

233 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on : 27.07.2022

FAO-1761-2014 (O&M)

Shriram General Insurance Co. Ltd.

..... Appellant

Versus

Shamsher Kaur and others

..... Respondents

FAO-1763-2014 (O&M)

Shriram General Insurance Co. Ltd.

..... Appellant

Versus

Usha Rani and others

..... Respondents

FAO-3955-2014 (O&M)

Usha Rani and another

..... Appellants

Versus

Kuldip Singh and others

..... Respondents

FAO-3956-2014 (O&M)

Shamsher Kaur and another

..... Appellants

Versus

Kuldip Singh and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Varun Sharma, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant in FAO No.1761 and 1763 of 2014 and
for respondent No.3 in FAO No.3955 and 3956 of 2014.

Ms. Ekta Thakur, Advocate
for the appellants in FAO No.3955 and 3956 of 2014 and
for respondents No.1 and 2 in FAO No.1761 and 1763 of 2014.

Manjari Nehru Kaul, J.(Oral)

**CM-6059-CII-2014 in FAO-1761-2014 and
CM-6071-CII-2014 in FAO-1763-2014**

Application is allowed as prayed for and the delay of 25 days in filing the appeal is condoned.

**CM-11990-CII-2014 in FAO-3955-2014 and
CM-11992-CII-2014 in FAO-3956-2014**

Application is allowed as prayed for and the delay of 67 days in filing the appeal is condoned.

Main case

This order shall dispose of four appeals i.e. FAO No.1761, 1763, 3955 and 3956 of 2014 as all of them have been filed against the same award dated 08.11.2013 passed by the Motor Accident Claims Tribunal, SAS Nagar (Mohali). FAO Nos.1761 and 1763 of 2014 have been filed by the Insurance Company while FAO Nos.3955 and 3956 of 2014 have been filed by the claimants. Brief facts of the case are taken from FAO No.1761 of 2014.

The Insurance Company is in appeal before this Court to impugn the award dated 08.11.2013 passed by Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein the following compensation was assessed and awarded to the claimants on account of death of Varinder Singh and Bharpur Singh (hereinafter referred to as 'deceased No.1 and deceased No.2') in an accident, which took place on 05.10.2011:-

Compensation awarded for death of Varinder Singh

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.5,000/-
2	Future prospects (50%)	Rs.2,500/-
3	Annual income (Rs.5,000 + Rs.2,500 x 12)	Rs.90,000/-
4	Deduction towards personal expenses (50%)	Rs.45,000/-
5	Multiplier	18
6	Total dependency (Rs.45,000 x 18)	Rs.8,10,000/-
7	Funeral expenses	Rs.25,000/-
	Total compensation	Rs.8,35,000/-

Compensation awarded for death of Bharpur Singh

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.5,000/-
2	Future prospects (50%)	Rs.2,500/-
3	Annual income (Rs.5,000 + Rs.2,500 x 12)	Rs.90,000/-
4	Deduction towards personal expenses (50%)	Rs.45,000/-
5	Multiplier	18
6	Total dependency (Rs.45,000 x 18)	Rs.8,10,000/-
7	Funeral expenses	Rs.25,000/-
8	Medical expenses	Rs.32,102/-
	Total compensation	Rs.8,67,102/- (rounded off to Rs.8,67,200/-)

The amount of compensation along with interest @ 6% p.a. awarded to the claimants from the date of filing of the petition till its realization was to be paid jointly and severally by respondents No.1 and 2, which was to be indemnified by respondent No.3-Insurance Company.

It was claimed by the claimants that on the fateful day, deceased No.1 was going to Rajpura on motorcycle bearing registration

No.PB-65-K-2411 and deceased No.2 was pillion riding with him. When they reached GT Road, Banur, a truck bearing registration No.PB-02-PQ-9434(actual No.PB-02-BQ-9434) (hereinafter referred to as 'offending vehicle') came in a rash and negligent manner from Banur side being driven by respondent No.1 and collided with the motorcycle of the deceased. Resultantly, both the deceased were dragged by the offending vehicle which later over turned. Deceased No.1 suffered multiple serious injuries on his person and died at the spot. Deceased No.2 was removed to Government Hospital, Banur on account of multiple serious injures received in the accident in question, however, he too succumbed to his injuries on 10.10.2011.

Learned counsel for the appellant-Insurance Company has challenged the impugned award on the following two grounds:

- (i) that involvement of the offending vehicle in the accident in question, which took place on 05.10.2011 was highly suspect as the Tribunal failed to appreciate that in the FIR, which was registered after the accident, the registration number of the offending vehicle was given as PB-02-AY-7227 and there was no mention of the name of the driver. However, subsequently a statement was recorded wherein registration number of the offending vehicle was changed to PB-02-PQ-9434. Still further, the alleged eyewitness was none other than the grandfather of the deceased No.1, who was an interested witness, thus, could not be relied upon.

- (ii) that the compensation awarded to the claimants of both deceased Nos.1 and 2 was on the higher side as the Tribunal erred in treating both the deceased as highly skilled persons and assessing their income as Rs.5,000/- per month, which in fact should have been only Rs.4,500/- per month, as per the minimum wages notified by the State Government in the case of unskilled labourer for the relevant year. He further submits that the amount of compensation awarded under the conventional heads was also exorbitant, which needed to be reassessed and modified.

Per contra, learned counsel for the claimants while opposing the prayer and submissions made by counsel for the appellant has vehemently argued that the compensation awarded by the Tribunal was inadequate and not in consonance with the ratio of law as laid down in ***Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121, National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270 and Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333.*** It is further submitted that both the deceased were pursuing their studies and were students of BA-II. Learned counsel has argued that though the deceased were rightly treated as skilled workers but the Tribunal failed to appreciate that besides being students, they were contributing to the family income as they were into dairy farming. A prayer is thus, made that the income of the deceased should have been assessed at, at least Rs.10,000/- per month. While drawing the attention of this Court to the

compensation awarded, she still further submits that inadequate compensation had been awarded under the conventional heads to the claimants and hence, it deserved to be reassessed and modified accordingly.

Heard learned counsel for the parties and perused the case file.

This Court does not concur with the submissions made by learned counsel for the Insurance Company that mere incorrect registration number of the offending vehicle or even the name of the driver not being mentioned in the FIR, which was registered promptly, would in any manner create any suspicion about the involvement of the vehicle in the accident in question. The offending vehicle after colliding with the vehicle of the deceased over-turned. The eyewitness gave a vivid account of the manner in which the accident took place. This Court does not find any force in the arguments of learned counsel for the Insurance Company regarding the false involvement of the offending vehicle in the accident in question and the same deserves to be rejected.

This Court concurs with the submissions made by learned counsel for the Insurance Company that since the deceased, who were 21 year old young boys pursuing BA-II and were not salaried employees, the claimants were entitled to compensation to the extent of only 40% instead of 50% towards future prospects as per the settled law. Still further, since no compensation has been granted to the claimants for loss of filial consortium, they would be also entitled to Rs.40,000/- each for loss of filial consortium as per *Pranay Sethi's case(supra)*. The claimants would also be entitled to Rs.15,000/- each for loss of estate and for funeral expenses. Since it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years, 10% enhancement qua the above-mentioned conventional heads would have to be made. Hence, the

amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate & funeral expenses. This Court deems it appropriate to reassess and grant the following compensation to the claimants:

Compensation awarded for death of Varinder Singh
in (FAO No.3955 of 2014)

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.5,000/-
2	Future prospects (40%)	Rs.2,000/-
3	Annual income (Rs.5,000 + Rs.2,000 x 12)	Rs.84,000/-
4	Deduction towards personal expenses (50%)	Rs.42,000/-
5	Multiplier	18
6	Total dependency (Rs.42,000 x 18)	Rs.7,56,000/-
7	Funeral expenses	Rs.16,500/-
8	Loss of estate	Rs.16,500/-
9	Loss of filial consortium (Rs.44,000 x 2)	Rs.88,000/-
	Total compensation	Rs.8,77,000/-

Compensation awarded for death of Bharpur Singh
in FAO No.3956 of 2014

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.5,000/-
2	Future prospects (40%)	Rs.2,000/-
3	Annual income (Rs.5,000 + Rs.2,000 x 12)	Rs.84,000/-
4	Deduction towards personal expenses (50%)	Rs.42,000/-
5	Multiplier	18
6	Total dependency (Rs.42,000 x 18)	Rs.7,56,000/-
7	Funeral expenses	Rs.16,500/-
8	Loss of estate	Rs.16,500/-
9	Loss of filial consortium (Rs.44,000 x 2)	Rs.88,000/-
10	Medical expenses	Rs.32,102/-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
	Total compensation	Rs.9,09,102/- (rounded off to Rs.9,09,200/-)

In the circumstances, the claimants in FAO No.3955 of 2014 are entitled to afore-detailed enhanced compensation of Rs.42,000/- (Rs.8,77,000-Rs.8,35,000) while claimants in FAO No.3956 of 2014 are entitled to afore-detailed enhanced compensation of Rs.42,000/- (Rs.9,09,200-Rs.8,67,200) along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its actual realization in the same ratio as ordered by the Tribunal vide the impugned award dated 08.11.2013.

With the above modifications, the appeals i.e. FAO Nos.1761, 1763, 3955 and 3956 of 2014 stand disposed of.

27.07.2022
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(MANJARI NEHRU KAUL)
JUDGE

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