(107 -3) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1) FAO-4723-2017 (O&M)
Date of Decision : 15.03.2023

Iffco Tokio General Insurance Company Ltd. …Appellant

Versus

Mamta & Ors ….Respondents

(2) FAO-1846-2017
Date of Decision : 15.03.2023

Mamta & Ors …Appellants

Versus

Satish & Ors ….Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Neeraj Khanna, Advocate for the appellant in FAO-4723-2017 and respondent No.3 inFAO-1846-2017.

Mr. Digvijay, Advocate for
Mr. Ashish Gupta, Advocate for the appellants in FAO-1846-2017 and respondents in FAO-4723-2017.

***

B.S. Walia, J. (Oral)

1. This order shall decide FAO-4723-2017 and FAO-1846-2017, as the same arise out of the same award.

CM-14026-CII-2017 in FAO-4723-2017

2. For the reasons as are mentioned in the application, the same is allowed. Delay of 87 days in late filing of the appeal is condoned.

FAO-4723-2017 and
FAO-1846-2017

3. Challenge in the instant appeal is to award dated 18.11.2016 passed by the learned Motor Accident Claims Tribunal, Narnaul awarding

compensation of Rs.15,67,000/- to the appellants/claimants on account of death of Rakesh Kumar.

4. Learned counsel for the appellant/Insurance Company in FAO-4723-2017, contends that 40% of the income of the deceased is liable to be taken into account in view of paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009**as against 50% of the income of the deceased taken into account for working out future prospects, besides Rs.50,000/- awarded on account of loss of love and affection is not admissible in view of the decision of Hon'ble the Supreme Court in Satinder Kaur @ Satwinder Kaur vs. United India Insurance Co. Ltd Law Finder Doc Id # 1729112. Learned counsel further contends that Rs.25,000/- awarded on account of loss of estate is also liable to be reduced to Rs.16,500/- in view of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

5. Per contra, learned counsel for the respondents/claimants contends that although no amount is admissible on account of love and affection, yet the appellants/claimants are entitled to award of Rs.44,000/- each on account of loss of spousal/parental and filial consortium respectively, in view of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram, 2018 (4) RCR (Civil) 333,** besides the appellants/claimants are also entitled to award of Rs.16,500/- on account of funeral expenses as against Rs.15,000/- awarded on said count.

6. The aforementioned plea of the appellants/claimants is not opposed by learned counsel for the Insurance Company.

7. Accordingly, in the light of the position noted above, details

of compensation awarded by the learned Tribunal and the compensation assessed by this Court are as under :-

Sr. No.	Head	Amount assessed by Tribunal in Rupees	Amount assessed by this Court in Rupees
1.	Income of the deceased	Rs.6000/- per month	Rs.6000/- per month
2.	Future prospects	50% of Rs.6000/- = Rs.3000/- (Total 6000+3000 = 9000/-)	40% of Rs.6000/- = 2400 (Total 6000 + 2400 = Rs.8400/-)
3.	Deduction	1/4 of Rs.9000/-= Rs.2250/-	1/4th of Rs.8400/- = Rs.2100/-
4.	Dependency	9000-2250 = 6750	8400-2100 = 6300/-
5.	Multiplier applied	17	17
6.	Compensation awarded	Rs.6750x12x17= Rs.13,77,000/-	Rs.6300x12x17= Rs.12,85,200/-
7.	Funeral Expenses and transportation	Rs.15,000/-	Rs.16,500/-
8.	Loss of estate	Rs.25,000/-	Rs.16,500/-
9.	Loss of love and affection	Rs.50,000/-	Nil.
10.	Loss of consortium	Rs.1,00,000/-	Rs.44,000/- each to the appellants in FAO No.1846 of 2017i.e. Rs.44,000 x 4 = Rs.1,76,000/-.
11.	Interest	9% per annum	9% per annum
Total		Rs.15,67,000/-	Rs.14,94,200 /-

[6] Accordingly, in the light of the position noted above, the appeals are partly allowed and award is modified to the extent noted above and as against compensation of Rs.15,67,000/- awarded by the learned Tribunal along with interest at the rate of 9% per annum,

compensation payable to the appellants/claimants in FAO-1846-2017, is reduced to Rs.14,94,200/- along with interest at the rate of 9% per annum.

(B.S. Walia)
Judge

15.03.2023
rajesh

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