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1.	FAO No. 8310 of 2014 (O&M) Date of Decision: 07.01.2019	
Shri Ram General Insurance Company Limited		-Appellant
	Vs	
Smt. Krishna Devi and others		-Respondents
2.	FAO No. 8317 of 2014 (O&M)	
Shri Ram General Insurance Company Limited		-Appellant
	Vs	
Smt. Murti Devi and others		-Respondents
3.	FAO No. 7406 of 2014 (O&M)	
Smt. Murti Devi and another		-Appellants
	Vs	
Raj Kumar and others		-Respondents
4.	FAO No. 7407 of 2014 (O&M)	
Uttam Sharma and another		-Appellants
	Vs	
Raj Kumar and others		-Respondents
5.	FAO No. 4042 of 2014 (O&M)	
Smt. Krishna Devi and others		-Appellants
	Vs	
Raj Kumar and others		-Respondents

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CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajbir Singh, Advocate, for
Mr. Sanjeev Goyal, Advocate,
for the appellant(s)
(in FAO Nos.8310 and 8317 of 2014).

Mr. N.S. Shekhawat, Advocate,
for the appellant (in FAO No.4042 of 2014)
for respondents No.1 to 4 (in FAO No.8310 of 2014).

Ms. Kiranjeet Kaur, Advocate, for
Mr. Ravinder Malik, Advocate,
for the appellant (in FAO Nos.7406 & 7407 of 2014)
for respondents No.1 to 4 (in FAO-8317 of 2014).

Mr. R.N. Singal, Advocate,
for respondent No.4 (in FAOs-7406 & 7407-2014)
for respondent No.7 (in FAO No. 8317 of 2014).

RAJ MOHAN SINGH, J.

Vide this common order, FAO No. 8310 of 2014 (O&M) titled 'Shri Ram General Insurance Company Limited vs Smt. Krishna Devi and others', FAO No. 8317 of 2014 (O&M) titled 'Shri Ram General Insurance Company Limited vs Smt. Murti Devi and others', FAO No. 7406 of 2014 (O&M) titled 'Smt. Murti Devi and another vs Raj Kumar and others', FAO No. 7407 of 2014 (O&M) titled 'Uttam Sharma and another vs Raj Kumar and others' and FAO No. 4042 of 2014 (O&M) titled 'Smt. Krishna Devi and others vs Raj Kumar and others' are being disposed of.

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Common facts are being noticed.

The vehicular accident took place on 27.03.2011. Pala Ram along with Man Singh (deceased) and Jiya Lal (deceased) was coming from Kurukshetra to Pehowa in a Maruti Zen car. The car was being driven by Man Singh. At about 12.30 PM, when they reached near a petrol pump in the area of village Indbari, then a canter came in rash and negligent manner which was being driven by Raj Kumar- driver at a very high speed and the canter dashed in the car after coming over to wrong side of the road. Resultantly, Pala Ram suffered multiple serious injuries. Man Singh and Jiya Lal also received serious injuries on various parts of body. The accident was witnessed by Jai Singh and Tek Singh who took the then injured in the hospital and Man Singh and Jiya Lal were declared to be dead.

FIR was registered against the driver of the offending canter. The Tribunal decided issues No.1 to 3 in favour of the claimants and allowed the claim petition filed by the claimants.

FAO No. 8310 of 2014:

This appeal has been preferred by the Insurance Company against the award passed in favour of the claimants whereby an amount of Rs.24,60,000/- was awarded to the claimants on account of death of Man Singh.

Learned counsel for the appellant has referred to Ex.P23 and contended that solely on the basis of Income Certificate issued by the Tehsildar, Thanesar, income of the deceased- Man Singh was treated to be Rs.5,40,000/- per annum. There was no corroboration to the aforesaid fact except tendering of aforesaid document without examining the Tehsildar. The aforesaid certificate was issued only for the purposes of education.

Learned counsel further submitted that factum of earning of the deceased to the tune of Rs.60,000/- from dairy farming could not be established. The agriculture land remained with the family of the deceased even after death, therefore, to the extent of assessing agriculture income was not in consonance with legal requirement.

The stand of the appellant/Insurance Company was refuted by learned counsel for the claimants on the ground that proper assessment was made by the Motor Accident Claims Tribunal on the basis of material on record. The income certificate Ex.P23 was issued on the basis of material available on record. Jamabandi for the year 2010-11 (Ex.P27) was taken into consideration by the Tehsildar while assessing the land available with the deceased and the income derived therefrom.

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As per sale deed Ex.P28, the financial capacity of the deceased was established as he had purchased a house measuring 260 square yards in Sector-13, Urban Estate, Kurukshetra vide sale deed dated 26.09.2008. The financial earning capacity of the deceased was established on record by way of unimpeachable evidence on record.

At the time of tendering of Income Certificate Ex.P23, no objection was raised by the appellant-Insurance Company. The documents were tendered by learned counsel for the claimants by making statement before the Motor Accident Claims Tribunal, Kurukshetra on 18.09.2013 and thereafter, learned counsel for the claimants closed the evidence on behalf of the claimants on 18.09.2013 itself.

Perusal of the record would show that at the time of exhibition of aforesaid document, no objection was raised by learned counsel for the appellant and the document was duly exhibited. Perusal of cross-examination of PW6 would show that the income of deceased- Man Singh was never refuted by the Insurance Company-appellant. No suggestion was given to the witness that the deceased was not earning income as projected by the claimants.

Learned counsel for the claimants further submitted

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that assessment of income of the deceased was on the basis of established mode of assessment and rules/guidelines framed by the State.

Learned counsel by referring to Jansahayak.gov.in submitted that in Haryana, Tehsildar is the competent authority for issuing income certificate as on 07.05.2013. The income certificate has to be issued on the basis of declaration filed by the applicant/guardian in the case of student. There is a procedure for assessing income of a person which is having objective mechanism. The procedure has been streamlined in respect of issuing income certificates. When the son of the deceased had to go abroad, the income certificate was prepared in accordance with law. At the time of exhibition of income certificate, no such objection was taken by the appellant-Insurance Company.

Learned counsel relied upon **Shyam Lal @ Kuldeep vs Sanjeev Kumar and others, 2010(8) RCR (Civil) 2798, Dasondha Singh vs Zalam Singh, 1997(2) RCR (Civil) 694, Daya Shankar vs Smt. Bachi and others, 1982 AIR (Allahabad) 36, Jhujar Singh and another vs Dasonda Singh and others, 1997(1) Current Law Journal 428, Iqbal Singh vs Santokh Singh and another, 1984 AIR (Punjab) 366, United**

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India Insurance Co. Ltd. vs Smt. Sipra Brahma and another,
1997(2) Cal. H.C.N. 585, Branch Manager, Oriental Insurance
Co. Ltd. vs Meena Bania and others, 2013 ACJ 565 and

contended that since no objection was raised by the appellant when Ex.P23 was tendered and received in evidence, therefore, the document has rightly been taken into consideration and was exhibited in evidence in accordance with law.

In welfare legislation, it is only an inquiry where the evidence is to be led and believed at the threshold. No strict procedure is required to be followed. Appellant never took objection in respect of admissibility of the document. No suggestion was put to the claimant when she appeared as PW1. The objection as to mode of proof of execution of the document was never taken by the appellant.

As per Jansahayak.gov.in, the State of Haryana finds place at Serial No.24 wherein income certificate issuing authority as on 07.05.2013 was shown to be CRO (Tehsildar NT concerned). The guidelines framed by the State for the assessment of income for the purpose of issuing income certificate were duly followed by the Tehsildar. Even the material has been brought on record in terms of jamabandi and sale deed to show financial capacity of deceased- Man Singh.

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For the reasons recorded hereinabove, I deem it appropriate to dismiss FAO No.8310 of 2014 filed by the Insurance Company.

FAO No.4042 of 2014:

FAO No.4042 of 2014 can be appreciated in light of the fact that the deceased was 58 years of age at the time of death. He was an agriculturist and was also running dairy farm. His income was assessed to be Rs.45,000/- per month as per income certificate issued by the Tehsildar. Dependency was taken to be $\frac{1}{2}$ and multiplier of 9 was applied.

In view of ratio of **National Insurance Company Limited vs Pranay Sethi and others, 2018(1) Apex Court Judgments (SC) 183**, future prospects to the extent of 10% in case of self-employed person can be appreciated.

The Tribunal has assessed monthly income of the deceased to be Rs.45,000/- per month. Future prospects to the tune of 10% can be added to the aforesaid monthly income and in this way, an amount of Rs.4500/- is required to be added thereby making Rs.49,500/- as monthly income of the deceased. Monthly dependency of the deceased would come out to be Rs.24,750/- after deducting $\frac{1}{2}$ towards personal expenses. The deceased was 58 years of age, therefore,

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multiplier of 9 would be just and appropriate in view of

Smt.Sarla Verma vs Delhi Transport Corporation, 2009(3)

RCR (Civil) 77. In this way, compensation would come out to be

Rs.26,73,000/- (24750x12x9) to which an amount of Rs.70,000/-

can be added up towards conventional heads as per **National**

Insurance Company Limited vs Pranay Sethi and others

case (supra). The total amount payable is Rs.27,43,000/-.

Difference of the amount of compensation would carry interest

@ 7.5% per annum from the date of filing of claim petition till

final realization of the amount. Driver, owner and Insurance

Company of the offending vehicle would be jointly and severally

liable to answer the claim of the compensation. Other conditions

as formulated by Motor Accident Claims Tribunal, Kurukshetra

would remain the same.

FAO No.8317 of 2014:

Insurance Company has preferred this appeal

against the award dated 10.01.2014 passed by Motor Accident

Claims Tribunal whereby an amount of compensation to the

tune of Rs.15,81,660/- was awarded to the claimants on

account of death of Jiya Lal.

Only grievance of the appellant is that income of the

deceased- Jiya Lal was wrongly assessed on the basis of

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Income tax return whereby an amount of Rs.1,51,591/- was shown as professional income and Rs.60,000/- as agricultural income.

According to learned counsel for the appellant, agricultural income could not be considered as the land remained with the family of the deceased.

This Court is not impressed by the argument for the reason that loss of income on account of supervision of the deceased cannot be less than Rs.5000/- per month. In this way, total computation for want of supervision cannot be assessed less than Rs.60,000/- per annum.

The only argument raised by the appellant is not sustainable in the eyes of law and the appeal deserves to be dismissed.

In view of above, there is no scope for interference in FAO No.8317 of 2014 and the same stands dismissed.

FAO Nos.7406 and 7407 of 2014:

Aforesaid appeals have been preferred by heirs of Jiya Lal for enhancement of compensation. FAO No.7406 of 2014 has been filed by Murti Devi and Pitambar Sharma for enhancement of compensation. Widow of Jiya Lal namely Murti Devi has appeared in the witness box as PW4. Uttam Sharma

and Mamta Sharma are married and Pitambar Sharma was student at the relevant time. He was unmarried. Murti Devi (widow) and Pitambar Sharma (unmarried son) were held to be dependent upon the income of Jiya Lal- deceased. Uttam Sharma and Mamta Sharma being married son and daughter of deceased- Jiya Lal were held to be not dependent upon the income of Jiya Lal. Jiya Lal was aged 51 years at the time of death and was doing property dealer business and agricultural work. Income of Jiya Lal was assessed to be Rs.17,633/-. Keeping in view the composition of family, deduction to the extent of $\frac{1}{3}^{\text{rd}}$ was applied towards personal expenses of the deceased. In this way, monthly dependency was assessed to be Rs.11,750/- to which multiplier of 11 was applied in view of **Smt.Sarla Verma vs Delhi Transport Corporation, 2009(3) RCR (Civil) 77.** An amount of Rs.15,51,660/- was assessed in favour of Murti Devi and Pitambar Sharma to which an amount of Rs.10,000/- on account of financial expenses, transportation charges was added and a sum of Rs.10,000/- was awarded towards loss of consortium and Rs.10,000/- towards loss of estate. In this way, Rs.15,81,660/- was payable to Murti Devi and Pitambar Sharma in the ratio of 70:30. 70% of the awarded amount would come out to be Rs.11,07,162/- which was

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payable to Murti Devi (widow) and the remaining 30% of the awarded amount i.e. Rs.4,74,498/- was payable to Pitambar Sharma being dependent upon income of the deceased- Jiya Lal.

Perusal of the record would show that no amount has been assessed towards future prospects of the deceased. The deceased was 55 years of age and was self-employed. In view of **National Insurance Company Limited vs Pranay Sethi and others, 2018(1) Apex Court Judgments (SC) 183,** future prospects to the tune of 10% can be awarded keeping in view the age of the deceased. In addition to the aforesaid, award made under conventional head has to be re-visited in consonance with the ratio of **National Insurance Company Limited vs Pranay Sethi and others case (supra).**

To the aforesaid extent, interference can be made in the impugned award in respect of FAO No.7406 of 2014 filed by Murti Devi and Pitambar Sharma. Monthly income of the deceased was assessed to be Rs.17,633/-. 10% of the aforesaid income would come out to be Rs.1763/-. Addition of the aforesaid amount would make monthly income of the deceased to be Rs.19,396/- rounded off to Rs.19,400/-. Annual income would come to be Rs.2,32,800/- per annum

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(19,400x12).

Keeping in view the composition of family, deduction to the extent of $\frac{1}{3}^{\text{rd}}$ has to be applied towards personal expenses of the deceased. In this way, the total dependency would come out to be Rs.1,55,200/-.

In view of **Smt.Sarla Verma vs Delhi Transport Corporation, 2009(3) RCR (Civil) 77**, multiplier of 11 has to be applied which comes to be Rs.17,07,200/- (1,55,200x11) to which Rs.70,000/- has to be added towards conventional charges as held in **National Insurance Company Limited vs Pranay Sethi and others case (supra)**.

Difference of the amount would carry interest @ 7.5% per annum from the date of filing of claim petition till final realization of the amount. The manner of apportionment as shown by the Motor Accident Claims Tribunal would remain the same.

Disposed of.

FAO No.7407 of 2014:

FAO No.7407 of 2014 has been filed by Uttam Sharma and Mamta Sharma who were not held entitled for maintenance being married son and daughter of Jiya Lal. Status of the appellants being major and married cannot be held to be

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dependent upon income of the deceased in any manner. There cannot be any exception to the findings recorded by the Tribunal. Appellants are not entitled to compensation as they were not dependent upon income of the deceased.

This appeal is accordingly, dismissed.

07.01.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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