceased namely Bachni Devi was sole dependant on his income, as such, the deduction towards personal expenses of the deceased should be made as 1/2 of his income.

Learned counsel for the claimant-Bachni Devi has argued that the claimant is the sole dependant on the deceased but her dependency on the income of the deceased could be taken as major part of his income instead of taking it as 1/2.

The question of making deduction from income of the deceased towards his personal expenses has already been settled by the Hon'ble Apex

Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121,*** wherein it has been observed in para 14 as follows:-

> *"14. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4 th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed* six."

The above observations of the Hon'ble Apex Court were further affirmed in the case of ***Pranay Sethi's (supra).*** As per ratio of judgment in the above referred case, deduction of $1/3^{rd}$ from income of the deceased can be made if he left behind 2 to 3 dependants. As the deceased has left behind sole dependant namely Bachni Devi, the deduction of 1/2 of his income is to be made towards his personal expenses of the deceased. The claimant is also entitled to compensation of ₹70,000/- under the conventional heads.

As a sequel of above my discussions, the compensation to the claimant is entitled, is reassessed as follows:-

Sl.No	*Heads*	*Calculation*
(i)	Income of the deceased (after deducting income tax)	₹ 9,05,600 p.a.
(ii)	15% of above (i) to be added as future prospects	(₹9,05,600+ ₹1,35,840)=₹10,41,440 p.a.
(iii)	Deduction of 1/2 towards personal expenses of the deceased	(₹10,41,440 -₹5,20,720)= ₹5,20,720 p.a

Sl.No	*Heads*	*Calculation*
(iv)	Compensation after multiplier of 9 is applied	(₹5,20,720X9)= ₹46,86,480/-
(v)	Loss of consortium	₹40000
(vi)	Loss of estate	₹15000
(vii)	Funeral expenses	₹15000
Total		₹47,56,480

The appeal filed by insurer of the offending vehicle (FAO No.5263 of 2017) has merits and the same is accepted. The appeal filed by claimant Bachni Devi (FAO No.3123 of 2018) has no merits and the same is dismissed and the amount of compensation is reduced from ₹55,28,589/- to ₹47,56,480/-. Keeping in view the facts and circumstances of the case, parties are left to bear their own costs. Liability to pay the amount of compensation shall be as per award.

Vide order dated 04.08.2017 passed in this appeal compensation amount beyond 39 lakhs has been stayed. Insurer of the offending vehicle will deposit the entire remaining amount of compensation along with interest as awarded by the Tribunal in the bank account of claimant or pay the same through demand draft.

(SURINDER GUPTA)
JUDGE

May 28, 2019
Jyoti-II

Whether speaking/reasoned: ***Yes/No***
Whether Reportable: ***Yes/No***