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

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**FAO-4609-2016 (O&M)
Decided on : 18.10.2023**

NEW INDIA ASSURANCE COMPANY LTD. . . . Appellant

Versus

RAMINDER KAUR AND OTHERS . . . Respondent(s)

**FAO-6477-2017
Decided on : 18.10.2023**

RAMINDER KAUR AND OTHERS . . . Appellants

Versus

LOVEPREET SINGH AND OTHERS . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Aseem Aggarwal, Advocate
for the appellant in FAO-4609-2016 and
for respondent No.3 in FAO-6477-2017.

Mr. Veneet Sharma, Advocate
for the appellants in FAO-6477-2017 and
for respondents No.1 to 3 in FAO-4609-2019.

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<u>SANJAY VASHISTH, J. (Oral)</u>

1. This order shall dispose of two appeals i.e., FAO-4609-2016 and FAO-6477-2017 as both the appeals arise out of the same MACT Award dated 11.12.2015. FAO-4609-2016 has been filed by the Insurance Company for setting aside the award dated 11.12.2015, while FAO-6477-2017 has been filed by the claimants for seeking enhancement of compensation as awarded by the Ld. Tribunal. Since, the accident in question and impugned MACT award is same in both the appeals, for the sake of brevity, the facts are being extracted from FAO-6477-2017.

2. In MACT Case No. 18/2013, Ld. Motor Accidents Claims Tribunal, Amritsar (hereinafter referred to as ‘Ld. Tribunal’) vide award

dated 11.12.2015 granted compensation amount to the claimants to the tune of Rs. 50,63,664/- along with interest @6% per annum from the date of filing the petition till its realization on account of death of one 'Baldev Singh Lamba'.

3. Claimants in the MACT case were Raminder Kaur (widow of deceased), Supreet Lamba (son of deceased) and Montek Lamba (son of deceased). In Appeal No. FAO-6477-2017, all the claimants are parties in the same order.

4. Briefly, stated facts of the case are that on 02.06.2015, at about 10:00 A.M., deceased was riding his Activa scooter bearing Registration No. PB-02-AQ-5648. However, when he turned byepass G.T. Road to ITI and Anand Avenue, Ranjit Avenue, a motorcycle bearing Registration No. PB-02-AT-1891 came from the Fatehgarh Churian byepass and struck with the scooter of the deceased. Motorcycle was being driven in a rash and negligent manner by Respondent No. 1. Due to the impact of the collision, deceased fell down and suffered multiple injuries and ultimately, succumbed to his injuries at Fortis Escort Hospital.

5. Claimants filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 for seeking compensation to the tune of Rs. 1,50,00,000/- (One crore and fifty lacs).

6. Counsel for the claimants/ appellants in FAO-6477-2017 argues that the Learned Tribunal has significantly erred in law by applying split multiplier in the case at hand, which is totally against the settled law of proposition as held by Hon'ble the Supreme Court. While substantiating his arguments, Counsel for the appellants relies on the judgment of the Hon'ble the Apex Court titled as **R. Valli and Others v. Tamil Nadu State**

Transport Corporation Limited 2022(1) R.C.R (Civil) 867. He further submits that Ld. Tribunal has deducted the income tax from the salary of the deceased on a higher side; has granted compensation amount under the head of loss of estate on the lower side as well as failed to grant parental consortium to Claimants No. 1 and 2.

7. On the other hand, Counsel representing the appellant – Insurance Company in FAO-4609-2016 submits that the award dated 11.12.2015 passed by the Ld. Tribunal, Amritsar is liable to be set aside as the accident in question was caused due to the negligence of the deceased himself. Further submits that FIR was lodged after a delay of 22 days and even in that, name of the driver of the offending vehicle was not mentioned.

Counsel representing the Insurance Company further submits that even in case, liability of the insurance company is maintained, the appeal of the claimants seeking enhancement of the amount of compensation as awarded by the Ld. Tribunal is liable to be dismissed, as the Ld. Tribunal has rightly assessed the compensation to be awarded to the claimants by applying the split multiplier.

8. This Court has heard the arguments of both the Counsel at length, has perused the record deeply and has gone through the judgments cited by the Learned Counsel.

9. The primary and pivotal issue before this Court, essential for the determination of the compensation due to the claimants, revolves around the determination of the multiplier to be applied for the purpose of calculation of compensation to the deceased. In the case at hand, Learned Tribunal has applied split multiplier of 4 on the income of the deceased till the time he would have attained the age of 60 years and for the rest of the

period, a multiplier of 5 has been applied on the 50% of the income of the deceased. For applying the concept of split multiplier, Ld. Tribunal has relied on the judgment of Hon'ble the Karnataka High Court titled as **Alice Varkey versus United India Insurance Company Limited and others 2012 ACJ 668.**

This Court has gone through the judgment cited by the Learned Counsel for the appellants i.e. **R. Valli's case (supra).** In the aforesaid judgment, in a death case, split multiplier was applied by the Ld. Tribunal and was affirmed by the Hon'ble the Madras High Court, i.e., multiplier of 3 till the time deceased would have attained superannuation and multiplier of 8 on the 50% of the income after the said period. Hon'ble the Apex Court in this case observed that such a practice of applying split multiplier is not in consonance with the well settled law laid by the Apex Court in ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77 : Law Finder Doc Id #188882*** as well as ***National Insurance Company Limited v. Pranay Sethi and Ors., 2017(4) RCR (Civil) 1009 : Law Finder Doc Id #918174***. The relevant operative extract of the judgment is reproduced here below:

> *"Thus, we find that the method of determination of compensation applying two multipliers is clearly erroneous and run counter to the judgment of this Court in Pranay Sethi, affirming the judgment in Sarla Verma. Since the deceased was 54 years of age on the date of incident, therefore, the suitable multiplier would be 11 as per the judgment of this Court in Sarla Verma approved by this Court in Pranay Sethi".*

Thus, this Court is of the view that Ld. Tribunal has erred in applying the split multiplier and the application of a single multiplier in consonance with the law laid down by Hon'ble the Apex Court shall be the correct proposition of law.

Accordingly decided.

10. As far as the argument with regard to deduction of income tax is concerned, it is a settled proposition of law that the net income of the deceased after the payment of income tax is to be taken into account for the purpose of calculation of the amount of compensation payable to the claimants. Deceased was a salaried employee at Johnson and Johnson India Limited and as per the documents duly proved on record, his net salary was Rs. 10,09,096/- (Rs. 11,26,758 minus Rs. 1,17,662 [income tax]). Thus, the same has been correctly assessed by the Ld. Tribunal and the same is worth to be maintained.

Accordingly decided.

11. 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 laid down by the Apex Court in ***Pranay Sethi's case (supra)*** and ***Smt. Sarla Verma's case (supra)*** , 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 at hand, same parameters as laid down by the Hon'ble Apex Court are applied for the purpose of calculation of amount 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:

Sr. No.	Head	Compensation awarded by Ld. Tribunal	Compensation Awarded by High Court
1.	Annual Income (after deduction of the income tax)	Rs. 10,09,096/-	Rs. 10,09,096/-
2.	Future Prospects	Rs. 1,51,365/-(15% of the income of the deceased)	Rs. 1,51,365/- (15% of the income of the deceased)
3.	Deduction towards personal expenses	Rs. 3,86,820/- [i.e.1/3rd (one-third) of Rs.11,60,461/-)	Rs. 3,86,820/- [i.e.1/3rd (one-third) of Rs.11,60,461/-)
4.	Total Annual Income	Rs.7,73,641/-	Rs. 7,73,641/-
5.	Multiplier	Split Multiplier (4 X Rs. 7,73,641/-) and (5 X Rs. 7,73,641/-)	9
6.	Loss of Dependency	Rs. 50,28,664/- (Rs. 19,34,100/- + Rs. 30,94,564/-)	Rs. 69,62,769/- (i.e. Rs.7,73,641/-x 9)
7.	Medical expenses	NIL	NIL
8.	Funeral Expenses	Rs. 25,000/-	Rs. 25,000/-

9.	Loss of Estate	Rs. 10,000	Rs. 20,000/-
10.	Loss of Spousal Consortium	Rs.1,00,000	Rs. 44,000/-
11.	Loss of Parental Consortium	NIL	Rs. 88,000/- (Rs. 44,000/- each to the claimant No. 2 and 3)
12.	Total Compensation to be Paid	Rs. 50,63,664/- (should have been Rs. 51,63,664/-)	Rs. 71,39,769/-

12. Counsel for the claimants further submits that the rate of interest awarded by the Ld. Tribunal i.e., @ 6% per annum from the date of filing of the claim petition till its realization is on the lower side and is worth to be enhanced to 9% per annum in view of the settled proposition of law established by the Apex Court and applied by this Court.

However, the learned counsel representing the Insurance Co. submits that Ld. Tribunal has rightly assessed the rate of interest @6% per annum and same is worth to be maintained.

13. I have gone through the judgments cited by counsel for the claimants and thus, I deem it appropriate to grant the rate of interest @7.5% per annum.

14. Thus, keeping in view the aims and objectives of this beneficial legislation of providing relief to the victims or their families, total

compensation payable to the appellants (claimants) in FAO-6477-2017 is Rs.71,39,769/- 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).

15. 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 to the claimants in the same ratio as held by the Ld. Tribunal.

16. In view of the observations made above, by partly modifying the award, FAO-6477-2017 is partly allowed with the terms indicated here-above, while FAO-4609-2016 filed by the Insurance Company is dismissed.

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

(SANJAY VASHISTH)
JUDGE

October 18, 2023
Lavisha

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