

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

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**Date of decision: 10.01.2020**

**FAO No.5940 of 2017 (O&M)**

Bajaj Allianz General Insurance Co. Ltd.

... Appellant

Versus

Suman Sharma and ors.

... Respondents

**FAO No.7112 of 2017 (O&M)**

Suman Sharma and anr.

... Appellants

Versus

Sohan Lal and ors.

... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Rajneesh Malhotra, Advocate for the insurance company.  
None for the claimants.  
Mr. Sandeep Lather, Advocate for driver and owner.

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**REKHA MITTAL, J. (Oral)**

This order will dispose of FAO Nos.5940 and 7112 of 2017 as these have emerged out of the same award dated 08.05.2017 passed by the Motor Accidents Claims Tribunal, Kurukshetra whereby compensation has been assessed on account of death of Akhil in a motor vehicular accident that took place on 12.09.2016.

FAO No.5940 of 2017 has been filed by Bajaj Allianz General Insurance Co. Ltd. (hereinafter referred to as 'the insurance company') whereas the other appeal has been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that appeal has been filed to assail findings of the Tribunal on issue No.1 and quantum of compensation.

The Tribunal awarded Rs.13,21,000/-, detailed hereunder:-

|                                         |                |
|-----------------------------------------|----------------|
| Monthly income of the deceased          | Rs.8000/-      |
| Addition in income for future prospects | 50%            |
| Multiplier                              | 18             |
| Deduction for personal expenses         | 50%            |
| Loss of dependency                      | Rs.12,96,000/- |
| Expenses on funeral                     | Rs.25,000/-    |

Counsel for the insurance company would argue that as three persons including the deceased were travelling on ill-fated motorcycle No.HR-07K-3124 driven by Lovepreet Singh, contributory negligence is liable to be attributed to the deceased and compensation to that extent should not be allowed. To assail quantum of compensation, it is argued that Tribunal has wrongly assessed income of the deceased at Rs.8000/- per month and further allowed addition in income for future prospects @ 50%.

There is no representation on behalf of the claimants-appellants in FAO No.7112 of 2017.

The plea of claimants is that offending car came from behind and hit the motorcycle driven by Lovepreet Singh on which Akhil (since deceased) and Amit were pillion riders. The same version has been proved during the course of trial. The driver of offending vehicle did not appear in the witness box to counter case of the claimants. As the offending vehicle hit the motorcycle from behind on which the deceased was a pillion rider, travelling of two or more than two persons on the motorcycle is of no consequence much less to attribute contributory negligence to the deceased. That being so, contention raised by the insurance company to assail findings of the Tribunal on issue No.1 is patently misconceived and accordingly rejected.

This brings the Court to quantum of compensation. The plea of claimants is that deceased was helping his father in his daily routine work thereby earning Rs.15,000/- per month. The Tribunal has noticed that there is no credible evidence to prove avocation and income of the deceased. The claimants produced copy of secondary examination certificate Ex.P9. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with educational qualification of the deceased, income of the deceased is assessed at Rs.8400/- per month. Addition in income for future prospects would be 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.12,70,080/- [(8400 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded is modified

to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

- 1. Expenses on last rites Rs.15,000/-
- 2. Loss of estate Rs.15,000/-

Total compensation is Rs.13,00,080/- and compensation assessed by the Tribunal is Rs.20,920/- more. As such, assessment made by the Tribunal is kept intact.

Disposed of.

10.01.2020  
ashok

(REKHA MITTAL)  
JUDGE

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