

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

262

**FAO-3816-2017 (O&M)
Decided on : 27.04.2022**

United India Insurance Co. Ltd.

... Appellant(s)

Versus

Avtar Kaur and others

... Respondent(s)

FAO-4149-2017 (O&M)

Avtar Kaur and others

... Appellant(s)

Versus

Rattan Lal and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Mr. Ashwani Talwar, Advocate
for the appellant-Insurance Co. (in FAO-3816-2017)
for respondent No.3-Insurance Co. (in FAO-4149-2017).

Mr. Pankaj Katia, Advocate
for the appellants-claimants (in FAO-4149-2017)
for respondents No.1 & 2 (claimants) (in FAO-3816-2017).

None for respondents No.3 & 4 (Owner & Driver)
(in FAO-3816-2017).

Service of respondents No.1 & 2 (Owner & Driver)
is dispensed with in FAO-4149-2017.

MANJARI NEHRU KAUL, J. (Oral)

This order shall dispose of FAO-3816-2017 and FAO-4149-2017, as they arise from the same award. However, the facts are being extracted from FAO-3816-2017.

FAO-3816-2017 has been preferred by the Insurance Company against the award dated 01.02.2017, passed by the learned Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter referred to as 'the Tribunal') in the claim petition filed under Section 166 of the Motor

Vehicles Act, 1988, whereby, compensation in the sum of Rs. 10,33,000/-, was awarded to the claimants/respondents No.1 & 2 i.e. parents of the deceased Amrinder Singh, who was 32 years of age at the time of accident in question.

The claimants have also preferred FAO-4149-2017 for enhancing the compensation awarded by the Tribunal in the sum of Rs.10,33,000/-, by urging that it is meagre and against the settled law.

A few facts as pleaded in the claim petition by the claimants/respondents No.1 & 2 may be noticed. On 13.09.2015, Amrinder Singh (since deceased) along with his brother Guardarshan Singh was going on foot to his village. While they were walking, at about 07:30 PM, a car bearing registration No. CH01-AN-7844 (hereinafter referred to as 'the offending vehicle') came in a rash and negligent manner and hit the deceased, as a result of which, he sustained serious multiple injuries. The deceased later succumbed to his injuries at PGI, Chandigarh, where he was referred to, after the accident. FIR No. 180, dated 13.09.2015, under Sections 279, 304-A IPC was registered at Police Station City Kharar, against the driver of the offending vehicle. It was claimed that the deceased was the only earning hand of the family and the claimants/respondents No.1 & 2 i.e. parents of the deceased were totally dependent upon him. It was also claimed that the deceased, who was 32 years of age at the time of accident, was an electrician and earning Rs. 20,000/- p.m. The Tribunal on the basis of evidence led by the parties, assessed and awarded the following compensation in the sum of Rs.10,33,000/- to the claimants-respondents No.1 & 2 :-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly Income	Rs.7000/-

2.	Annual Income	12x7000=Rs.84,000/-
3.	Future Prospects (50%)	84,000 x 50% = Rs. 42,000
4.	Total Annual Income	84000 + 42000 = Rs. 1,26,000/-
5.	Deduction (1/2 nd)	Rs.63,000/-
6.	Annual Dependency	Rs.63,000/-
7.	Multiplier	16
8.	Loss of Total Dependency	Rs.63,000 x 16=Rs.10,08,000/-
9	Funeral Expenses	Rs.25,000/-
10	Total Compensation	Rs.10,33,000/-

Appellant-Insurance Company was directed to pay the amount of compensation to the claimants-respondents No.1 & 2 (i.e. parents of the deceased), along with interest @ 6% per annum, within a period of two months from the date of the claim petition till the date of actual realization of the payment, failing which the claimants shall be entitled to interest @ 9% per annum.

Learned counsel for the Insurance Company submits that admittedly there was no income proof produced before the learned Tribunal by the claimants and his income was rightly assessed @ Rs.7000/- per month by taking him to be a labourer. It was submitted that the since the income of the deceased was not proved and he was taken to be a labourer, the Tribunal erred in granting him future prospects @ 50%, which was not in consonance with the law laid down by the Hon'ble Supreme Court in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*.

Learned counsel further submits that even under the other conventional heads like funeral expenses etc., the Tribunal awarded compensation in excess, which required to be scaled down as per the settled law.

On the other hand, learned counsel for the claimants submits

that the Tribunal has assessed the income of the deceased @ Rs. 7000/- p.m., which requires to be enhanced as the deceased on the date of the accident was undergoing a course approved by the Directorate General of Shipping, Ministry of Shipping, Government of India which on his completion would have got him good employment. Learned counsel submits that in the facts and circumstances, the Tribunal has rightly assessed the future prospects @ 50%. It has also been submitted that even under the conventional heads like loss of estate and loss of consortium (filial) no compensation has been awarded to the claimants, who are parents of the deceased.

I have heard learned counsel for the parties and perused the relevant material on record.

This Court is of the opinion that no interference is warranted with respect to the monthly income of the deceased, which was assessed at Rs.7000/- p.m. Admittedly, no proof of income was produced by the claimants before the Tribunal. Hence, the Tribunal on the basis of the minimum wages applicable to a labourer at the relevant time as notified by the Govt. of Punjab, rightly assessed the monthly income of the deceased at Rs.7000/- p.m. The Tribunal, however, erred in assessing the future prospects at 50%, which is not in consonance with the settled law. As per settled law, laid down by the Hon'ble Supreme Court, the future prospects in the case in hand would have to be assessed @ 40%.

Still further, the compensation awarded under loss of estate and funeral expenses, is admittedly on the higher side and not in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme

Transport Corporation & Anr. : (2009) 6 SCC 121, and hence it needs to be reassessed and modified in the following terms:-

The Hon'ble Supreme Court in ***Pranay Sethi's case (supra)*** has quantified the amount in the sum of Rs.15,000/- each, to be awarded for loss of estate & funeral expenses and Rs.40,000/- each, for loss of consortium. Still further, it has been held that the aforesaid amount would be further subject to 10% enhancement after every three years. Therefore, the appellants would be entitled to 10% enhancement *qua* the compensation under conventional heads, as has also been held and reassessed by Hon'ble Supreme Court in ***Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344*** as per the ratio laid down in ***Pranay Sethi's case(supra)***. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each, for loss of estate & funeral expenses and Rs.44,000/- each for loss of consortium (filial), for each of the claimants, who are the parents of the deceased Amrinder Singh.

Resultantly, the compensation payable to the claimants would be as follows:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1.	Monthly Income	Rs.7000/-
2.	Annual Income	12 x 7000=Rs.84,000/-
3.	Future Prospects (40%)	84,000 x 40/100 = Rs.33,600/-
4.	Total Annual Income	84000 + 33600 = Rs.1,17,600/-
5.	Deduction towards personal expenses (1/2 nd)	Rs.58,800/-
6.	Loss of Annual future earnings	Rs.58,800/-
7.	Multiplier	16
8.	Loss of Future earnings	Rs.58,800 x 16 = Rs. 9,40,000/-

9.	Loss of consortium (widow and children)	Rs.44,000/- x 2 = Rs.88,000/-
10.	Funeral Expenses	Rs.16,500/-
11.	Loss of Estate	Rs.16,500/-
12.	Total Compensation	Rs.10,61,800/-

The claimants are, therefore, held entitled to a total sum of Rs.10,61,800/- as compensation along with interest @ 8% per annum from the date of filing of claim petition till its actual realization.

With these modifications, the appeals stand disposed of in the above terms.

(MANJARI NEHRU KAUL)
JUDGE

April 27, 2022

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No