

FAO No. 6559 of 2017 (O&M)
FAO No. 6620 of 2017 (O&M)

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226 (2 cases)

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

FAO No. 6559 of 2017 (O&M)
Date of Decision: 09.01.2019

National Insurance Company Limited

-Appellant

Vs

Deepika and others

-Respondents

FAO No. 6620 of 2017 (O&M)

Deepika and others

-Appellants

Vs

Bijender @ Kala and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Satpal Dhamija, Advocate,
for the appellant (in FAO-6559-2017).

Mr. C.B. Goel, Advocate, for
Ms. Sangeeta, Advocate,
for the appellants (in FAO-6620-2017).
for the respondents (in FAO-6559-2017).

RAJ MOHAN SINGH, J. (ORAL)

Vide this common order, FAO No. 6559 of 2017 (O&M) titled 'National Insurance Company Limited vs Deepika and others' and FAO No. 6620 of 2017 (O&M) titled 'Deepika and others vs Bijender @ Kala and others' are being disposed of.

FAO No.6559 of 2017 has been preferred by the Insurance Company. Claimants have filed FAO No.6620 of 2017. The vehicle was duly insured.

Learned counsel for the appellant in FAO No.6559 of 2017 accepts notice on behalf of respondent No.3 in FAO No.6620 of 2017.

With the concurrence of both the parties, I proceed to dispose of the aforesaid appeals.

Since both the parties have challenged the award according to their own perspective, therefore, common facts are being noticed.

The accident took place on 14.06.2016 in which Sumit died. The Motor Accident Claims Tribunal, Jhajjar held that the accident in question took place due to rash and negligent driving of truck bearing No.HR-69-B-9724 by its driver. The deceased was 31 years of age at the time of accident and was working as Data Entry Operator in Gurgaon against monthly salary of Rs.10,200/-. Monthly income of the deceased was proved by Assistant of the Company while appearing as PW4. The witness with reference to Salary Certificate Ex.P8, Authority Letter Ex.P9, Salary Statement Ex.P10 and copy of appointment letter of the deceased Ex.P11 proved the necessary ingredients of salary. The witness also tendered

service record of the deceased showing that his appointment was extended from time to time and documents Ex.P12 to Ex.P17 were tendered and proved by the witness though the deceased was working on contract basis but his services were extended from time to time and on the date of accident, he was earning Rs.10,200/- per month with further future prospects in due course. The income of the deceased was proved by way of aforesaid documentary evidence and the same can be taken to be Rs.10,200/- per month with future prospects of 40% in view of **National Insurance Company Limited vs Pranay Sethi and others, 2018(1) Apex Court Judgments (SC) 183.** The total monthly income would come out to be Rs.14,280/- per month (10,200+4080).

The claimants are widow, two minor children and mother of the deceased, therefore, keeping in view the composition of family, deduction to the extent of 1/4th has to be applied towards personal expenses of the deceased. The said amount would come out to be Rs.3570/- and the residual monthly income of the deceased comes out to be Rs.10,710/- per month and Rs.1,28,520/- per annum.

In view of **Smt.Sarla Verma vs Delhi Transport Corporation, 2009(3) RCR (Civil) 77,** multiplier of 16 has to be applied. In this way, the amount of compensation comes out to

be Rs.20,56,320/-. If conventional heads in terms of **National Insurance Company Limited vs Pranay Sethi and others case (supra)** is appreciated, then the claimants would be entitled to additional amount of Rs.70,000/- under the aforesaid heads and the total amount of compensation comes out to be Rs.21,26,320/-.

The Tribunal has already granted Rs.14,64,200/- and the said amount has to be deducted from total computation of the compensation. In this manner, remaining amount of Rs.6,62,120/- shall carry interest @ 7.5% per annum from the date of filing of claim petition till final realization of the amount.

The liability to pay the enhanced amount and the mode of apportionment shall remain the same as ordered by the Tribunal.

Disposed of.

09.01.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No