IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(5 cases)

(1) FAO No.3598 of 2018
Date of Decision: 24.09.2019

Manohari Devi (since deceased) through LR Sharda Devi
.....Appellant

Versus

Kashmir Singh and others
........Respondents

(2) FAO No.675 of 2017

Salochana Devi
.....Appellant

Versus

Kashmir Singh and others
........Respondents

(3) FAO No.8084 of 2016

Ram Raj and others
.....Appellants

Versus

Kashmir Singh and others
........Respondents

(4) FAO No.484 of 2017

Kranti
.....Appellant

Versus

Kashmir Singh and others
........Respondents

(5) FAO No.740 of 2017

Anju Devi
.....Appellant

Versus

Kashmir Singh and others
........Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Inderjeet Sharma, Advocate
for the appellants in FAO-3598-2018.

Mr. Aman Dhir, Advocate
for the appellant in FAO-675-2017.

Mr. J.S. Cooner, Advocate with
Mr. Ishan Cooner, Advocate
for the appellants in FAOs-8084-2016, 484 and 740-2017.

Mr. Sanjeev Kodan, Advocate with
Ms. Priya Deep, Advocate
for the respondent/insurance company in all cases.

NIRMALJIT KAUR, J.

Learned counsel for the parties agree that all the aforementioned appeals can be taken up today for final disposal in view of the appeals filed by the Insurance Company also listed for hearing.

List accordingly.

All the aforementioned appeals shall stand decided by this common order as the same are arising out from the same accident and common award dated 11.07.2016 passed by the Motor Accident Claims Tribunal, Panchkula (for short, the Tribunal).

FAO-3598-2018

Appeal bearing FAO-3598-2018 has been filed by the appellant-Sharda Devi i.e. sister of deceased for enhancement of compensation as awarded by the Tribunal only to the tune of ₹15,000/- on account of death of deceased-Radha.

Learned counsel for the parties do not dispute that the appellant is entitled to 40% future prospects, multiplier of 18, deduction of 50% from the income of ₹4,000/- per month and also entitled to ₹30,000/- under the conventional heads as per well settled proposition of law as rendered by Hon'ble the Apex Court in case National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680.

In view of the agreed position, the enhanced amount of ₹6,19,800/- is required to be paid as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹4,000/- per month (4000 x 12 = 48000 per annum)
2	Future Prospects	40% (48000 x 40% = ₹19,200/-) 48000 + 19200 = ₹67,200/-
3	Deduction	1/2 1/2 of 67200 = ₹33,600/- (67200 – 33600 = ₹33,600/-)
4	Multiplier	18
5	Compensation	33600 x 18 = ₹6,04,800/-
6	Conventional Heads	₹30,000/-
7	Total	₹6,34,800/-
8	Compensation awarded by the Tribunal	₹15,000/-
9	Differences	₹634800 – 15000 = ₹6,19,800/-

FAO-675-2017

Appeal bearing FAO-675-2017 has been filed by the appellant-Salochana Devi i.e. mother of deceased for enhancement of compensation as awarded by the Tribunal to the tune of ₹5,80,400/- on account of death of deceased-Surinder Mohan.

Learned counsel for the parities do not dispute that the appellant-Salochana Devi is entitled to the enhanced compensation towards the income as assessed by the Tribunal. The income should have been assessed as ₹6,000/- per month instead of ₹4000/- per month. It is also agreed that 40% future prospects should have been granted, multiplier of 17 should have been applied, deduction of 50% has to be made as also the appellant is entitled to ₹30,000/- under the conventional heads as per the case of Pranay Sethi (supra).

In view of the agreed position, the enhanced amount of ₹3,06,400/- is required to be paid as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹6,000/- per month (6000 x 12 = 72000 per annum)
2	Future Prospects	40% (72000 x 40% = ₹28,800/-) 72000 + 28800 = ₹1,00,800/-
3	Deduction	1/2 1/2 of 100800 = ₹50,400/- (100800 – 50400 = ₹50,400/-)
4	Multiplier	17
5	Compensation	50400 x 17 = ₹8,56,800/-
6	Conventional Heads	₹30,000/-
7	Total	₹8,86,800/-
8	Compensation awarded by the Tribunal	₹5,80,400/-
9	Differences	₹886800 – 580400 = ₹3,06,400/-

FAO-8084-2016

Appeal bearing FAO-8084-2016 has been filed by the appellants Ram Raj and others, i.e. husband and other family members of deceased for enhancement of compensation as awarded by the Tribunal to the tune of ₹9,23,600/- on account of death of deceased-Sita Devi.

It is not disputed that the appellants are entitled to the enhancement of compensation under the head of income, which should have been assessed as ₹6,000/- per month instead of ₹5,000/- per month taking into account that deceased was working as well as doing house hold chores and further entitled to 25% future prospects, multiplier of 14, deduction of 1/4th has to be made as well as entitled to ₹70,000/- towards conventional heads as per the case of Pranay Sethi (supra).

In view of the above, the enhanced amount of ₹91,400/- is required to be paid as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹6,000/- per month (6000 x 12 = 72000 per annum)
2	Future Prospects	25% (72000 x 25% = ₹18,000/-) 72000 + 18000 = ₹90,000/-
3	Deduction	1/4th 1/4th of 90,000 = ₹22,500/- (90000 – 22500 = ₹67,500/-)
4	Multiplier	14
5	Compensation	67500 x 14 = ₹9,45,000/-
6	Conventional Heads	₹70,000/-
7	Total	₹10,15,000/-
8	Compensation awarded by the Tribunal	₹9,23,600/-
9	Differences	₹1015000 – 923600 = ₹91,400/-

FAO-484-2017

Appeal bearing FAO-484-2017 has been filed by the injured Kranti, for enhancement of compensation as awarded by the Tribunal to the tune of ₹1,12,983/- on account of injury sustained by her.

While praying for enhancement, learned counsel for the appellant submitted that the income should have been assessed as ₹6,000/- per month taking into account the minimum wages at that point of time and loss of monthly income should have been assessed as ₹600/- per month instead of ₹400/- per month. Further, the appellant is entitled to ₹30,000/- towards the physical disability being 15%.

In view of the above, this Court deems it proper to enhance the compensation as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹6,000/- per month

Sr. No.	Head	Amount assessed
2	Loss of month income @ 600/- per month towards 10% disability	6000 x 10% = 600/- 600 x 12 = 7200/- per annum
3	Multiplier	18
4	Compensation	7200 x 18 = ₹1,29,600/-
5	15% Physical Disability	₹30,000/-
6	Special diet, suffering of pain and transport	₹10,000/-
7	Medical bills	₹16,583/-
8	Total	₹1,86,183/-
9	Compensation awarded by the Tribunal	₹1,12,983/-
10	Differences	₹186183 – 112983 = ₹73,200/-

FAO-740-2017

Appeal bearing FAO-740-2017 has been filed by the injured Anju Devi, for enhancement of compensation as awarded by the Tribunal to the tune of ₹79,800/- on account of injury sustained by her.

While praying for enhancement, learned counsel for the appellant submitted that the appellant has suffered permanent disability to the extent of 10%. It is further submitted that the income should have been assessed as ₹6,000/- per month taking into account the minimum wages at that point of time and loss of monthly income should have been assessed as ₹600/- per month instead of ₹400/- per month. Further, the appellant is entitled to ₹20,000/- towards 10% permanent disability as also entitled to ₹20,000/- instead of ₹3,000/- awarded by the Tribunal towards pain and suffering and special diet.

In view of the above, this Court deems it proper to enhance the compensation as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹6,000/- per month

Sr. No.	Head	Amount assessed
2	Loss of month income @ 600/- per month towards 10% functional disability	6000 x 10% = 600/- 600 x 12 = 7200/- per annum
3	Multiplier	16
4	Compensation	7200 x 16 = ₹1,15,200/-
5	10% Physical Disability	₹20,000/-
6	Special diet, suffering of pain and transportation	₹20,000/-
7	Total	₹1,55,200/-
8	Compensation awarded by the Tribunal	₹79,800/-
9	Differences	₹155200 – 79800 = ₹75,400/-

Thus, as per the above calculations in all appeals, the enhanced compensation of ₹6,19,800/- in FAO-3598-2018, ₹3,06,400/- in FAO-675-2017, ₹91,400/- in FAO-8084-2016, ₹73,200/- in FAO-484-2017 and ₹75,400/- in FAO-740-2017 be paid to the appellant(s) within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition till its realization. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

All the appeals are disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

24.09.2019
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No