

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

1.

FAO No. 2110 of 2016(O&M)

Date of Decision: March 14 , 2019.
- Shri Ram General Insurance Company Ltd.

..... APPELLANT(s)
- Versus
- Beant Kaur and others

..... RESPONDENT (s)
2.

FAO No. 2288 of 2017(O&M).
- Beant Kaur and others

..... APPELLANT(s)
- Versus
- Rama Kant and others

..... RESPONDENT (s)
3.

FAO No. 5882 of 2018(O&M).
- National Insurance Company Ltd.

..... APPELLANT(s)
- Versus
- Rinki Sharma and others

..... RESPONDENT (s)
4.

FAO No. 3757 of 2018(O&M).
- Future Generali India Insurance Company Ltd.

..... APPELLANT(s)
- Versus
- Gauri Bist and others

..... RESPONDENT (s)
5.

FAO No. 6845 of 2016(O&M).
- Magma HDI General Insurance Company Ltd.

..... APPELLANT(s)
- Versus
- Manju Rani and others

..... RESPONDENT (s)

6. FAO No. 1652 of 2017(O&M).

Manju Rani and others APPELLANT(s)

Versus

Krishan Lal and another RESPONDENT (s)

**7. XOBJC No.163-CII of 2018 in/and
FAO No. 916 of 2018(O&M).**

IFFCO Tokio General Insurance Company Ltd. APPELLANT(s)

Versus

Poonam and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rajbir Singh, Advocate
for the appellant in FAO No.2110 of 2016 and
for respondent No.3 in FAO No.2288 of 2017.

Mr. Sagar Aggarwal, Advocate
for the appellants in FAO No.2288 of 2017 and
for respondents No.1 to 5 in FAO No.2110 of 2016.

Mr. Sandeep Suri, Advocate
for the appellant in FAO No.5882 of 2018
None for respondents No.1 to 5 in FAO No.5882 of 2018.

Mr. Rajesh K.Sharma, Advocate
for the appellant in FAO No.3757 of 2018.

Mr. Rajiv Kumar Saini, Advocate
for respondents No.1 to 3 in FAO No.3757 of 2018.

Mr. Rajneesh Malhotra, Advocate
for the appellant in FAO No.6845 of 2016 and
for respondent No.2 in FAO No.1652 of 2017.

Mr. Nonish Kumar, Advocate
for the appellants in FAO No.2288 of 2017 and
for respondents No.1 to 4 in FAO No.6845 of 2016.

Mr. Sachin Ohri, Advocate
for the appellant in FAO No.916 of 2018.

Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate
for respondents No.1 to 4/cross-objectors in FAO No.916 of 2018.

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?

LISA GILL, J.

This judgment shall dispose of FAO No.2110 of 2016, FAO No.2288 of 2017, FAO No.5882 of 2018, FAO No.6845 of 2016, FAO No.1652 of 2017, FAO No.3757 of 2018 and FAO No.916 of 2018 alongwith XOBJC No.163-CII of 2018.

All these appeals are taken up together for hearing as one common primary question is raised in all these appeals by learned counsel for the appellant-Insurance Companies viz.,

'whether in a case, where no documentary evidence is led by the claimants to prove the income of a deceased or injured as the case may be, it is the minimum wages as fixed by the State under the Minimum Wages Act, 1948, which should be assessed as the income of the deceased/injured or the rates fixed by the Deputy Commissioner of the area, to be paid in contingencies to workers appointed by the government on contract at that particular point of time (hereinafter referred to, as the 'DC Rates')?'

Learned counsel for the appellant-Insurance Companies vehemently argue that in a situation where the claimants fail to lead any documentary evidence to prove the income of the deceased or injured as the case may be, the

Court/Tribunal should not assess income to be more than minimum wage as may be fixed under the Minimum Wages Act. It is contended that in case the DC Rates in a particular district are followed, there would be a loss of uniformity in assessment of income of the deceased/injured. It is submitted that DC Rates vary from district to district and there is no structured manner or basis for fixation of the said wages. Moreover, the DC Rates are not reflective of the minimum wage which may be prevalent at a particular point of time. DC Rates, it is submitted, reflect the wages which are paid to the workers who are appointed on contract with the Government Departments. These are the rates which are available to be paid to the persons employed in contingencies by the government departments/agencies. It is further submitted that minimum wages as notified by the State provide uniformity. Moreover, the same are subject to periodic revisions and are applicable across the board in the unorganised sector. Therefore, it is only the minimum wages as notified by the State which should be the sole criterion for assessing income of the deceased/injured as the case may be.

Learned counsel for the claimants on the other hand with equal vehemence argued that minimum wages as notified by the State Government should not be the criterion at all for assessing income of the deceased or injured. DC Rates, it is contended offer a better criterion or guideline for such an assessment. Moreover, the Motor Vehicles Act, being a beneficial legislation, it is the DC Rates which should be taken in consideration while assessing income of the deceased/injured as they are a better indicator of the income actually earned by persons following various vocations.

I have heard learned counsel for the parties at length.

At the outset it would be useful to refer to relevant provisions of the Minimum Wages Act. The Minimum Wages Act, 1948 was enacted to ensure minimum wages to the workers in the unorganised sector as well as to provide for specified working hours, paid holidays etc. The Tripartite Committee on Fair Wages, which was constituted in 1948 by the Central Advisory Council observed that the minimum wages must be provided, not merely for the bare subsistence of life but also for the preservation of efficiency of the workers by providing for some measures of education, medical requirement and amenities. The said Committee referred to five elements, which should be considered while fixing the minimum wage, which reads as under:-

- “1. 3 consumption units per earner;
2. Minimum food requirement of 2700 calories per average adult;
3. Cloth requirement of 72 yards per annum per family;
4. House rent corresponding to the minimum area provided under the Government's Industrial Housing Scheme;
5. Fuel, lighting and other miscellaneous items of expenditure to constitute 20% of the total minimum wage.”

Section 4 of the Minimum Wages Act provides for fixation of minimum wages and reads as under:-

“4. Minimum rate of wages.-

(1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under Section 3 may consist of--

- (i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the "cost of living allowance"); or
- (ii) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorized; or

- (iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.
- (2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.”

Section 5 of the Minimum Wages Act provides the procedure for fixation and revision of the minimum wages and reads as under:-

- “(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either--
- (a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or
 - (b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.
- (2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also.”

A Division Bench of this Court in **Gurgaon Industrial Association**

and another v. State of Haryana, 2017(3) Law Herald 2541, held that the components enumerated in Clauses (i), (ii) and (iii) of Section 4(1) of the Minimum Wages Act, are not mutually exclusive. They are in the nature of guidelines and it would be open to the State to incorporate the components of all the three clauses while fixing/revising the minimum wages in order to provide maximum relief to the employees. Thus, it is apparent that minimum wages in a State are fixed in a particular manner as per the statutory provisions.

In respect to the DC Rates, it is not in dispute that they are not of a statutory character. DC Rates necessarily vary even within the districts in one particular State. Fixation of such rates are contingent on various factors including the question of availability of a particular kind of labour, worker or a specialised employee in that area. Assessment or fixation of the DC Rates is not necessarily based upon any specific guidelines or criterion which is specifically laid down on a scientific or substantive basis. Said rates are primarily laid down to meet any contingencies while appointing any person on contract basis to work for the government departments. There are no specific or set principles or guidelines for fixation of the DC Rates as specifically provided under the Minimum Wages Act. In the case of DC Rates, it is not in dispute that they have no statutory basis or sanction. Moreover, these rates are dependent upon a number of local factors which necessarily differ from district to district.

It is further not in dispute that both the States of Punjab and Haryana notified/fixed the minimum rates of wages in respect of scheduled employments. As per notification dated 27th June, 2007 issued by the Labour Department, State of Haryana, it is stated that the minimum rates of wages being fixed/revised are linked with the Haryana State Working Class Consumer Price Index Number

(base year 1972-73 = 100) with July, 2007, as the base month. The rate of neutralisation will be Rs.2.31 per point on the rise or fall of the consumer price index number, adjustment in wages shall be made six monthly i.e. Ist January and Ist July, every year after taking into account the average rise or fall in the Haryana State Working Class Consumer Price Index number half yearly ending December and June respectively. Subsequently vide notification dated 14.08.2014, rate of neutralisation in the State of Haryana was Rs.5.50 per point. Similar, notifications are issued by the State of Punjab as well, wherein minimum wages for employees in various sectors are fixed. The said wages are subject to periodic revisions. Minimum wages are admittedly revised/increased periodically taking into account various relevant aspects such as the price inflation etc. Minimum wages so fixed, needless to say, are applicable throughout the State in a uniform manner in the unorganised sector. They are not subject to variation from district to district.

There is merit in the proposition that in cases where no evidence is brought on record by the claimants to prove the income of the deceased/injured, it is the minimum wages as fixed under the Minimum Wages Act which should be taken as the 'primary' guiding factor while assessing the income for the purpose of calculation of the compensation to be awarded under the Motor Vehicles Act.

At the same time, it is not possible to hold that in all situations where no documentary evidence is brought on record, it is the minimum wage as fixed under the Minimum Wages Act which alone is to be assessed as the income of the deceased/injured de hors the facts and circumstances of a particular case.

Doubtlessly, minimum wage fixed under the Minimum Wages Act provides a sound criterion/guideline and benchmark to assess the income of the deceased/injured in such cases, but at the same time, the tribunal/Court cannot be confined or restricted to the same. It is open to the tribunal/Court to assess the income at a rate which may be higher than the minimum wage so notified keeping in view the evidence on record in that particular case.

It is relevant to note that even if there is no specific documentary evidence to prove the income, but oral evidence led by the claimants inspires confidence and is corroborated by some attending circumstances, it is open to the Court/tribunal to assess income at a rate higher than the minimum wage or assess the same as per DC Rates. There can be no straitjacket or strict criterion laid down in these proceedings under a statute which is admittedly a beneficial piece of legislation. The same necessarily has to vary from case to case depending upon the evidence on record. Needless to say, such assessment at the same time has to be reasonable, logical, based on the evidence on record and not whimsical and arbitrary. The Hon'ble Supreme Court in **Ramachandrappa v. Manager, Royal Sundram Alliance Insurance Company Limited, (2011) 13 SCC 236**

held as under:-

- “14. We hasten to add that in all cases and in all circumstances, the Tribunal need not accept the claim of the claimant in the absence of supporting material. It depends on the facts of each case. In a given case, if the claim made is so exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guess work, which may include the ground realities prevailing at the relevant point of time.”

The Hon'ble Supreme Court in **Jakir Hussein v. Sabir and others,** ***2015(2) R.C.R (Civil)141*** has held that,

“the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage, as per the State government notification alone may at times fail to meet the requirements that are needed to maintain the basic quality of life since it is not inclusive of factors of cost of living index.”

It has been held in a plethora of judgements by the Hon'ble Supreme Court that it is the duty of the tribunal/Court to award 'just compensation'. Motor Vehicles Act is admittedly a beneficial legislation, therefore to circumscribe the scope of assessment of income of the deceased/injured to the minimum wages as may be notified under the Minimum Wages Act would not be justified. Needless to say, assessment of income in cases where no specific documentary evidence is led in support of the claim, such assessment would be dependent upon the facts and circumstances of each case. There may be instances where oral evidence alongwith other supporting evidence on record may inspire confidence. There has to be a sound evaluation of the oral evidence and supporting circumstances in the factual matrix of each particular case. The Tribunal/Court while keeping in view the minimum wage fixed under the Minimum Wages Act as the basic criterion at the outset would proceed to determine whether income of the deceased/injured is to be assessed at any higher level keeping in view the evidence on record. This in my considered view, would be the correct approach to follow in such cases.

Having so decided the question raised in these appeals, all of them are now being dealt with separately.

FAO No.2110 of 2016(O&M) and
FAO No.2288 of 2017(O&M)

FAO Nos. 2110 of 2016 and 2288 of 2017 arise out of award dated 24.09.2015 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as, the 'Tribunal'). FAO No.2110 of 2016 has been filed by the Insurance Company challenging its liability to pay the compensation as well as the quantum of compensation awarded to the claimants. FAO No.2288 of 2017 has been filed by the claimants seeking enhancement of the compensation awarded to the claimants. For the sake of convenience, facts are being extracted from FAO No.2110 of 2016.

Brief facts as pleaded in the petition under Section 166 read with Sections 140/141 of the Motor Vehicles Act, 1988 are that Kurban Singh (deceased) along with Beant Kaur and one Kulwant Kaur, on 28.07.2014, were returning to their village Chhailon from Pehowa on motorcycle bearing registration no. HR-41-G-6906 driven by said Kurban Singh. At about 3.00.p.m., when they reached near drain bridge, the offending truck bearing registration no. UP-67-T- 0719 driven by respondent no.1 in a rash and negligent manner came from backside and struck against the motorcycle of Kurban Singh. As a result thereof, Beant Kaur and Kulwant Kaur fell down on the *kacha* portion of the road, whereas Kurban Singh fell on the metalled portion of the road and was crushed under the wheels of the offending truck. Kurban Singh succumbed to the injuries received by him at the spot. FIR No. 281 dated 28.07.2014, under Sections 279, 337, 304-A IPC, Police Station Pehowa, District Kurukshetra, was

registered against respondent no.1-Rama Kant, in this respect.

Petition under Sections 166 and 140/141 of the Motor Vehicles Act, 1988 was filed by the claimants seeking compensation on account of death of Kurban Singh in this accident. Claim was resisted by the respondents. Joint written statement were filed by respondents no.1 and 2 and another by respondent no.3. Following issues were framed by the learned tribunal:-

1. Whether accident dated 28.07.2014, resulting into death of Kurban Singh took place due to rash and negligent driving of offending vehicle i.e. truck bearing registration No. UP-67-T-0719, by the respondent no.1, if so, to what effect?OPP
2. If issue no.1 is proved, then to what amount of compensation and from whom the claimants-petitioners are entitled to?OPP
3. Whether the respondent no.1 was not having any valid and effective driving licence at the material time and there was violation of the terms and conditions of the insurance policy and respondent no.3 is not liable to pay any compensation?OPR-3.
4. Relief.

Both the parties led evidence in support of their respective claims.

Learned Tribunal on considering the facts and circumstances of the case as well as evidence on record concluded that the accident in question took place on 28.07.2014 due to the rash and negligent driving of the offending truck bearing registration No.UP-67-T-0719 by respondent No.1-Rama Kant. A sum of ₹16,51,696/- alongwith interest @ 9% per annum was awarded to the claimants from the date of filing of the claim petition till realization of the amount. Income of the deceased, who was 44 years at the relevant time, while treating him to be a casual labourer, was assessed as ₹8,100/- per month on the basis of DC Rates at Kurukshetra. Deduction to the extent of 1/4th on account of personal expenses was effected and multiplier of 14 was applied. Increment on account of future prospects at the rate of 30% was awarded. A sum of ₹25,000/-

towards transportation and funeral expenses, besides, ₹1,00,000/- each was awarded to claimant No.1 as well as claimants No.2 and 3 on account of loss of consortium and loss of care & guidance, respectively.

Aggrieved therefrom, FAO No. 2110 of 2016 has been filed by the appellant-Insurance Company and FAO No. 2288 of 2017 has been filed by the appellant-claimants.

The first argument raised on behalf of the Insurance company as discussed earlier is that income of the deceased should be assessed as per minimum wage fixed under the Minimum Wages Act and not as per the DC Rates at Kurukshetra. Learned counsel for the Insurance company further submits that there is a definite element of contributory negligence, if not total negligence on the part of the deceased, as admittedly deceased Kurban Singh was travelling on a motorcycle alongwith two other persons i.e., Smt. Beant Kaur and Kulwant Kaur. Triple riding is impermissible, thus the Insurance company should be absolved of its liability. Compensation under the conventional heads is also pleaded to be excessive. It is thus prayed that in case the Insurance company is not absolved of its liability completely, the amount of compensation awarded to the claimants be reduced accordingly.

Per contra, learned counsel for the claimants submits that the deceased was an agriculturist running a dairy as well, thereby earning a sum of ₹20,000/- per month. Income of the deceased has been assessed on the lower side, therefore, compensation awarded by the learned Tribunal to the claimants should be enhanced.

Heard learned counsel for the parties.

Pleaded case of the claimants is that the deceased – Kurban Singh was returning to his village Chhailon from Pehowa on his motorcycle alongwith Beant Kaur and Kulwant Kaur, who were riding pillion. Motorcycle was being driven at a moderate speed on the correct side of the road. At about 3.00 p.m., the offending truck driven by respondent No.1-Rama Kant in a rash and negligent manner and at a high speed came from behind the motorcycle and struck against the motorcycle of the deceased. FIR No.281 dated 28.07.2014, under Sections 279/337/304A IPC, Police Station Pehowa was registered in this respect. PW1 Beant Kaur, who was riding pillion alongwith Kulwant Kaur specifically deposed, narrating the events as they unfolded. It is a matter of record that the offending truck struck the motorcycle of the deceased from the back. In such a situation, it cannot be concluded that merely due to the factum of triple riding and in the absence of any specific evidence on record to indicate that triple riding was a causative factor of the accident, there was contributory negligence on the part of the deceased. It has been held by Hon'ble Supreme Court in **Kumari Kiran through her father Harinarayan v. Sajjan Singh and others, 2015 (1) SCC (Civil) 570** that mere fact of triple riding would not make any difference and the same cannot be taken as a ground to presume contributory negligence on the part of the claimants, unless there is specific evidence to prove contributory negligence. Thus, finding of the learned Tribunal on this issue is upheld being in tune with the evidence on record.

In respect to the quantum of compensation awarded by the learned Tribunal, it is noticed that the claimant PW1 Beant Kaur widow of Kurban Singh deposed that at the time of his death, the deceased was an agriculturist, besides,

running a dairy and earning ₹20,000/- per month. It is not in dispute that no documentary evidence has been produced by the claimants to prove the deceased to be engaged in pursuit of agriculture and doing the business of dairy farming. No details regarding the land allegedly tilled by the deceased is available on record. There is not even a reference thereto in the oral testimony of PW1 Beant Kaur. Present is a case wherein oral testimonies of the witnesses are not sufficient to infer that the deceased was engaged in the pursuits as claimed, thus, earning a sum of ₹20,000/- per month. Therefore, the deceased necessarily has to be treated as a casual labourer and it is appropriate to assess his income with reference to the minimum wage under the Minimum Wages Act which was ₹5,639.50 at the time of the accident. Keeping in view the facts and circumstances of the case, income of the deceased is assessed as ₹6,000/- per month.

Increase in income at the rate of 25% (instead of 30%) on account of future prospects is to be afforded keeping in view the observations of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680. Multiplier of 14 has been correctly applied. Deduction to the extent of 1/4th towards personal expenses has also been rightly effected. ₹15,000/- each towards funeral expenses (instead of ₹25,000/-) and loss of estate are awarded to the appellants.

I do not find any merit in the argument raised by learned counsel for the Insurance company that loss of parental and filial consortium should not be afforded in terms of 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. The Hon'ble Supreme Court in the abovesaid case, after referring to its judgment in **Pranay Sethi** (supra) observed that,

“8.6 The MACT as well as the High Court have not awarded any compensation with respect to Loss of Consortium and Loss of Estate, which are the other conventional heads under which compensation is awarded in the event of death, as recognized by the Constitution Bench in **Pranay Sethi** (supra). The Motor Vehicles Act is a beneficial and welfare legislation. The Court is duty bound and entitled to award “just compensation”, irrespective of whether any plea in that behalf was raised by the Claimant. In exercise of our power under Article 142, and in the interests of justice, we deem it appropriate to award an amount of Rs.15,000 towards Loss of Estate to respondent Nos.1 and 2.

8.7 A Constitution Bench of this Court in **Pranay Sethi** (supra) dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium.

In legal parlance, “consortium” is a compendious term which encompasses 'spousal consortium', 'parental consortium', and 'filial consortium'.

The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse. *Rajesh and Others v. Rajbir Singh and Ors.* (2013) 9 SCC 54.

Spousal consortium is general defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of “company, society, cooperation, affection, and aid of the other in every conjugal relation.”

Parental consortium is granted to the child upon the premature death of a parent, for loss of “parental aid, protection, affection, society, discipline, guidance and training.”

Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium.

Parental Consortium is awarded to children who lose their parents in motor vehicle accidents under the Act.

A few High Courts have awarded compensation on this court. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of Filial Consortium. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down in Pranay Sethi (supra).”

The Hon'ble Supreme Court in the case of Magma General Insurance Co. Ltd. (supra) has, in fact, further elucidated the concept of

'consortium' explaining that the same includes parental and filial consortium. Compensation on account of parental consortium has been subsequently awarded by the Hon'ble Supreme Court in Vimla Devi and others v. National Insurance Company Ltd. and another, 2019(1) RCR(Civil) 86. Present proceedings are under a statute which is a beneficial legislation, therefore, the claimants are entitled to filial and parental consortium. It has been held in the judgment of Magma General Insurance Co.'s case (supra) that the amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under 'Loss of consortium' as laid down in Pranay Sethi's case (supra). Though in some of the earlier decisions, I myself have awarded a sum of ₹40,000/- to each of the children/parents on account of loss of parental/filial consortium, it is considered just and appropriate after hearing learned counsel for the parties, to award a total sum of ₹40,000/- only under the head of loss of parental consortium irrespective of the number of the children. Similarly, ₹40,000/- should be awarded for loss of filial consortium irrespective of whether one or both the parents are claimants.

In the instant case, the widow is entitled to ₹40,000/- for loss of consortium. The two minor children are entitled to ₹40,000/- for loss of parental consortium and appellant No.4 is entitled to ₹40,000/- for loss of filial consortium. Multiplier of 14 has been correctly applied and deduction to the extent of 1/4th has been rightly effected.

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	6,000 per month i.e., 72,000 per annum
2.	Total income after addition at the rate of 25% on account of future prospects	72,000 + (72,000 x 25%) = 90,000
3.	Income after 1/4 th deduction on account of personal expenses	90,000 – (90,000 x 1/4) = 67,500
4.	Total dependancy after applying a multiplier of 14	(67,500 x 14) = 9,45,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 and 3	40,000
9.	Loss of filial consortium to appellant No.4	40,000
Grand Total		₹10,95,000/-

The appellants/claimants are, thus, entitled to a sum of ₹10,95,000/- instead of ₹16,51,696/- alongwith interest at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment amongst the appellants/claimants as well as manner of disbursement as determined by the learned Tribunal shall remain the same.

FAO No.2288 of 2017 is dismissed and FAO No.2110 of 2016 is partly allowed.

FAO No.5882 of 2018(O&M)

This appeal has been filed by the Insurance company seeking reduction of compensation awarded to the claimants by the learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as, the 'Tribunal') vide

award dated 11.05.2018 on account of death of Rajeev in a motor vehicle accident which took place on 17.09.2017.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Sections 166 and 140 of the Motor Vehicles Act seeking compensation on account of the death of Rajeev, who lost his life in a motor vehicle accident which took place on 17.09.2017. FIR No.949 dated 18.09.2017, under Sections 279/304A IPC, Police Station Sadar Bazar, Karnal was registered against respondent No.6-Mukesh at the instance of PW2 Laxman Dass. The deceased was claimed to be doing the work of tailoring, earning ₹20,000/- per month. Compensation was thus prayed for.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of motorcycle bearing registration No. HR-83-9767 by respondent No.6 – Mukesh.

Learned Tribunal awarded a sum of ₹22,50,424/- as compensation to the claimants vide impugned award dated 11.05.2018. The deceased was aged 34 years at the time of the accident. Income of the deceased was assessed as ₹12,100/- per month on the basis of DC Rates at Karnal. Addition in income at the rate of 40% on account of future prospects was awarded. Deduction to the extent of 1/4th on account of personal expenses was effected and multiplier of 16 was applied. A sum of ₹40,000/- was awarded to the widow on account of loss of consortium, besides, ₹15,000/- towards funeral expenses.

No argument has been raised regarding the liability of the Insurance company to pay the compensation in this case. Arguments were limited to the

question of quantum of compensation awarded to the claimants. Primary argument raised by learned counsel for the appellant-Insurance company is that the learned Tribunal has erred in assessing income of the deceased to be ₹12,100/- per month on the basis of DC Rates prevalent at Karnal.

I have heard learned counsel for the appellant and have perused the file.

As per the case set up by the claimants, the deceased and his co-worker Laxman Dass had gone to village Shahpur on their respective motorcycles for collecting the amount due to them (for their tailoring services) from their clients. Deceased – Rajeev was claimed to be working as a tailor at a shop of Sardana Tailor at village Jundla at the time of his death, earning ₹20,000/- per month. In order to prove their case, Laxman Dass son of Nathu Ram, propounder of the FIR and an eye-witness of the accident, testified before the learned Tribunal as PW2. He specifically deposed that he alongwith the deceased were working at his shop in the main Bazaar, Jundla. PW2 Laxman Dass stated that the deceased Rajeev was working with him as a partner, though no partnership was executed between them. Both of them used to divide their earnings and they were not income tax payees. PW2 further stated that the deceased – Rajeev joined him five years prior to the accident in question while PW2 himself was working as a tailor for the last 15-20 years. They had gone to collect the amount due from their clients at Shahpur. PW1 Rinki Sharma, widow of the deceased also deposed that her husband was working as a tailor at village Jundla. She specifically denied the suggestion that her husband was not a partner of Laxman Dass or that he was not working as a tailor.

It is pertinent to note that the deceased is claimed to be a tailor at the very outset. This is evident from a bare reading of the FIR itself. Learned Tribunal while considering the deceased to be an unskilled labourer assessed his income as ₹12,100/- per month on the basis of the DC Rates at Karnal. The evidence on record inspires confidence and there is no evidence on record to rebut the stand of the claimants that the deceased was working as a tailor though his exact income could not be proved. It is relevant to note that a person working as a tailor in a village is not expected to maintain accounts or necessarily be an income tax payee. Moreover, minimum wage of a skilled labourer in the State of Haryana as notified under the Minimum Wages Act was about ₹10,000/- per month at the relevant time. Claimants are the widow, two minor children and aged parents of the deceased. In this view of the matter, I do not find any ground whatsoever to vary income of the deceased as assessed by the learned Tribunal i.e., ₹12,100/- per month and reduce the compensation awarded to the claimants on this count.

No other argument has been raised.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned award dated 11.05.2018 passed by the learned Motor Accident Claims Tribunal, Karnal which calls for interference by this Court at the instance of the appellant-Insurance company.

FAO No.5882 of 2018 is consequently dismissed with no order as to cost.

FAO No.3757 of 2018(O&M)

This appeal has been filed by the Insurance company challenging the quantum of compensation awarded to the claimants by the learned Motor Accident Claims Tribunal, Karnal (for short, the 'Tribunal') vide impugned award dated 05.03.2018 on account of death of Lok Bahadur Bist @ Lokender Bist in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Lok Bahadur Bist @ Lokender Bist, who lost his life in a motor vehicle accident which took place on 18.11.2016. FIR No.414 dated 19.11.2016 under Sections 279/304A IPC, Police Station Butana was registered against respondent No.4, driver of the offending vehicle. The deceased was claimed to be chef (cook) at Sitara Dhaba, earning ₹15,000/- per month. Compensation was thus prayed for.

Learned Tribunal awarded a sum of ₹20,73,076/- as compensation to the claimants vide impugned award dated 05.03.2015. The deceased was aged 29 years at the time of the accident. Income of the deceased was assessed as ₹10,520/- per month on the basis of DC Rates at Karnal. Addition in income at the rate of 40% on account of future prospects was awarded. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 17 was applied. A sum of ₹40,000/- was awarded to the widow on account of loss of consortium, besides, ₹15,000/- each towards funeral expenses and loss of estate.

There is no challenge to the liability of the Insurance company to

pay the compensation in this case. Argument in this case is limited to the extent of assessment of income of the deceased to be ₹10,520/- per month on the basis of DC Rates prevalent at Karnal to be incorrect. It is urged that calculations should have been made while assessing the income of the deceased with reference to the minimum wage under the Minimum Wages Act. It is thus prayed that compensation awarded to the claimants be reduced accordingly.

I have heard learned counsel for the parties and have perused the file.

As per the case set up by the claimants, the deceased – Lok Bahadur Bist @ Lokender Bist was working as a chef/cook at Sitara Dhaba situated on G.T.Road, near village Samana Bahu, earning ₹15,000/- per month. The deceased – Lok Bahadur Bist @ Lokender Bist was claimed to have come from Nepal to earn his livelihood and was working as a chef/cook. As per the FIR No.414 dated 19.11.2016 (Ex.P8) which was registered at the instance of PW2 Rajesh Bist, it is specifically mentioned that the deceased alongwith PW2 Rajesh Bist were working together at the Sitara Dhaba. The deceased – Lok Bahadur Bist @ Lokender Bist was stated to have joined Rajesh Bist at the said Dhaba as a cook about 15 days prior to the accident in question. It is further stated that both – the deceased and Rajesh Bist had taken a room on rent at village Samana Bahu. They used to proceed to their room after finishing their work at the Dhaba. As per the report under Section 173 Cr.P.C. (Ex.P5), it is mentioned that the Manager of the Sitara Dhaba, namely, Jagbir Tomar was present at the time of recording of the statement of Rajesh Bist. PW1 Gauri Bist, widow of the deceased – Lok Bahadur Bist @ Lokender Bist specifically deposed that her

husband was working as a chef at the Sitara Dhaba at the time of the accident. Learned Tribunal while considering the deceased to be a casual labourer assessed his income as ₹10,520/- per month on the basis of the DC Rates at Karnal. It is pertinent to note that the evidence on record inspires confidence, inasmuch as there is nothing to rebut the stand of the claimants that the deceased was working as a chef though his exact income could not be proved. The factum of the deceased working as a chef at the Dhaba is mentioned at the very outset at the time of registration of the FIR itself. Accident took place on the night of 18.11.2016 and the FIR was registered promptly on 19.11.2016. It cannot be expected that a person working as a cook/chef at a Dhaba or even the person running the said Dhaba would maintain accounts or file income tax return. There is indeed nothing on record to rebut the evidence of the claimants to the effect that the deceased was working as a cook/chef. Minimum wage of a skilled labourer in the State of Haryana was ₹8,473/- per month and that of an unskilled labourer was ₹8,070/- per month at the relevant time. Learned Tribunal has assessed income of the deceased as ₹10,520/- i.e., the wages of a casual labourer as per DC Rates. Claimants are the widow and two minor children. In the facts and circumstances of the case, I do not find any ground whatsoever to vary income of the deceased as assessed by the learned Tribunal i.e., ₹10,520/- per month and reduce the awarded compensation.

No other argument has been raised.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned award dated 05.03.2018 passed by the learned Motor Accident Claims Tribunal, Karnal which calls for any

interference by this Court at the instance of the appellant-Insurance company

FAO No.3757 of 2018 is consequently dismissed with no order as to cost.

XOBJ No.163-CII of 2018 in/and
FAO No.916 of 2018(O&M)

This appeal has been filed by the Insurance company challenging the quantum of compensation awarded to the claimants by the learned Motor Accident Claims Tribunal, Karnal (for short, the 'Tribunal') vide impugned award dated 19.09.2017 on account of death of Balbir in a motor vehicle accident. Cross-objections have been filed by the claimants seeking enhancement of the compensation.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Balbir, who lost his life in a motor vehicle accident which took place on 15.08.2016. FIR No.524 dated 15.08.2016 under Sections 279/304A IPC, Police Station Assandh was registered against respondent No.5-Pawan, driver of the offending vehicle. The deceased was claimed to be Milk vendor, earning ₹30,000/- per month. Compensation was thus prayed for.

Learned Tribunal awarded a sum of ₹19,48,200/- as compensation to the claimants vide impugned award dated 19.09.2017. The deceased was aged 41 years at the time of the accident. Income of the deceased was assessed as ₹10,520/- per month on the basis of DC Rates at Karnal. Addition in income at the rate of 30% on account of future prospects was awarded. Deduction to the

extent of 1/4th on account of personal expenses was effected and multiplier of 14 was applied. A consolidated amount of ₹2,25,000/- was awarded to the claimants towards loss of consortium, loss of love & affection, funeral expenses and loss of estate.

Liability of the Insurance company to pay the compensation in this case has not been disputed. Learned counsel for the appellant-Insurance company argues that assessing income of the deceased by the learned Tribunal on the basis of DC Rates, prevalent at Karnal is unjustified. Moreover, increase in income on account of future prospects should have been 25%, instead of 30% in view of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. Learned counsel further submitted that compensation under the conventional heads is also excessive and should be reduced. It is thus prayed that compensation awarded to the claimants be reduced.

Per contra, learned counsel for the claimants/cross-objectors submits that evidence on record clearly proves that the deceased was a milk vendor. Income of the deceased should be assessed at a higher level. Moreover, interest at the rate of 6% only has been afforded. It is prayed that appeal filed by the Insurance company be dismissed and the cross-objections filed by the claimants be allowed.

I have heard learned counsel for the parties and have perused the file.

Claimants in their petition under Section 166 of the Act specifically pleaded that FIR No.524 dated 15.08.2016 (Ex.P5) was registered against

respondent No.5-Pawan. As per the said FIR registered on the statement of PW2 Balwan Singh, the deceased – Balbir is clearly mentioned to be a milk-vendor by profession. He was stated to be proceeding towards village Moonak on his motorcycle as per his routine taking milk for distribution, when the accident took place, due to the rash and negligent driving of the offending car by respondent No.5-Pawan. PW2 Balwan Singh has specifically testified in this respect. PW1 Poonam widow of the deceased has also testified that her husband, who was about 38 years at the time of the accident, was a milk vendor, earning ₹30,000/- per month. Though there is no documentary evidence on record to prove that the deceased was working as a milk vendor, there is nothing on record to discredit the oral testimony of PW1 and PW2 in this respect. Moreover, a milk vendor is not necessarily expected to maintain account books or to file income tax return. Factum of the deceased being a milk vendor is reflected at the very outset at the time of registration of the FIR on 15.08.2016. The deceased was in fact, in the routine process of milk distribution/collection when the accident in question took place. Learned Tribunal while considering the deceased to be a casual labourer assessed his income as ₹10,520/- per month on the basis of the DC Rates at Karnal. It is not disputed that minimum wage of an unskilled labourer in the State of Haryana as notified under the Minimum Wages Act was about ₹10,000/- per month at the relevant time. At the same time, there is no evidence on record to prove that the deceased was earning an income higher than ₹10,520/-. Therefore, in the factual matrix of this case, I do not find any ground whatsoever to vary income of the deceased as assessed by the learned Tribunal i.e., ₹10,520/- per month.

Age of the deceased was 41-1/2 years, his date of birth being 01.01.1975 as per the Adhaar Card (Ex.P10). Addition in income on account of future prospects is thus to be assessed at the rate of 25% and not 30% as afforded by the learned Tribunal. Deduction of 1/4th on account of personal expenses has been correctly effected. Multiplier of 14 has also been rightly applied. Instead of a consolidated sum of ₹2,25,000/- towards loss of consortium, love & affection and funeral expenses etc., ₹15,000/- each towards funeral expenses and loss of estate are awarded to the appellants. Appellant No.1 is entitled to ₹40,000/- on account of loss of spousal consortium and appellants No.2 to 4 are entitled to ₹40,000/- towards loss of parental consortium.

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	10,520 per month i.e., 1,26,240 per annum
2.	Total income after addition at the rate of 25% on account of future prospects	1,26,240 + (1,26,240 x 25%) = 1,57,800
3.	Income after 1/4 th deduction on account of personal expenses	1,57,800 – (1,57,800 x 1/4) = 1,18,350
4.	Total dependancy after applying a multiplier of 14	(1,18,350 x 14) = 16,56,900
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 to 4	40,000
Grand Total		₹17,66,900/-

The appellants/claimants are, thus, entitled to a sum of ₹17,66,900/-

instead of ₹19,48,200/- alongwith interest at the rate of 7.5% per annum, instead of 6%, on the entire amount from the date of filing of the petition till realization. Ratio of apportionment amongst the appellants/claimants as well as manner of disbursement as determined by the learned Tribunal shall remain the same.

With the abovesaid modification in the quantum of compensation, FAO No.916 of 2018 is partly allowed. XOBJC No.163-CII of 2018 is dismissed.

FAO No.6845 of 2016 and
FAO No.1652 of 2017

FAO No.6845 of 2016 has been filed by the Insurance company challenging the quantum of compensation awarded the claimants by the learned Motor Accident Claims Tribunal, Karnal vide impugned award dated 22.04.2016 on account of death of Vikram in a motor vehicle accident. FAO No.1652 of 2017 has been filed by the claimants seeking enhancement of the compensation awarded to them. Facts for the sake of convenience are being extracted from FAO No.6845 of 2016.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 seeking compensation on account of the death of Vikram, who lost his life in a motor vehicle accident which took place on 13.05.2014. FIR No.188 dated 14.05.2014 under Sections 279/304A IPC, Police Station Indri was registered against respondent No.5-Krishan Lal, driver of the offending vehicle. The deceased was claimed to be welder, earning ₹20,000/- per month. Compensation was thus prayed for.

Learned Tribunal awarded a sum of ₹17,93,800/- as compensation to the claimants vide impugned award dated 22.04.2016. The deceased was aged 26 years at the time of the accident. Income of the deceased was assessed as ₹9,600/- per month on the basis of DC Rates at Karnal. Deduction to the extent of 1/4th on account of personal expenses was effected and multiplier of 17 was applied. ₹25,000/- was awarded to the claimants towards transportation and funeral expenses. ₹3,00,000/- was awarded to the claimants towards loss of consortium, loss of love & affection and guidance for children and parents.

No serious challenge has been raised regarding liability of the Insurance company to pay the compensation. However, learned counsel for the Insurance company vehemently argues that income of the deceased has been wrongly assessed as ₹9600/- per month on the basis of DC Rates prevalent at Karnal. Evidence on record, it is submitted, does not prove the deceased to be working as a welder. Learned counsel argues that RW1 Parmod Kumar i.e., Clerk from the office of the Assistant Labour Commissioner, Karnal has duly proved the minimum wages as available to the labourers in different categories. Deduction of 1/3rd should have been effected and not 1/4th as the claimant-father of the deceased is not proved to be dependant upon his son. It is further contended that compensation awarded under the conventional heads is excessive and is required to be reduced.

Learned counsel for the claimants however submits that there is sufficient evidence on record to prove that the deceased was working as a welder, therefore, his income should be assessed as ₹20,000/- per month as claimed. Furthermore, increment on account of future prospects has not been

granted. It is thus prayed that the appeal filed by the Insurance company be dismissed and that of the claimants be allowed.

I have heard learned counsel for the parties and have perused the record.

Learned counsel for the Insurance company has not raised any serious argument regarding the liability of the Insurance company to pay the compensation. Learned counsel is unable to point out any illegality or perversity in the said conclusion. Same is affirmed. Finding of the learned Tribunal on Issue No.1 i.e., to the effect that Vikram died as a result of injuries sustained by him in a motor vehicle accident which took place on 13.05.2014 on account of the rash and negligent driving of the offending vehicle by respondent-Krishan Lal is also upheld as the same is based upon sound appreciation of the evidence on record neither is the same subject to any serious challenge.

The deceased-Vikram, aged 26 years, was claimed to be a welder, earning ₹20,000/- per month at the time of the accident. It was claimed that the deceased was a skilled welder working with PW5 Jai Singh son of Phool Singh. PW5 Jai Singh was stated to be a contractor getting contracts for making sheds for factories and godowns. PW5 Jai Singh, a summoned witness, specifically stated that the deceased-Vikram Singh used to work for him since about 6-7 years prior to the accident in question. PW5 clearly stated that he was undertaking the work of constructing sheds for building, godowns etc. PW5 further stated that at the time of accident, the deceased-Vikram used to charge ₹500/- per day. He also used to take extra charges for overtime. Thus, he was earning approximately ₹20,000/- per month. PW5 Jai Singh further proved the

attendance register of his employees as Ex.P7 to Ex.P26. PW5 Jai Singh claimed that he had about 15-16 employees working under him in the year 2013-14. PW3 Manju Rani (widow of the deceased), PW1 Sandeep son of Maya Ram (brother of the deceased) as well as PW2 Maya Ram (father of the deceased) testified that Vikram (deceased) was working with Jai Singh as a welder for the last 6-7 years. Learned counsel for the Insurance company is unable to deny that PW5 Jai Singh was a summoned witness. Merely because his income tax returns were not placed on record cannot be a ground to disbelieve the stand of the claimant that Vikram (deceased) was working as a welder at the time of his death. There is indeed no evidence on record to discredit the testimonies of the said witnesses to the effect that the deceased was working as a welder, though it cannot be accepted that he was earning ₹20,000/- per month. The claimants as well as the deceased are admittedly residents of District Karnal. In this situation, assessment of income of the deceased as ₹9,600/- per month i.e., minimum wage for a welder as per the DC Rates at Karnal cannot be held to be unjustified. At the same time, I do not find any ground to enhance the income of the deceased in the absence of any specific evidence on record to indicate the exact income earned by the deceased-Vikram. Appellants/claimants are the widow, two minor children and aged parents of the deceased. In this view of the matter, income of the deceased at the rate of ₹9,600/- per month as assessed by the learned Tribunal is upheld.

Learned counsel for the Insurance company does not dispute that age of the deceased was 26 years at the time of the accident. Increment on account of future prospects at the rate of 40% has to be afforded in terms of the

judgment of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). There is however merit in the argument raised by learned counsel for the Insurance company that father of the deceased, namely, Maya Ram is not proved to be dependant upon his son Vikram (deceased). Therefore, deduction of 1/3rd instead of 1/4th is to be effected. Multiplier of 17 is to be applied. ₹15,000/- each towards funeral expenses and loss of estate are awarded to the appellants. Appellant No.1 is entitled to ₹40,000/- towards loss of consortium. Appellant No.2 is entitled to ₹40,000/- for loss of parental consortium and appellants No.3 and 4 are entitled to ₹40,000/- on account of loss of filial consortium.

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	9,600 per month i.e., 1,15,200 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,15,200 + (1,15,200 x 40%) = 1,61,280
3.	Income after 1/3 rd deduction on account of personal expenses	1,61,280 – (1,61,280 x 1/3) = 1,07,520
4.	Total dependancy after applying a multiplier of 17	(1,07,520 x 17) = 18,27,840
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1.	40,000
8.	Loss of parental consortium to appellant No.2.	40,000
9.	Loss of filial consortium to appellants No.3 and 4.	40,000
Grand Total		₹19,77,840/-

Needless to say, the amount already awarded by the learned Tribunal

shall stand deducted from the compensation as detailed above.
Appellants/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.
Ratio of apportionment amongst the appellants/claimants as well as manner of disbursement as determined by the learned Tribunal shall remain the same.

FAO No.6845 of 2016 filed by the Insurance company is dismissed.
FAO No.1652 of 2017 filed by the claimants is disposed of with the modification in the amount of compensation as above.

March 14 , 2019.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No