

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

(1)

FAO No.5816 of 2014 (O&M)

Date of Decision: 04.01.2023

National Insurance Company Limited, Kurukshetra

.....Appellant.

Versus

Smt. Ranjana alias Komal and another

.....Respondents.

(2)

FAO No.3153 of 2015 (O&M)

Smt. Ranjana alias Komal

.....Appellant.

Versus

Vijay Kumar Midha and another

.....Respondents.

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

Present:- Mr. Neeraj Khanna, Advocate, appearing for
 Mr. Ravinder Arora, Advocate
 for the appellant in FAO No.5816 of 2014 and
 for respondent No.2 in FAO No.3153 of 2015.

 Mr. Kapish Singla, Advocate, appearing for
 Mr. Ashit Malik, Advocate
 for respondent No.1 in FAO No.5816 of 2014 and
 for the appellant in FAO No.3153 of 2015.

 Service of notice upon respondent No.2 in
 FAO No.5816 of 2014 and respondent No.1 in
 FAO No.3153 of 2015 already dispensed with.

MEENAKSHI I. MEHTA, J. (Oral)

Both the above-captioned appeals are being taken up together

for discussion and adjudication as these have arisen out of the common

Award passed by learned Motor Accident Claims Tribunal, Kurukshetra (for short 'the Tribunal') on 10.03.2014, whereby the petition filed by claimant Ranjana alias Komal (respondent No.1 in FAO No.5816 of 2014 and the appellant in FAO No.3153 of 2015 and here-in-after to be referred as 'the claimant') for seeking compensation on account of the death of her minor son named Ayush and five more claim petitions, arisen out of the same motor vehicular accident, have been decided. **FAO No.5816 of 2014** has been filed by the insurer, National Insurance Company (here-in-after to be referred as 'the insurance company'), to lay challenge to the said Award, whereas by way of the cross-appeal bearing **FAO No.3153 of 2015**, the claimant has sought the enhancement in the amount of compensation as awarded to her, vide the same Award.

2. Shorn and short of unnecessary details, the facts leading to the filing of both the appeals, are that on the fateful day, i.e 06.08.2012, Manoj Kumar, Gaurav Kumar, Anil Kumar, Sharesht alias Surinder, Avtar Singh and Ayush were returning to Village Kaul from Radaur in Maruti Wagon-R Car bearing registration No.DL-9CD-8801, after attending some marriage function and Manoj Kumar was driving this Car at the moderate speed and was keeping to the correct side on the road. However, one Truck had been parked in the middle of the road near Singla Rice Mill in the area of Village Mathana, in violation of the traffic rules and the afore-said Car struck against the back side of the said stationary Truck. Resultantly, all the above-named occupants of the Car sustained multiple grievous injuries in this accident and unfortunately, succumbed to the same at the spot. The

claimant filed a petition against the owner and insurer of the said Car for seeking compensation to the tune of Rs.10,00,000/- on account of the death of her son Ayush, who was stated to be about 07 years old at that time.

3. The owner of the Car and the insurance company (arrayed as the respondents in the claim petition) filed their separate written statements contesting the claim, as put-forth by the claimant in her petition, on several grounds. The Tribunal put the parties to the trial by framing the issues. After appreciating and evaluating the evidence as led by the parties on the record and hearing their learned counsel, the Tribunal passed the impugned Award, granting compensation of Rs.3,75,000/- to the claimant.

4. I have heard learned counsel for the claimant as well as learned counsel for the insurance company in both these appeals and have also perused the files carefully.

5. Learned counsel appearing for the claimant contends that the Tribunal has not awarded any compensation to the claimant towards the loss of filial consortium and the funeral expenses and has, rather, awarded the afore-mentioned amount as compensation, in lump-sum, which is quite inadequate and in these circumstances, the claimant is entitled to the enhancement of the amount of compensation.

6. Per contra, learned counsel appearing for the insurance company argues that the claimant has already been awarded more than sufficient amount as compensation for the death of her son and it being so, she has no occasion to ask for any further enhancement in the same.

7. The claimant had filed the claim petition under the provisions

of Section 163-A of the Motor Vehicles Act and concededly, her deceased son was aged about 07 years. In **Kurvan Ansari @ Kurvan Ali and another Vs. Shyam Kishore Murmu and another 2022(1) RCR (Civil) 165,** Hon’ble the Supreme Court has categorically observed that “*where a claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988 for seeking compensation on account of the death of a child, aged seven years and not an earning member, the fixing of notional income at Rs.15,000/- per annum was not just and reasonable and it was a fit case to increase the notional income by taking into account the inflation, devaluation of rupee and cost of living and the notional income of the deceased was to be assessed at Rs.25,000/- per annum*”.

8. These observations are fully applicable to the instant case and in the light of the same, the notional income of the deceased is assessed at Rs.25,000/- per annum and on applying the multiplier of ‘15’ thereto, the amount of compensation is calculated to be (Rs.25,000x15)= Rs.3,75,000/-. Besides the above-said amount, the claimant is also entitled to the sum of Rs.40,000/- towards the loss of filial consortium and another amount of Rs.15,000/- for the funeral expenses.

9. Accordingly, the enhanced amount of compensation, as shall be payable to the claimant, is worked out as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Dependency	Rs.3,75,000/-	Rs.3,75,000/-	NIL
Loss of Filial Consortium	NIL	Rs.40,000/-	Rs.40,000/-

Funeral Expenses	NIL	Rs.15,000/-	Rs.15,000/-
Total Enhancement:-			Rs.55,000/-

10. As a sequel to the fore-going discussion, **FAO No.3153 of 2015**, as preferred by claimant Ranjana alias Komal, is hereby allowed to the effect that she is entitled to the net enhanced compensation amounting to **Rs.55,000/-**, over and above the amount of Rs.3,75,000/- as already awarded to her by the Tribunal as compensation and the said enhanced amount shall carry the interest @ 7.5% per annum from the date of the filing of the claim petition till its actual realization and it shall be payable to the claimant in the same terms as mentioned in the impugned Award. Resultantly, **FAO No.5816 of 2014**, filed by the insurance company, stands dismissed.

January 04, 2023
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

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