

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

**Cross Objection No. 25-CII of 2014 IN
FAO NO. 2220 of 2012
DATE OF DECISION : 24.03.2021**

Shri Ram General Insurance Company Limited **...Appellant**

Versus

Salma and others **...Cross-objectors/Respondents**

With **Cross Objection No. 23-CII of 2014 IN
FAO NO. 2221 of 2012**

Shri Ram General Insurance Company Limited **...Appellant**

Versus

Meena and others **...Cross-objectors/Respondents**

and **Cross Objection No. 24-CII of 2014 IN
FAO NO. 2222 of 2012**

Shri Ram General Insurance Company Limited **...Appellant**

Versus

Smt. Satwanti and others **...Cross-objectors/Respondents**

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vivek Suri, Advocate,
for the cross-objectors/ respondents.

Mr. Ashwani Talwar, Advocate
For the appellant Insurance Company.

Mr. Sandeep K. Sharma, Advocate
For respondent Ramesh
(Presence marked through video conferencing).

ARUN MONGA, J.

1. The above-referred cross-objections were filed by the claimants in the appeals filed by the Insurance Company impugning the award dated 28.11.2011 passed jointly in three different claim petitions filed by the claimants in respect of death of Randhir, Sunil and Rinku respectively in a motor vehicular accident that took place on 27.11.2010, by virtue of which liability had been fastened upon the insurance

company to pay the compensation to the respective claimants in the claim petitions. The Insurance Company challenged the impugned common award on the ground of contributory negligence, but later the appellant withdrew the appeals on 17.02.2021. Consequently, the only cross-objections filed by the claimants have to be adjudicated. They have challenged on inadequacy of compensation on two grounds, firstly, the monthly income of deceased has been taken on lower side as against the minimum wages prevailing in the State of Haryana at the time of accident and no future prospects have been added and secondly the amount awarded under conventional head is on lower side.

2. In respect of cross-objections filed by claimants Salma and others, it has been argued that the monthly income of the deceased has been taken as Rs.4500/-, whereas the minimum wages prescribed for a mason at the time of accident were Rs.4868.21. According to learned counsel, no additions have been made towards future prospects while as per law laid down in **National Insurance Company Vs. Pranay Sethi & Ors.**¹, the claimants are entitled to addition of 40% towards future prospects. After making deduction of 1/4th and applying the multiplier of 16, as has been done by learned Tribunal, the loss of income comes of Rs.9,81,504/- as against Rs.6,48,000/- awarded by the Tribunal.

Qua conventional heads, it has been argued that in view of the law laid down in **Magma Insurance Company Limited Vs. Nanu Ram**², the claimants are entitled to Rs.60,000/- towards funeral expenses, loss of estate and loss of consortium for wife and Rs.40,000/- each for two children and for father towards parental and filial consortium respectively, taking the total to Rs. 1,80,000/- as against Rs. 10,000/- awarded by the Tribunal(Rs.5000/- each for consortium and funeral expenses).

3. In the case of claimants Meena and others, on the same analogy, the monthly income of the deceased Sunil is sought to be taken as Rs.4868.21 per month with 40% addition towards future prospects. The claimants have sought Rs.60,000/-

¹ 2017(4) RCR(Civil) 1009

towards funeral expenses, loss of estate and loss of consortium for wife and Rs.40,000/- each for two children and parents towards parental and filial consortium respectively, taking the total to Rs. 2,20,000/- as against Rs. 10,000/- awarded by the Tribunal(Rs.5000/- each for consortium and funeral expenses).

4. In respect of claimants Smt. Satwanti and another, the monthly income of the deceased Rinku is sought to be raised in accordance with minimum wages fixed by the Government prevailing at the time of accident, to Rs.4348.21 per month from Rs.4000/-, as assessed by Tribunal with 40% addition towards future prospects. Under conventional heads Rs.50,000/- have sought to be awarded towards funeral expenses and loss of estates and filial consortium of Rs.40,000/- to each parent.

5. The matter was heard on 18.03.2021 and the following order was passed:-

“Having heard rival contentions of learned counsels, the lis is narrowed down only qua the earnings of the deceased/ victim as on other issues, both the learned counsels are ad idem that, the case is squarely covered by the Apex Court judgment rendered in case titled as “Magma General Insurance Company Limited v. Nanu Ram @ Chuhru” 2018 ACJ 2782, read with National Insurance Company Limited v. Pranay Sethi” 2017(4) RCR(Civil) 1009 and “New Indian Assurance Company Limited v. Somwati.”

As regards earnings, I am of the view that without going into the nature of work actually being carried out by the deceased/ victim, a legal presumption can be drawn from minimum wages notification of the relevant time when the petitioner(victim of accident) died on 27.11.2010. However, on being asked to refer to notification, learned counsel for the petitioner seeks time to place the same on record.”

6. Today, during the course of arguments, learned counsel for the cross-objectors submits that as per notification dated 16.08.2010 issued by State of Haryana, the minimum wages of the deceased/victims (being skilled worker/labourer) at the relevant time were to be calculated as Rs.4868/- and Rs. 4348.21 respectively, as against Rs.4500/-(in FAO Nos. 2220 and 2221 of 2014) and Rs.4000/-(In FAO No. 2222 of 2014) per month assessed by learned MACT and to that extent the award needs correction/modification. He submits that the

future prospects are also to be accordingly awarded as per minimum wages applicable at that time, apart from conventional heads.

I am in agreement with the contentions of learned counsel for the cross-objector and in view thereof the amount of award is re-calculated as below :

Cross objections No.25-CII of 2014 in FAO No. 2220 of 2012

Monthly income as per the notification of State of Haryana	Rs.4868.21
Future prospects 40% of the monthly income(As per the judgment of Apex Court)	Rs.1947/-
Total	Rs.6815/-
Deduction (1/4 th of Rs.6815/-)	Rs.1703/-
Monthly income after deduction	Rs.5112/-
Annual income	Rs.61344/-
Multiplier	16
Total	Rs.9,81,504/-
Conventional heads (Funeral expenses, loss of estate and loss of consortium for wife	Rs.60,000/-
Parental consortium and Filial consortium for 2 children and father	Rs.1,20,000/- (40,000 X 3)
Total of the above	Rs.11,61,504/-
Less already awarded	Rs.6,58,000/-
Enhancement of compensation by	Rs.5,03,504/-

Cross objections No.23-CII of 2014 in FAO No. 2221 of 2012

Monthly income as per the notification of State of Haryana	Rs.4868.21
Future prospects 40% of the monthly income(As per the judgment of Apex Court)	Rs.1947/-
Total	Rs.6815/-
Deduction (1/4 th of Rs.6815/-)	Rs.1703/-
Monthly income after deduction	Rs.5112/-
Annual income	Rs.61344/-
Multiplier	17
Total	Rs.10,42,848/-
Conventional heads (Funeral expenses, loss of estate and loss of consortium for wife	Rs.60,000/-
Parental consortium and Filial consortium for 2 children and parents	Rs.1,60,000/- (40,000 X 4)
Total of the above	Rs.12,62,848/-
Less already awarded	Rs.6,98,000/-
Enhancement of compensation by	Rs.5,64,348/-

Cross objections No.24-CII of 2014 in FAO No. 2222 of 2012

Monthly income as per the notification of State of Haryana	Rs.4343.21
Future prospects 40% of the monthly income(As per the judgment of Apex Court)	Rs. 1739/-
Total	Rs.6087/-
Deduction (1/2 of Rs.6087/-)	Rs.3043/-
Monthly income after deduction	Rs.3043/-
Annual income	Rs.36,516/-
Multiplier	18
Total	Rs.6,57,288/-
Conventional heads (Funeral expenses, loss of estate)	Rs.50,000/-
Filial consortium	Rs.80,000/- (40,000 X 2)
Total of the above	Rs.7,87,288/-
Less already awarded	Rs.4,37,000/-
Enhancement of compensation by	Rs.3,50,288/-

The cross-objections stand disposed of in terms of the aforesaid calculations. The Award of learned MACT is accordingly modified with enhancement in the amount of compensation, in the manner aforesaid, payable to the respective claimants along with interest @ 6% per annum from the date of filing of claim petition till its actual realization.

March 24, 2021
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No