

FAO-3880-2014 (O&M)
FAO-5805-2014 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. **FAO-3880-2014 (O&M)**
Decided on : 23.11.2023

Saroj and others

. . . Appellant(s)

Versus

Gajender and others

. . . Respondent(s)

2. **FAO-5805-2014 (O&M)**

Shakuntala

. . . Appellant(s)

Versus

Gajender and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Ram Pal Verma, Advocate
for the appellant(s).

Mr. Satpal Dhamija, Advocate
for the respondent(s).

Mr. Ashwani Talwar, Advocate
Counsel for the Respondent-Insurance company

SANJAY VASHISTH, J. (Oral)

1. This common judgment shall dispose of both the present connected appeals bearing No. FAO-3880-2014 and FAO-5805-2014 as both the present appeals arise out of one and same accident dated 30.05.2011.

FAO-5805-2014 has been filed by the appellant/petitioner/claimant (hereinafter referred as claimant) in MACT Case No. 179 of 2011/12 dated 26.07.2011/21.05.2012, for modification of award dated 21.12.2012, passed by Ld. Motor Accidents Claims Tribunal, Sonipat (hereinafter referred to as 'Ld. Tribunal') by way of seeking

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enhancement of amount of compensation, on account of death of 'Naveen' in a motor vehicular accident.

FAO-3880-2014 has been filed by the appellants/petitioners/claimants (hereinafter referred as claimants) in MACT Case No. 180 of 2011/12 dated 26.07.2011/21.05.2012, for modification of award dated 21.12.2012, passed by Ld. Motor Accidents Claims Tribunal, Sonipat (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of 'Ram Mehar ' in a motor vehicular accident.

2. Claimant in the MACT No. 179 was Smt. Shakuntala (mother of the deceased Naveen) [Appellant in FAO-5805-2014].

Claimants in the MACT No. 180 were Saroj (wife of deceased Ram Mehar), Pankaj and Deepak (minor sons of deceased Ram Mehar), Raveena (minor daughter of deceased Ram Mehar), Hukam and Savitri (father and mother of of deceased Ram Mehar) (appellants in FAO-3880-2014).

3. Briefly stated facts of the case are that on 30.05.2011, Ram Mehar son of Hukam Chand and Naveen son of Rajender were going on their motorcycle bearing Registration No. HR-11-D-3631. They were being followed by Shamsher Singh on a separate motorcycle. At about 09:00 am, when they reached in the area of Bhainswan Turn on Gohana road, a truck bearing Registration No. HR-55-E-7988 being driven by Respondent No. 1 came from the back side at a high speed and after crossing the motorcycle of Shamsher Singh, struck against the motor cycle of Ram Mehar and Naveen and both of them died on the spot.

For the said accident, FIR No.73 dated 30.05.2011 was

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registered under Section 279 and 304-A IPC at Police Station, Baroda on the statement of Shamsher Singh.

4. Claimants filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 for seeking compensation on account of death of ‘Ram Mehar’ and ‘Naveen’.

5. After going through the record, appreciating the evidence, examining the witnesses, and hearing the arguments of both the sides, Ld. Tribunal made the assessment as follows:

<i>Parameter(s)</i>	<i>Deceased Ram Mehar MACT Case No. 180 FAO-3880-2014</i>	<i>Deceased Naveen MACT Case No. 179 FAO-5805-2014</i>
<i>Age</i>	<i>38 years</i>	<i>22 years</i>
<i>Monthly Income</i>	<i>Rs. 10,000/-</i>	<i>Rs. 9,800/-</i>
<i>Deduction on account of personal expenses</i>	<i>One- fourth (1/4)</i>	<i>Half (1/2)</i>
<i>Multiplier</i>	<i>15</i>	<i>18</i>
<i>Funeral Expenses</i>	<i>Rs. 10,000/-</i>	<i>Rs. 10,000/-</i>
<i>Loss of Consortium and Loss of Estate</i>	<i>Rs. 10,000</i>	<i>NIL</i>

Accordingly, Learned Tribunal awarded an amount of compensation to the sole claimant in MACT Case No. 179 the tune of Rs. 10,68,400/- payable by respondents severally and jointly with interest @7.5% per annum from the date of filing of the petition till its actual realization.

Accordingly, Learned Tribunal awarded an amount of compensation to the claimants in the MACT Case No. 180 to the tune of Rs.

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13,70,000/- payable by respondents severally and jointly with interest @7.5% per annum from the date of filing of the petition till its actual realization.

6. Appellants/petitioners/claimants in both the appeals have filed the present petition seeking enhancement of the compensation as awarded by the Ld. Tribunal.

7. While addressing arguments, Counsel representing the appellants asserts that there was a substantial error on the part of the Learned Tribunal in its assessment of the deceased's income. Learned counsel for the appellants submits that the Ld. Tribunal has assessed the income of both the deceased on the lower side; has also failed to provide addition in the income of the deceased under the head of Future prospects; has granted Funeral expenses to the lower side; has granted compensation on account of loss of consortium on lower side; and has not granted any compensation on account of loss of estate as against the settled proposition of law as rendered by Hon'ble the Supreme Court. Consequently, prays for an augmentation of the compensation amount originally granted by the Learned Tribunal.

8. Alternatively, Counsel for Respondent asserts that the Learned Tribunal accurately assessed the deceased's net salary and appropriately computed the compensation amount for the claimant. Consequently, there is no justification for intervening in the well-reasoned and precise award issued by the Learned Tribunal.

9. This Court has already rendered a detailed judgment titled as **Sangtari Muleem v. Karnail Singh, (FAO No. 2538 of 2006 D/d. 07.07.2023) : Law Finder Doc Id # 2270482**, in consonance with the settled proposition of law as laid down by the Apex Court in **National Insurance Company**

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Limited v. Pranay Sethi and Ors., 2017(4) RCR (Civil) 1009 : Law Finder Doc Id #918174, and Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77 : Law Finder Doc Id #188882, and Smt. Anjali and others v. Lokendra Rathod and others, 2023 (1) R.C.R. (Civil) 22 : Law Finder Doc Id # 2081014. Therefore, in the case in hand, same parameters as laid down by the Hon’ble Apex Court are applied for the purpose of calculation of compensation. For the sake of convenience, a comparative table of the compensation as assessed and calculated by Ld. Tribunal and this Court is produced below in a tabular form:

A. **FAO-5805-2014 [Deceased – Naveen]:**

Sr. No.	Head	Compensation awarded by Ld. Tribunal	Compensation Awarded by High Court
1.	Income	Rs. 9,800/-p.m.	Rs. 9,800/-p.m.
2.	Future Prospects	NIL	Rs. 4,900/- (50% of the income of the deceased)
3.	Deduction towards personal expenses	Rs. 4,900/- [i.e.1/2 (half) of Rs.9,800 /-]	Rs. 7,350/- [i.e.1/2 (half) of (Rs. 9,800/- + Rs. 4,900/-)]
4.	Total Annual Income	Rs.58,800/- (Rs.4,900/-x12)	Rs. 88,200/- (Rs.7,350/- x12)
5.	Multiplier	18 (wrongly mentioned as 17)	18
6.	Loss of Dependency	Rs. 10,58,400/- (i.e.,Rs.58,800/- x 18)	Rs. 15,87,600/- (i.e. Rs.88,200 x 18)
7.	Funeral Expenses	Rs. 10,000/-	Rs. 25,000/-
8.	Loss of Estate	Rs. NIL	Rs. 20,000/-
9.	Loss of Parental Consortium (mother of the deceased)	NIL	Rs. 48,000/- (with 10% increase after every 3 years)
10.	Total Compensation to be Paid	Rs. 10,68,400/-	Rs.16,80,600/-

B. **FAO-3880-2014 [Deceased – Ram Mehar]:**

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Sr. No.	Head	Compensation awarded by Ld. Tribunal	Compensation Awarded by High Court
1.	Income	Rs. 10,000/-p.m.	Rs. 10,000/-p.m.
2.	Future Prospects	NIL	Rs. 4,000/- (40% of the income of the deceased)
3.	Deduction towards personal expenses	Rs. 2,500/- [i.e.1/4 th (one-fourth) of Rs.10,000 /-]	Rs. 3,500/- [i.e.1/4 th (one-fourth) of (Rs. 10,000/- + Rs. 4,000/-)]
4.	Total Annual Income	Rs.90,000/- (Rs.7,500/- x12)	Rs. 1,26,000/- (Rs.10,500/- x12)
5.	Multiplier	15	15
6.	Loss of Dependency	Rs. 13,50,000/- (i.e.,Rs.90,000/- x 15)	Rs. 18,90,000/- (i.e. Rs. 1,26,000/- x 15)
7.	Funeral Expenses	Rs. 10,000/-	Rs. 25,000/-
8.	Loss of Estate	Rs. NIL	Rs. 20,000/-
9.	Loss of Spousal Consortium	Rs. 10,000/-	Rs. 48,000/-
10.	Loss of Parental Consortium	NIL	Rs. 96,000/- [Rs. 48,000 x 2]
11.	Loss of filial Consortium	NIL	Rs. 1,44,000/- [Rs. 48,000 x 3]
12.	Total Compensation to be Paid	Rs. 13,70,000/-	Rs. 22,23,000/-

10. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 7.5% per annum from the date of filing of the claim petition till its realization is worth to be maintained in view of the settled proposition of law established by the Apex Court and applied by this Court.

However, learned counsel appearing on behalf of respondents submits that the rate of interest should not be over the awarded amount and therefore, it should be reduced to the rate of 6% per annum.

11. I have gone through the judgments cited by counsel for the

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appellants (claimants) and thus, I deem it appropriate to grant the rate of interest at 7.5% per annum.

12. Thus, keeping in view the aims and objects of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellant (claimant) is **enhanced to Rs.16,80,600/- in FAO-5805-2014** along with interest at **7.5%** per annum from the date of filing of claim petition till the date of payment of compensation to the appellant (petitioner/claimant).

While, the total compensation payable to the appellants (claimants) is **enhanced to Rs.22,23,000/- in FAO-3880-2014** along with interest at **7.5%** per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (petitioners/claimants).

13. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award, would be adjusted and the amount of compensation awarded shall be distributed among the claimants in the same ratio as was held by the Ld. Tribunal.

14. Therefore, by partly modifying the award, both the present appeals are allowed with the terms indicated here-above.

Pending Miscellaneous applications, if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

November 23, 2023

Lavisha

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