

**FAO No. 5762 of 2017 (O&M) and
FAO No. 7769 of 2017 (O&M)**

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

**FAO No. 5762 of 2017 (O&M)
DECIDED ON: MARCH 19, 2019**

PEPSU ROAD TRANSPORT CORPORATION & ANR

.....APPELLANTS

VERSUS

M/S FRIENDS TRANSPORT COMPANY AND OTHERS

.....RESPONDENTS

AND

FAO No. 7769 of 2017

ARTY DEVI AND OTHERS

.....APPELLANTS

VERSUS

KULWINDER SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

**Present: Mr. Anupam Singla, Advocate
for the appellants in FAO No. 5762 of 2017 and
for respondents No. 3 and 4 in FAO No. 7769 of 2017.**

**Mr. Karan Padam, Advocate for
Mr. Chandan Singh Rana, Advocate
for respondent No.1(i) in FAO No. 5762 of 2017 and
for respondent No.2 (i) in FAO No. 7769 of 2017.**

Mr. L.S. Sidhu, Advocate
for respondents No. 1(ii) and (iii) in FAO No. 5762 of 2017.

Mr. Rajbir Singh, Advocate
for respondents No.3 to 5 in FAO No. 5762 of 2017 and
for the appellants in FAO No. 7769 of 2017.

AVNEESH JHINGAN J. (ORAL)

The afore-mentioned two appeals are being disposed of by one order as they are arising out of the same accident and common award.

The award dated 02.01.2017 passed by the Motor Accident Claims Tribunal, Mansa (for brevity 'the Tribunal') has been assailed by filing two appeal, one by the PEPSU Road Transport Corporation being Lessee of bus bearing registration No. PB-13-Y-9188 (hereinafter referred to as the 'offending vehicle') and other by the legal heirs of Narinder Singh i.e. FAO No. 5762 of 2017 and FAO No. 7769 of 2017 respectively.

The issue raised in the appeal filed by the lessee of the offending vehicle is that as per the loan agreement the liability to pay the compensation was of the lessor i.e. M/s Friends Transport Company, Ludhiana. In the claim proceedings, the driver, lessee and lessor of the offending vehicle were held jointly and severally liable to pay compensation. The grievance raised is that Lessee be given recovery rights in terms of the clauses of the agreement.

The claimants have filed the appeal seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The facts necessary for adjudication of the present appeal(s) are

summarized below:-

On 23.01.2014, Narinder Singh was riding a motorcycle bearing registration No. PB-31-E-6851. On the way, motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he fell down and suffered grievous injuries. He was taken to Civil Hospital, Budhlada where doctors declared him dead. FIR No. 08, dated 23.01.2014 was registered at Police Station City Budhlada.

In the claim petition, it was proved that the deceased was working as a Government Teacher and was earning ₹39,396/- per month; 1/3rd deduction for self-expenses was made and multiplier of '16' was applied. The Tribunal awarded a sum of ₹51,72,688/- alongwith interest @6% per annum. The amount awarded included ₹50,000/- each for loss of love and affection and mental pain and agony, ₹30,000/- was awarded for transportation and last rites.

In the claim proceedings, the lessee relied upon the lease agreement dated 23.11.2010 (Ex.R-5) to state that as per the terms and conditions of the agreement, it is the lessor who is liable to pay compensation. The Tribunal held the driver, two partners i.e. Gurmeet Singh and Gurvir Kaur of the lessor company and the lessee jointly and severally liable to pay compensation.

Heard learned counsel for the parties and perused the record.

FAO No. 7769 of 2017

Learned counsel for the appellant(s) contends that that no future prospects have been awarded. No other issue has been raised.

Learned counsel for the respondents contend that no income tax has been deducted and the amount under the conventional heads be awarded in

consonance with the decision of the Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009.** The grievance is that no amount be awarded for loss of love and affection.

There is no dispute between the parties regarding the age of the deceased, multiplier applied and deduction made for self-expenses.

The contention raised by learned counsel for the appellants deserves acceptance.

Having due regard to the decisions of the Supreme Court in **Pranay Sethi's case (supra) Hem Raj vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480;** 50% future prospects are awarded, as the deceased was having a permanent job and was below 40 years.

As the quantum of compensation is being revisited, it would be appropriate to deduct income tax from annual income for calculating compensation as per the decision of the Supreme Court in **Manasvi Jain Vs. Delhi Transport Corporation, 2014 (3) RCR (Civil) 313.** As per Form 16 produced, approximately an amount of ₹15,000/- is payable which shall be deducted from the annual income.

As the quantum of compensation is being revisited, the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in **Pranay Sethi's** case (supra). The claimants are entitled to ₹15000/- each for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium. No amount is awarded for loss of love and affection.

In view of above discussion the compensation is recalculated as

under:

	Head	Compensation awarded
(i)	Monthly income	₹ 39,396/- per month
(ii)	Future prospects at 50%	₹ 19,698/-
(iii)	Annual Income	₹ 59,094x12= ₹7,09,128/-
(iv)	Deducting income tax	₹7,09,128-₹15000=6,94,128/-
(v)	Deduction of personal expenses	₹ 2,31,376/- (i.e. 1/3 rd of total income)
(vi)	Multiplier	16 (as per age of deceased)
(vii)	Loss of income	₹4,62,752x16= ₹74,04,032/-
(viii)	Funeral expenses	₹15,000/-
(ix)	Loss of estate	₹15,000/-
(x)	Loss of consortium	₹40,000/-
	Total Compensation awarded	₹74,74,032/-

The award dated 02.01.2017 is modified to the extent that amount of ₹51,72,688/- awarded by the Tribunal is enhanced to ₹74,74,032/-. The claimants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

FAO No. 5762 of 2017

Learned counsel for the lessee contends that the recovery rights be granted to recover the compensation awarded by the Tribunal from the lessor of the offending vehicle in terms of the lease agreement.

The Tribunal has rightly held the driver, lessee and lessor jointly and severally liable to pay compensation. However, if any right accrues to the

lessee based upon the terms and conditions of the agreement, it shall be at liberty to proceed against the lessor in accordance with law, if so desired.

In view of afore-said discussion, the appeals are disposed of in above terms.

**(AVNEESH JHINGAN)
JUDGE**

**MARCH 19, 2019
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***Whether speaking/reasoned:
Whether reportable :***

***Yes/No
Yes/No***