IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **FAO No. 8641 of 2014 (O&M)**.
Date of Decision: November 09, 2020

Anguri Devi and another ...... APPELLANTS
Versus
Jagtar alias Neeka and others ...... RESPONDENTS

2. **FAO No. 263 of 2015 (O&M)**

Anguri Devi and another ...... APPELLANTS
Versus
Jagtar alias Neeka and others ...... RESPONDENTS

3. **FAO No. 9848 of 2014 (O&M)**.
Meenu alias Parveen and others ...... APPELLANTS
Versus
Jagtar alias Neeka and others ...... RESPONDENTS

4. **FAO No. 8321 of 2014 (O&M)**.
National Insurance Company Limited ...... APPELLANT
Versus
Anguri Devi and others ...... RESPONDENTS

5. **FAO No. 8322 of 2014 (O&M)**.
National Insurance Company Limited ...... APPELLANT
Versus
Anguri Devi and others ...... RESPONDENTS

6. **FAO No. 8319 of 2014 (O&M)**.
National Insurance Company Limited ...... APPELLANT
Versus
Meenu alias Parveen and others ...... RESPONDENTS

7. **FAO No. 3634 of 2015 (O&M)**.
Bajaj Allianz General Insurance Company Limited ...... APPELLANT
Versus
Sita Devi and others ...... RESPONDENTS

8. **FAO No. 5202 of 2015 (O&M)**.
National Insurance Company Limited ...... APPELLANT
Versus
Sita Devi and others ...... RESPONDENTS

CORAM:-HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.D.S.Nain, Advocate for the appellants
(in FAO Nos. 8641, 9848 of 2014, 263 of 2015) and
for respondents no.1 to 3 (in FAO No. 8319 of 2014) and
for respondents no.1 and 2 (in FAO No. 8321 and 8322 of 2014).

Mr. Neeraj Khanna, Advocate and
Mr. Ravinder Arora, Advocate
ForNational Insurance Company Limited

Mr. M.S. Khillan, Advocate for respondent No. 1
(in FAO No. 3634 of 2015)

Mr. Baldev Kapoor, Advocate for respondent-M/s Khanauri Bus Service, in all appeals.

Mr. Vishal Aggarwal, Advocate for Bajaj Allianz General Insurance Company.

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Lisa Gill, J.

This order shall dispose of FAO Nos. 8641, 9848, 8319, 8321, 8322 of 2014, 263, 3634, 5202 of 2015.

All the above said eight appeals are being taken up and decided together as all the appeals arise out the motor vehicle accident which took place on 11.09.2011 in which Ramesh son of Ram Kumar, Mona wife of Ramesh and Rajesh son of Suraj Mal lost their lives.

FAO Nos.8319, 8321, 8322, 8641, 9848 of 2014 and 263 of 2015 arise out of common award dated 24.03.2014 passed by the learned Motor Accident Claims Tribunal, Kaithal(hereinafter referred to as, the 'Tribunal').

FAO Nos. 3634 and 5202 of 2015 arise out of award dated 09.02.2015 passed by the learned Motor Accident Claims Tribunal, Karnal.

Claimants – Anguri Devi and her husband Ram Kumar filed MACT No. 155 and 156 of 2011 before learned MACT, Kaithal, seeking compensation on account of death of their son Ramesh and daughter-in-law Mona respectively vide said claim petitions.

Claimants - Meenu and others i.e. LRs of the deceased Rajesh filed MACT No. 157 of 2011 before learned MACT, Kaithal seeking compensation on account of his death.

All the abovesaid three petitions were decided by a common award dated 24.03.2014 passed by learned MACT, Kaithal.

Sita Devi, mother of the deceased Mona filed MACT No. 618 of 2013 before the learned Tribunal at Karnal, which was decided vide separate award dated 09.02.2015.

FAO No. 8641 of 2014 has been filed by Anguri Devi and her husband claiming enhanced compensation on account of death of their son Rajesh Kumar.

FAO No. 263 of 2015 has been filed by the parents-in-law of the deceased Mona, seeking enhancement of compensation awarded on account of death of their daughter-in-law Mona.

Meenu and others i.e. LRs of deceased Rajesh Kumar have filed FAO No. 9848 of 2014 seeking enhanced compensation.

FAO Nos. 8319, 8321, 8322 of 2014have been filed by National Insurance Company Limited challenging award dated 24.03.2014 passed by learned Tribunal, Kaithal.

FAO No. 5202 of 2015 and FAO No.3634 of 2015 have been filed by the National Insurance Company Limited and Bajaj Allianz General Insurance Company Limited respectively, challenging award dated 09.02.2015 passed by learned Tribunal, Karnal, whereby compensation has been awarded to Sita Devi, mother of Mona.

Brief facts necessary for adjudication of the case are that MACT Nos. 155, 156 and 157 were decided together by a common award dated 24.03.2014. As per the averments in all the claim petitions, Ramesh Kumar son of Ram Kumar, Mona wife of Ramesh Kumar and Rajesh son of Suraj Mal were coming from

Kaithal on 11.09.2011 towards their village on a motorcycle bearing registration No. HR-99-HLT-8473, after getting medical treatment for Mona. Mona and Rajesh were pillion riding while Ramesh was drivingthe motor cycle. Jagdeep son of Ronak Ram and Nafe son of Arjun were following them on a separate motorcycle bearing registration No. HR32E-1090. When they were near the power house of village Padla at about 11.00 a.m., proceeding behind a milkcanter bearing registration No. PB04-M-9696, driver of the said canter suddenly applied brakes in a rash and negligent manner. Ramesh tried to save the situation but the motorcycle struck against the canter. All three i.e. Ramesh, Mona and Rajesh fell on the ground. A bus bearing registration No. PB13-S-9805 being driven in a rash and negligent manner by respondent Jagtar @ Neeka was coming from the opposite side. Jagtar @ Neeka its driver, could not stop the bus and as a result all three occupants/riders of the motorcycle were crushed. Ramesh Kumar passed away at the spot while Mona and Rajesh succumbed to their injuries at General Hospital, Kaithal. Post Mortem Reports of all three deceased are on record as Exs. PG, PJ and PH. FIR No. 102 dated 11.09.2011 was registered against drivers of both the offending vehicles i.e. canter as well as the bus. FIR, charge sheet and the final report are on record. Claim petitions were contested by the respondents.

Following issues were framed by the learned Tribunal, at Kaithal on the basis of the pleadings:-

1. Whether Ramesh Kumar son of Ram Kumar, Mona wife of Ramesh Kumar and Rajesh Kumar son of Suraj Mal died in a road side accident which allegedly took place on 11.09.2011 at about 11.00 AM, near village Padla, Police Station Sadar, Kaithal on account of rash and negligent driving of respondent No.1 while driving the offending vehicle bearing registration No. PB13-S-9805 as well as respondent No. 4 while driving the offending vehicle bearing registration No. PB04-M-9696?

2. If issue No. 1 is proved in affirmative, what amount of compensation, the claimants are entitled to and from whom? OPP
3. Whether the petition is not maintainable in the present form? OPR
4. Whether respondent No. 1 was driving the offending vehicle in breach of policy condition?
5. Relief.

Learned Tribunal on considering the facts, circumstancesand evidence on record concluded that Ramesh Kumar, Rajesh and Mona lost their lives in a motor vehicle accident which took place on 11.09.2011. Drivers of both the bus as well as the canter were held to be negligent and rash. The deceased Ramesh was also held guilty of contributory negligence which was assessed to the extent of 25%. Driver of the offending bus was held negligent to the extent of 35% and that of the canter to the extent of 40%. As both the vehicles were validly insured, the respective insurance companies were held liable to indemnify both the respective owners.

In the case of deceased Ramesh (in MACT No. 155 of 2011), he was held to be 27 years old as per Post Mortem Report Ex.PG. Ramesh was admittedly working as a Jail Warder, drawing a monthly salary of Rs.15,141/-. Learned Tribunal awarded a sum of Rs. 21,09,176/-, which is detailed as hereunder:-

Sr. No.	Heads	Calculation
1.	Monthly salary	Rs.15,141/-
2.	1/3rd deduction as personal expenses of the deceased	Rs.15141-5047=Rs.10,094/-
3.	Compensation after multiplier of 17 is applied	Rs.10094x12x17=Rs.20,59,176/-
4.	Loss of love and affection	Rs.25,000/-
5.	Last rites expenses	Rs.25,000/-
	Total	Rs.21,09,176/-

In the case of Mona (in MACT No. 156 of 2011), she was held to be 23 years old. Treating her to be a housewife, her income was assessed as Rs.4200/-

per month. Learned Tribunal awarded a sum of Rs.6,21,200/-, which is detailed as hereunder:-

Sr. No.	Heads	Calculation
1.	Monthly salary	Rs.4,200/-
2.	1/3rd deduction as personal expenses of the deceased	Rs.4200-1400=Rs.2800/-
3.	Compensation after multiplier of 17 is applied	Rs.2800x12x17=Rs.5,71,200/-
4.	Loss of consortium	Rs.25,000/-
5.	Last rites expenses	Rs.25,000/-
	Total	Rs.6,21,200/-

In MACT No. 157 of 2011, the deceased Rajeshwas held to be 26 years old and was considered as an unskilled labourer earning Rs.4500/- per month. Learned Tribunal awarded a sum of Rs.6,87,000/- whichis detailed as hereunder:-

Sr. No.	Heads	Calculation
1.	Monthly salary	Rs.4,500/-
2.	1/3rd deduction as personal expenses of the deceased	Rs.4500-1500=Rs.3000/-
3.	Compensation after multiplier of 17 is applied	Rs.3000x12x17=Rs.6,12,000/-
4.	Loss of consortium	Rs.25,000/-
5.	Loss of love and affection	Rs.25,000/-
6.	Expenses of last rites	Rs.25,000/-
	Total	Rs.6,87,000/-

The claimants were held entitled to the amounts in question after deduction of 25%.

Sita Devi, mother of the deceased Mona filed MACT No. 618/2013at Karnal seeking compensation on account of death of her daughter Mona. Learned Tribunal at Karnal, also held that the accident took place due to rash and negligent driving of both the canter and the bus, by their respective drivers.Following issues were framed in MACT No. 618 of 2013:-

1. Whether deceased Mona died in a road side accident which took place on 11.09.2011 at about 11.00 AM, near Power House of village Padla, due to rash and negligent driving of respondent No.1 being driver of the offending vehicle bearing registration No. PB04-M-9696?
2. If issue No. 1 is proved, in affirmative, whether the claimants are entitled for compensation on account of death of Mona as claimed. If so, to what amount, from whom and on what terms and conditions? OPP
3. Whether the respondent No. 1 was not having a valid and effective driving licence at the time of this accident and the offending vehicle was being plied in violation of the terms and conditions of the policy, if so, to what effect?OPR.3
4. Whether the petition of the claimant is bad for misjoinder or non-joinder of necessary parties? OPR.
5. Whether the claimant has no locus standi to file and maintain the present petition? OPR.
6. Relief.

While taking note of award dated 24.03.2014 passed by the learned MACT, Kaithal, the deceased was held guilty of contributory negligence to the extent of 25% and apportionment of liability amongst the drivers of the offending bus and canter was assessed as 35% and 40%. It is to be noted that parents-in-law of the deceased Mona, were impleaded as parties to the said claim petition at a later stage. The objection raised by insurance companies that separate petition could not have been filed by the mother and she should seek apportionment in the amount already awarded to the parents-in-law was negated by the learned Tribunal. Claimant -Sita Devi was held entitled to receive a sum amount of Rs. 1,99,500/- as compensation. Considering the deceased Mona, to be a housewife, her income was assessed as Rs.4200/- per month. After deducting 1/3rd for personal expenses, dependency was calculated as Rs.2800/- per month and contribution towards mother was assessed as Rs.1000/- per month with the major share being observed to be contributed in the matrimonial home. Total dependency was assessed as Rs.2,16,000/- while applying a multiplier of 18. 25% of the amount was deducted and Rs.1,99,500/- awarded to Sita Devi.

Insurance companies have preferred appeals challenging awards dated 24.03.2014 as well as award dated 09.02.2015 passed by the learned Tribunal at Kaithal and Karnal, respectively. LRs of deceased Rajesh son of Suraj Mal and parents of Rajesh, who are parents-in-law of Mona as well, have preferred appeals for enhancement of the awarded compensation. It bears reiteration that FAO Nos. 8319, 8321 and 8322 of 2014 have been filed by the insurance company challenging award dated 24.03.2014 passed by the learned MACT, Kaithal. FAO Nos. 3634 and 5202 of 2015 have been filed by the insurance company challenging award dated 09.02.2015 of learned MACT, Karnal.

FAO Nos. 8319, 8321, 8322 of 2014 and 3634, 5202 of 2015

Learned counsel for National Insurance Company Limited(insurer of the offending bus) has vehemently argued that the said insurance company should be completely exonerated of its liability for the reason, that driver of the offending bus was not holding a valid driving licence at the time of the accident, thus, there is a fundamental breach of the terms and conditions of the policy.

CM-24984-CII-2014 in FAO No. 8319 of 2014 for producing verification report by way of additional evidence has been filed. It is submitted that the appellant – insurance company got this verification report through its investigator regarding the driving licence in question, after decision of the case. Despite taking due care and caution, the report could not be obtained from the licencing authority during the pendency of the claim petition. Learned counsel, thus, prays that this application be allowed.

Learned counsel for the appellant – National Insurance Company Limited refers to communication dated 04.04.2014 by the investigator inquiring about genuineness of the driving licence to the DTO, Nalbari Assam, whereon an endorsement is stated to have been made by the said District Transport Officer, regarding non-issuance of the driving licence. It is to be noted at this stage that the claim petitions at Kaithal were instituted on 22.12.2011. The award was passed on 24.03.2014. Admittedly, no action was ever taken by the insurance company during the pendency of the claim petitions for the alleged verification of the driving licence held by the driver of the offending bus. Report of the investigator is admittedly of 04.04.2014 i.e. even after the passing of the impugned award dated 24.03.2014. No palpable reason has been set forth for the same. Driving licence of the driver of the bus, namely Jagtar Singh, was duly placed on record in the proceedings at Kaithal as well as Karnal. It is relevant to note at this stage that no effort was made by the said insurance company to prove the driving licence in question being fake even before the learned MACT, Karnal where the proceedings culminated subsequently on 09.02.2015. I do not find any merit in the argument that communication dated 04.04.2014 with the alleged endorsement dated 02.05.2014 is sufficient to absolve the insurance company of its liability or entitles it to recovery rights. It is a settled position that no reliance can be placed merely upon a report of an Investigator to impinge the validity of the driving licence. There is indeed no justification for allowing this application for leading additional evidence, at this stage in the given factual matrix as above.

Application is, accordingly, dismissed. There is no evidence on record to prove that driver of the offending bus was not holding a valid driving licence, thus, leading to a fundamental breach of conditions of the insurance policy. In my considered opinion there is no ground to absolve the insurer of the bus of its liability or to afford recovery rights to it.

It is further vehemently argued that the accident took place entirely due to negligence of the deceased, who were triple riding on a motorcycle. It is submitted that due to this reason alone all the claim petitions should be dismissed. There is no doubt that the deceased were triple riding on a motorcycle, however, it cannot be held by any stretch of imagination that triple riding was the causative factor of the accident. Doubtlessly, triple riding is a violation of the traffic rules but the same is not a ground for entirely absolving the insurance company of both the offending vehicles or even one of them of their liability as triple riding is not proved to be the causative factor of the accident. The evidence on record proves that driver of the offending canter, indeed applied brakes in a sudden and rash manner, due to which the motor cycle dashed against it. At the same time, driver of the on coming bus was equally rash and negligent, which is evident from the fact that all the three persons on the motorcycle were crushed beneath the bus. Had the bus driver been cautious and proceeding within speed limits, he would obviously have been able to control his vehicle in time and save three lives. Therefore, I am also unable to accept the argument of learned counsel for the National Insurance Company Limited, that the bus driver is entirely free of fault and no liability can be fixed upon him for causing the accident in question. There is indeed no merit in the argument that it is the fault of driver of the canter and the motorcyclist themselves and the bus driver cannot be held liable or responsible in any manner.

Similarly, I do not find any merit in the argument raised by learned counsel for National Insurance Company Limited regarding credibility of the testimony of Jagdish (PW4), an eyewitness to the occurrence being suspect. Learned Tribunal has rightly observed that testimony of the witness has to be read as a whole.PW4, when cross examined by counsel for National Insurance Company Limited, stated that after hitting the canter, balance of the motor cycle was lost and it was struck against by the bus coming from the opposite side. When cross examined by learned counsel for Bajaj Alliance General Insurance Company Limited, PW4 stated that the deceased was trying to overtake the canter and it was struck against by the bus, which was coming from the opposite side. The alleged inconsistency sought to be highlighted in my considered opinion, is not such, which renders the testimony of PW4 to be untrustworthy or unreliable. Argument raised by learned counsel for the insurance company to the effect that PW4 has given a different version when cross examined by separate counsel of the two insurance companies, thereby creating a serious dent on his credibility, is untenable, hence rejected.

A perusal of the record produced in Court would reveal that the driver of the offending canter suddenly applied brakes in a rash and negligent manner. The motorcyclist struck against the canter and fell on the road. The bus, which was coming from the opposite side, dashed against the motorcyclist and pillion riders, thereby crushing them to death. In case, drivers of both the vehicles i.e. the canter and bus had been vigilant indeed the fatal causalities may have been averted. Therefore, I do not find any ground to set aside the finding of the learned Tribunal regarding negligence of drivers of both the offending bus and canter. However, in my considered opinion, ratio of negligence has not been correctly assessed by the learned Tribunal.

Even though the element of contributory negligence on the part of the deceased is present, the deceased cannot be held guilty of contributory negligence to the extent of 25%, in the given factual matrix. Keeping in view the evidence on record, contributory negligence on the part of the deceased is assessed as 15% instead of 25% and that of respondent – Jagtar i.e. the driver of the offending bus to the extent of 40% instead of 35% and of the canter to the extent of 45% instead of 40%.

Another argument, vehemently urged by learned counsel for the insurance companies in respect to award dated 09.02.2015 by learned Tribunal, Karnal is that mother of the deceased - Mona is not entitled to any compensation and in fact claim petition filed by her is not maintainable. It is argued that parents-in-law of the deceased – Mona,had already filed a claim petition earlier and the same stood adjudicated prior thereto, therefore, claim petition filed by Sita Devi should have been dismissed in toto. At best, even if found entitled, she could have sought apportionment of the compensation awarded. However, a separate award, it is submitted, could not have been passed by the learned Tribunal.

Learned counsel for Sita Devi argues with equal vehemence that the deceased Mona was the claimant's daughter and though an appeal for enhancement has not been filed, she is entitled to much higher compensation and that this Court should award just compensation to Sita Devi, as the present, in any case, are proceedings under a beneficial legislation. The parents-in-law, it is submitted, filed a claim petition without impleading mother of the deceased Mona as a party. It is further submitted that both the insurance companies were very well aware of the pendency of claim petition filed by Sita Devi on 09.11.2012. It was, thus, incumbent upon the said companies to have brought this fact to the notice of learned Tribunal, Kaithal, who decided the matter on 24.03.2014. Pendency of the petition filed by parents-in-law at Kaithal, should also have been brought to the notice of the learned Tribunal at Karnal, at the earliest and not at the fag end of the proceedings at Karnal. It is, thus, prayed that appeals by the insurance company be dismissed and just compensation be awarded to Sita Devi. Learned counsel for parents-in-law of the deceased Mona refers to Section 15 of the Hindu Succession Act and submits that mother of the deceased Mona is not entitled to any compensation as she cannot be treated as legal representative of Mona. It is further submitted that Sita Devi is not entitled to any proportionate share of the compensation awarded to the parents-in-law, as is urged by learned counsel for Sita Devi or the insurance companies.

Having heard learned counsel, I do not find any ground whatsoever to hold that Sita Devi, mother of the deceased Mona is not entitled to any compensation,for the reasons as discussed hereunder. It is a matter of record that the deceased Mona was married to Ramesh Kumar. Sita Devi is admittedly Mona's mother. Section 15 of the Hindu Succession Act reads as under:-

> "**15. General rules of succession in the case of female Hindus**.—
> (1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,—
>
> (a)firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
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> (b) secondly, upon the heirs of the husband;
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> (c) thirdly, upon the mother and father;
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> (d) fourthly, upon the heirs of the father; and
>
> (e) lastly, upon the heirs of the mother.
>
> (2) Notwithstanding anything contained in sub-section (1),—
>
> (a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and
>
> (b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband."

There is, thus, no dispute about the parents-in-law being the legal representatives of deceased Mona. Insofar as mother of Mona is concerned, it is to be noted that as per provisions of the Act, a legal representative of the deceased is entitled to file a claim petition. The term legal representative is not defined in the

Act. Section 2(11) of the CPC defines the term legal representative and reads as under:-

> "Section 2(11)`Legal representative' means a person who in law represents the estate of a deceased person and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves On the death of the party so suing or sued".

It is a settled position that a wider meaning has to be afforded to the term legal representative in the context of proceeding under the Act. In this respect, reference can gainfully be made to the judgment of the Hon'ble Supreme Court in **Gujarat State Road Transport, Ahemdabad versus Raman Bhai Prabhat Bhai and another, AIR 87 Supreme Court 1690**.

The Hon'ble Supreme Court in **Montford Brothers of St. Gabriel and another v. United India Insurance and another 2014 (3) SCC 398**, rejected the plea that the right of filing a claim should be controlled by the provisions of Fatal Accident Act. The term legal representative was stated to have the same meaning as assigned to it in clause (11) of Section 2 of CPC. The contention that unless and until there is evidence in support of such pleading that the claimant is not a legal representative, the claim petition cannot be dismissed as not maintainable, was accepted. The Hon'ble Supreme Court held that the term legal representatives included the charitable society registered under the Societies Registration Act, 1960 to be the LR of the deceased therein who had renounced the world and had joined the said society. The Hon'ble Supreme Court in Smt. **Manjuri Bera v. The Oriental Insurance Company Ltd. And another, 2007 (10) SCC 643** has observed that a legal representative is the one who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent and child. The statutory compensation to be received under the Act, it is observed, could constitute part of the estate of the deceased. It is not denied by learned counsel that in various decisions of the Hon'ble Supreme Court as well as of this High Court, parents of the deceased, married daughters have been held to be the legal heirs for the purposes of this Act and compensation duly awarded.

The legal heirs are indeed to come by the benefits of accretions to the estate if the deceased had lived. There can be no doubt that the mother of a married daughter would be entitled to compensation under the Act. Taking a hypothetical situation, in case the mother was in need of help of any sort, it is reasonable to expect that the married daughter would come to her aid, in fact she is duty bound. Therefore, to non-suit mother of the married daughter only on the ground of daughter being married is unjustified and unacceptable.

In the present case, the parents-in-law had filed a claim petition at an earlier point of time on 22.11.2011 without impleading mother of deceased Mona. The respondents in the said petition never brought pendency of the claim petition filed by Sita Devi on 13.01.2012/09.11.2012to the notice of the said Tribunal. It would have been appropriate for the respondents – insurance companies to have brought the same to notice of the learned Tribunal at Kaithal. Learned Tribunal at Karnal has rightly observed that there was gross negligence on the part of respondents No. 1 to 6 in the said claim petition for which the claimant Sita Devi, should not be made to suffer. An application for impleading parents-in-law was duly filed by Sita Devi, when pendency of their claim petition came to notice. Parents-in-lawappeared before the learned MACT, Kaithal on 25.03.2014 and revealed about passing of award dated 24.03.2014 in their favour.Doubtlessly, it would have been appropriate for the matters to be decided together rather than separate awards being passed with different assessments being carried out.

However, mother of the deceased Mona cannot be non-suited and denied compensation outrightly. She is indeed entitled to compensation in proportionate ratio. To remand the matter to the learned Tribunal, as suggested for passing a consolidated award at this stage is not considered to be a viable option, keeping in view of the fact that the accident took place in 2011 and moreover income of deceased Mona, has been taken to be Rs.4200/- per month by both the learned Tribunals and compensation assessed accordingly. Such a course would lead to unnecessary avoidable delay. I also do not find any merit in the argument that as mother of the deceased was not dependent upon the daughter, no compensation should have been afforded. A co-ordinate Bench of this Court in **Nandini Versus Amrik Singh 2011 (2) Law Herald 1490** has succinctly observed that while loss of estate by itself may be merely a token or a conventional figure when compensation is determined taking the dependence factor, it, however, assumes significance in a case when no dependency is established. Admittedly present proceedings are under a beneficial legislation and in case relief is denied to the mother of the deceased Mona, there would be miscarriage of justice. At this stage, I, thus, consider it in the fitness of things to decide these appeals together and award appropriate compensation to the claimants in appropriate ratio in the case of death of Mona wife of Ramesh and daughter of Sita Devi alongwith other matters arising from the accident in question.

FAO No. 8641 of 2014

The deceased – Ramesh was concededly 27 years old at the time of the accident. He was admittedly working as a Jail Warder, drawing a monthly salary of Rs.15,141/-. There is no evidence on record to indicate that he was in receipt of income higher than the same. However, keeping in view his age and the fact that he was in a permanent job, 50% increment has to be afforded on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. 1/3rd deduction has been correctly effected. Multiplier of 17 has been correctly applied. The claimants are not entitled to a sum of Rs.25,000/- on account of loss of love and affection. Instead of Rs.25000/- on account of funeral expenses, the claimants are entitled to Rs.15,000/-, besides, another sum of Rs.15,000/- on account of loss of estate. The claimants are held entitled to Rs.40,000/- each towards loss of filial consortium 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**and**Satinder Kaur @ Satwinder Kaur and others versus United India Insurance Co. Ltd. 2020 (3) RCR (Civil) 75**. Appellants/claimants are, thus, entitled to compensation which is reworked as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Income	15,141 p.m. i.e. 1,81,692 p.a.
2.	Total income after addition at the rate of 50% on account of future prospects	1,81,692+(181692x50%) =2,72,538
3.	Deduction of 1/3rd on account of personal expenses	2,72,538-(2,72,538-1/3) =1,81,692
4.	Total dependency after applying a multiplier of 17	(1,81,692x17)=30,88,764
4.	Loss of estate	15,000
5.	Funeral expenses	15,000
6.	Loss of filial consortium(40000x2)	80,000
	Total	31,98,764/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above.Proportionate deduction of 15% shall, however, be carried out on account of contributory negligence. 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 petitions till realization.

FAO No. 263 of 2015

Deceased Mona was held to be 23 years old and treating her to be a housewife, her income was assessed as Rs.4200/- per month. Learned Tribunal, Kaithal awarded a sum of Rs.6,21,200/-, which is detailed as hereunder:-

Sr. No.	Heads	Calculation
1.	Monthly salary	Rs.4,200/-
2.	1/3rd deduction as personal expenses of the deceased	Rs.4200-1400=Rs.2800/-
3.	Compensation after multiplier of 17 is applied	Rs.2800x12x17=Rs.5,71,200/-
4.	Loss of consortium	Rs.25,000/-
5.	Last rites expenses	Rs.25,000/-
	Total	Rs.6,21,200/-

Learned Tribunal, Karnal also concluded the deceased to be a house wife and assessed her income to be Rs.4,200/- per month. After deducting 1/3rd for her personal expenses, her contribution to the family was assessed as Rs.2800/-. Her contribution towards her mother was assessed to be Rs. 1000/- per month as it is observed that she must be spending major share of her income in the matrimonial home. Holding Mona to be 23 years old, multiplier of 18 was applied and a sum of Rs.2,66,000/- including a sum of Rs.50,000/- towards loss of love and affection was awarded. The claimant – Sita Devi was, however, held entitled to a sum of Rs.1,99,500/- with the deduction of 25% on account of contributory negligence on the part of deceased - Ramesh.

As discussed in the foregoing paras, I find it appropriate to assess the total compensation, to be paid to all the claimants and apportion it accordingly, rather than having two separate dispensations.

There is no dispute that Mona was 23 years old at the time of her death. The deceased was taken to be a housewife as there is no evidence on record to prove that she had income from any source. It is a settled position that services rendered by a housewife are multifarious. She renders invaluable services in her various facets/roles in a home. Learned counsel for the claimants refers to FAO No. 218 of 2014 (United India Insurance versus Sube Singh) to submit that income of deceased Mona should be assessed as Rs.9000/- per month. However, I do not find any ground to assess income of deceased Mona with reference to the said matter. This Court in FAO No.3395 of 2015 has assessed income of a housewife to be Rs.7,000/- per month in respect to an accident which took place in the year 2011. In the present case, the accident had taken place on 11.09.2011. Keeping in view the facts and circumstances of the present case, including the age of the deceased, it is considered just and expedient to assess notional income of the deceased as Rs.7,000/- per month. The deceased in this case was admittedly 23 years old, thus, the claimantsare held entitled to increase in income at the rate of 40% towards future prospects in terms of the judgment of the Hon'ble Supreme Court in Pranay Sethi (supra). In view of the Division Bench judgment of this Court in **Paramjit Singh and another v. Dilbagh Singh @ Bagga and others, 2014(4) RCR (Civil) 895**, no deduction is to be effected in the compensation to be awarded in the case of death of a housewife. Multiplier of 18, instead of 17, has to be applied as the deceased was 23 years old at the relevant time. The claimants are not entitled to Rs.25,000/Rs.50,000/- on account of loss of love and affection. Instead of Rs.25,000/- on account of funeral expenses, the claimants are entitled to Rs.15,000/-, besides, another sum of Rs.15,000/- on account of loss of estate. The parents-in-law and the mother of the deceased are held entitled to Rs.40,000/- each towards loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court in Magma General Insurance Company Ltd. (supra) as well as Satinder Kaur @ Satwinder Kaur's case (supra). The deceased was admittedly married, thus, she would definitely have spent major portion in her matrimonial home. Parents-in-law are, thus, held entitled to 70% of the awarded amount and mother of the deceased is entitled to 30% of the same.Appellants/claimants are, thus, entitled to compensation which is reworked as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Income	7,000 p.m. i.e. 84,000 p.a.
2.	Total income after addition at the rate of 40% on account of future prospects	84000+(84000x40%) =1,17,600
3.	Total dependency after applying a multiplier of 18	(1,17,600x18)=21,16,800/-
4.	Loss of estate	15,000
5.	Funeral expenses	15,000
6.	Loss of filial consortium to parents-in-law (40000x2)	80,000
	Loss of filial consortium to mother	40,000
	Total	22,66,800/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above.Proportionate deduction of 15% shall, however, be carried out on account of contributory negligence.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 petitions till realization.

FAO No. 9848 of 2014

There is no dispute that the deceased Rajesh was 26 years old at the time of his death. Learned Tribunal while taking the deceased Rajesh to be an unskilled labourer assessed his income as Rs. 4500/-per month and awarded a sum of Rs.6,87,000/-. Minimum wages of an unskilled labourer in the State of Haryana at the time of the accident was Rs.4643/-. Thus, income of the deceased is assessed as Rs.4650/-.40% increment has to be afforded on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. 1/3rd deduction has been correctly effected. Multiplier of 17 has been correctly applied.

The claimants are not entitled to a sum of Rs.25,000/- on account of loss of love and affection. Instead of Rs.25000/- on account of funeral expenses, the claimants are entitled to Rs.15,000/-, besides, another sum of Rs.15,000/- on account of loss of estate. Appellant No. 1 – widow of the deceased is entitled to Rs.40,000/-

towards spousal consortium and appellants No. 2 and 3 – parents of the deceased are held entitled to Rs.40,000/- each towards loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited's** case (supra)and **Satinder Kaur @ Satwinder Kaur's** case (supra). Appellants/claimants are, thus, entitled to compensation which is reworked as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Income	4650 p.m. i.e. 55800 p.a.
2.	Total income after addition at the rate of 40% on account of future prospects	55800+(55716x40%) =78120
3.	Deduction of 1/3rd on account of personal expenses	78120-(78120-1/3) =52080
4.	Total dependency after applying a multiplier of 17	(52080x17)=885360
4.	Loss of estate	15,000
5.	Funeral expenses	15,000
6.	Loss of filial consortium (40000x2)	80,000
7.	Loss of spousal consortium	40,000
	Total	10,35,360

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Proportionate deduction of 15% shall be carried out on account of contributory negligence. 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 petitions till realization.

Accordingly, appeals filed by the insurance companies i.e. FAO Nos. 8319, 8321, 8322 of 2014 are dismissed and FAO Nos. 3634, 5202 of 2015are disposed of.

FAO Nos. 8641, 9848 of 2014 and 263 of 2015 filed by the claimants are disposed of with modification in the amount of compensation.

Pending application(s), if any, are disposed of accordingly.

(LISA GILL)
JUDGE

November 09, 2020
rts

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