IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(1) **<u>FAO No.3366 of 2005 (O&M)</u>**
Date of Decision: 23.12.2022

Major Singh and another

..……Appellants.

Versus

Azir @ Wazir and others

.........Respondents.

(2) **<u>FAO No.3367 of 2005 (O&M)</u>**

Balbir Singh and another

..……Appellants.

Versus

Azir @ Wazir and others

.........Respondents.

(3) **<u>FAO No.3368 of 2005 (O&M)</u>**

Iqbal Khan and another

..……Appellants.

Versus

Azir @ Wazir and others

.........Respondents.

(4) **<u>FAO No.3369 of 2005 (O&M)</u>**

Latif Khan and another

..……Appellants.

Versus

Azir @ Wazir and others

.........Respondents.

(5) **<u>FAO No.3370 of 2005 (O&M)</u>**

Faqir Mohd. and another

..……Appellants.

Versus

Azir @ Wazir and others

.........Respondents.

CORAM: ***HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

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Argued by:- Mr. Mohd. Yousaf, Advocate
for the appellants.

Service of notice upon respondents No.1 and 2
dispensed with vide order dated 22.11.2022.

Mr. Suvir Dewan, Advocate
for respondent No.3-insurance company.

MEENAKSHI I. MEHTA, J.

All the five above-mentioned appeals are being taken up together for discussion and adjudication as the same have arisen out of the common Award passed by learned Motor Accident Claims Tribunal, Sangrur (for short 'the Tribunal'), on 01.03.2005.

2. Appellants Major Singh and Bhupinder Kaur in **FAO No.3366 of 2005**, appellants Balbir Singh alias Raghvir Singh and Gurnam Kaur in **FAO No.3367 of 2005**, appellants Iqbal Khan and Akhtari Bibi in **FAO No.3368 of 2005**, appellants Latif Khan and Iqbalan Bibi in **FAO No.3369 of 2005** and appellants Faqir Mohd. and Asgari Bibi in **FAO No.3370 of 2005** (here-in after to be referred as 'the claimants') are the unfortunate respective parents of five young boys namely Jyoti Sarup Singh, Sandeep Singh, Abdul Mazid, Talib Hussain and Javed Akhtar, whose precious lives perished in a motor vehicular accident and the respondents are the driver, owner and the insurer of the Trailor bearing registration No.HR-55-7979

(for short 'the offending vehicle') respectively.

3. The facts, in brief, culminating in the filing of the present appeals, are that the claimants (as the parents of each deceased) had filed separate claim petitions against the respondents for seeking compensation to the tune of Rs.8 (eight) lac, 6(six) lac, 6(six) lac, 10(ten) lac and 9(nine) lac respectively, while averring that on the ill-fated day, i.e 29.06.2003, all the five afore-named boys (since deceased), along-with one Salam Din, were travelling in the Car bearing registration No.PB-10B-366 and it (Car) was being driven by Jyoti Sarup Singh. When they reached in the area of Village Timberwal, the offending vehicle, which was being driven by respondent No.1 in a rash and negligent manner, came from Malerkotla side and it hit the above-said Car by coming on the wrong side on the road and dragged the same up to a long distance. All the afore-said occupants of the Car sustained injuries in this accident which ultimately proved fatal for the respective sons of the claimants.

4. It is worth-while to mention here that respondents No.1 and 2 were proceeded against *ex-parte* by the Tribunal and in the instant appeals also, the service of notice upon them has been dispensed with vide the order dated 22.11.2022.

5. Respondent No.3-insurance company had filed its written statements controverting the claim, as put-forth by the claimants in their respective petitions, on various grounds. As specifically mentioned in Para No.11 of the impugned Award, all the claim petitions were consolidated vide the order dated 28.01.2004 and thereafter, the Tribunal put the parties

to the trial by framing the issues. The contesting parties led their evidence and after appreciating and evaluating the same and hearing their learned counsel, the Tribunal awarded a sum of Rs.2,20,000/- to the claimants in each petition, as compensation, along-with interest @ 9% per annum from the date of the filing of the claim petitions till the realization of the same and held the respondents to be jointly and severally liable to pay the same. Feeling dis-satisfied with the impugned Award, the claimants have filed these appeals for seeking enhancement of the amount of compensation.

6. I have heard learned counsel for the appellants-claimants as well as learned counsel for respondent No.3-insurance company, in all the present appeals and have also gone through the files carefully.

7. Learned counsel for the appellants-claimants has contended that the Tribunal has not awarded any compensation to the claimants on the scores of the future prospects, loss of consortium, loss of estate, funeral expenses and has also erroneously applied the multiplier of '11' for calculating the amount of compensation, while considering the age of the claimants as the decisive factor for ascertaining the same whereas the age of the deceased was supposed to be taken into consideration for the said purpose and in these circumstances, the claimants are entitled for the enhancement in the amount of compensation accordingly.

8. However, learned counsel for respondent No.3 has argued that all the deceased were unmarried at the time of the accident in question and it being so, 50% of their monthly income was required to be deducted towards their personal expenses before working out the amount of the

dependency of the claimants but the Tribunal has wrongly deducted only 1/3rd of their income for such calculation and thus, the claimants have already been awarded more than sufficient compensation by the Tribunal and hence, they have no occasion to ask for any enhancement in the same.

9. Concededly, all the five above-named deceased/victims were in the age group of 18 to 23 years and were bachelors at the time of their death in the said accident and the claimants are their parents. The Tribunal has assessed the monthly income of each deceased as Rs.2,500/- on the basis of the prevalent rate of wages, as payable to a labourer at the relevant time and has deducted 1/3rd share of their so-assessed income towards their personal expenses so as to arrive at the amount of the annual dependency of their respective parents-claimants and has worked out the compensation to the tune of Rs.2,20,000/- by applying the multiplier of '11' in view of the age of the respective parents of the deceased.

10. It is pertinent to mention here that none of the parties has disputed the assessment of the monthly income of the deceased by the Tribunal as Rs.2,500/-. Since all the deceased/victims were below the age of 40 years at the time of their death, therefore, in view of the verdict rendered by the Constitution Bench of Hon'ble the Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and Others 2017(16) SCC 680***, the amount equivalent to 40% of their income is to be added therein on the count of future prospects and when so added, their monthly income would be Rs.3,500/-. However, keeping in view the fact that all the victims/deceased are stated to be the bachelors/unmarried at the

time of the said accident, 50% of their afore-said monthly income has to be deducted towards their personal expenditure and the remaining 50%, i.e Rs.1,750/-, is to be considered as their contribution towards their respective parents. The amount of the annual dependency of each set of the parents, thus arrived, would be (1,750 X 12) = Rs.21,000/-.

11. It is, now, well-settled that the age of the deceased is to be taken as the key factor for determining the applicability of the multiplier for calculating the amount of compensation. In view of the above-referred age group of the deceased, the multiplier of '18' would be applicable and when so applied, the amount of compensation, payable to the claimants in each appeal, comes out to be (21,000 x 18) = Rs.3,78,000/-.

12. Besides the afore-calculated amount, each set of the claimants in these appeals shall also be entitled to the compensation of Rs.16,500/- towards the loss of estate, another sum of Rs.16,500/- for the funeral expenses and all the claimants shall be entitled to an amount of Rs.44,000/- each, as compensation towards the loss of filial consortium.

13. Resultantly, the enhanced amount of compensation, payable to the appellants-claimants in each of the instant appeals, is worked out as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Dependency	Rs.2,20,000/- (20,000x11)	Rs.3,78,000/- (21,000x18) (including future prospects @ 40%)	Rs.1,58,000/-

Loss of Estate	NIL	Rs.16,500/-	Rs.16,500/-
Funeral Expenses	NIL	Rs.16,500/-	Rs.16,500/-
Loss of Filial Consortium	NIL	Rs.88,000/- @Rs.44,000/-for each of both the claimants-parents	Rs.88,000/-
Total Enhancement:-			**Rs.2,79,000/-**

14. As a sequel to the fore-going discussion, all the five appeals in hand (FAOs No.3366 to 3370 of 2005) are hereby allowed to the effect that the set of both the appellants-claimants in each of these appeals shall be entitled to the net enhanced compensation amounting to **Rs.2,79,000/-**, over and above the amount of Rs.2,20,000/- as already awarded to them by the Tribunal as compensation and the said enhanced amount shall carry the interest @ 7.5% per annum from the respective dates of the filing of the claim petitions till its actual realization and it shall be payable to the appellants-claimants in the same terms as mentioned in the impugned Award.

(MEENAKSHI I. MEHTA)
JUDGE

December 23, 2022
Yag Dutt

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*