



**FAO-706-1989 (O&M) and
FAO-707-1989 (O&M)**

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

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FAO-706-1989 (O&M)

Date of Decision: 28.05.2024

New India Assurance Company Limited

... Appellant

Vs.

Ravinder Kumari Vasudeva and others

.... Respondents

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FAO-707-1989 (O&M)

New India Assurance Company Limited

... Appellant

Vs.

Smt. Sapna Loomba and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Brij Bhushan Sharma, Advocate for
Mr. Deepak Suri, Advocate for the appellant.

Mr. Aman Bahri, Advocate as Amicus Curiae.

Mr. Puneet Jindal, Senior Advocate with
Mr. Arshnoor Singh, Advocate
for the claimant/respondent in both appeals.

SUVIR SEHGAL, J. (ORAL)

1 At the outset, Mr. Aman Bahri, learned Amicus Curiae,
points out that along with both the above noted appeals, the claimants
have filed cross-objections, which are also pending.



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2. Cross objections in both the above said appeals are ordered to be listed and are taken on Board today itself.

3. This order shall dispose of both the above-mentioned appeals filed by the Insurance Company as well as cross-objections preferred by the legal heirs of the deceased as all the matters arise out of the same award passed by the Motor Accident Claims Tribunal, Hoshiarpur (for short 'the Tribunal').

4. For the sake of convenience, factual position is being taken from FAO No. 706 of 1989.

5. Appellant-Insurance company has approached this Court by filing instant appeal under the Motor Vehicles Act, 1939, for setting aside of award dated 15.03.1989 passed by the Tribunal.

6. Brief facts may be noticed. On 03.09.1989, Onkar Nath and Parveen Kumar Loomba, were travelling from Hoshiarpur to Haryana on a scooter when they were hit by a three wheeler driven by Surinder Singh-respondent No.4. Both the scooter riders received injuries and were shifted to the hospital. Onkar Nath died on the same day and Parveen Kumar Loomba who was referred to CMC, Ludhiana, expired a few days later. Two claim petitions were filed before the Tribunal. MACT case No. 67 of 1987 was filed by the legal heirs of Onkar Nath and MACT case No. 71 of 1987 was filed by the dependents of Parveen Kumar Loomba. The claim petitions were contested and by a common award which has been impugned herein, both the petitions were accepted.

The heirs of Onkar Nath were awarded Rs.1,74,700/- as compensation



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and an amount of Rs.3,13,200/- was awarded to the dependents of Parveen Kumar Loomba. The appellant-Insurance Company was held liable to make the payment of the entire compensation.

7. Counsel for the appellant has argued that the liability of the Insurance Company under the Insurance Policy Ex.R-1 is restricted to Rs.1,50,000/- per individual and the Tribunal has erred in fastening the entire liability upon the Insurance Company.

8. Appeal has been resisted by counsel for the claimants/respondents, who have sought increase in the compensation amount. Learned Amicus has addressed the Court by making a reference to Section 95(2) of the Motor Vehicles Act, 1939 and the various notifications issued by the Government whereby amendments have been brought about to the statute from time to time.

9. I have heard counsel for the parties and considered their respective submissions besides examining the available record.

10. There is substance in the argument addressed by counsel for the appellant. In view of the judgment passed by the Supreme Court in *Maitri Koley and another Versus New India Insurance Co. and others*, (2003)8 SCC 718, the liability of the Insurance Company has to be restricted at Rs.1,50,000/- per person with interest thereon.

11. This Court will first deal with the cross-objections filed by heirs of Onkar Nath. The Tribunal returned a finding that the accident had occurred due to the rash and negligent driving of Surinder Singh, driver of the three wheeler. On the basis of the salary certificate Ex.P-2,



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Tribunal held that the deceased Onkar Nath, who was working as a Junior Lab Attendant in Government College, was drawing salary of Rs.1191-70 per month. He was 31½ years of age and left behind a widow and two minor sons. Tribunal has come to the conclusion that the dependency of the deceased is Rs.892/- per month. The amount deserves to be increased as the dependency of the deceased cannot be more than 1/3rd of his salary in view of the judgment of the Supreme Court in *National Insurance Company Limited Versus Pranay Sethi and others*, 2017(4) RCR (Civil) 1009. Although, Tribunal has awarded a multiplier of 18, but it deserves to be reduced to 16 in view of the Pranay Sethi’s case (supra). The claimants are also entitled to future prospectus besides compensation for loss of consortium, loss of estate and funeral expenses.

12. The total compensation payable to the dependents of deceased Onkar Nath is calculated as under:-

HEAD	COMPENSATION AWARDED
(i) Income :	Rs.1191.70/- per month
(ii) Future prospectus :	Rs.595.85/- (50% of income)
(iii) Deduction towards personal expenditure :	Rs.595.85(1/3rd of 1191.70+595.85)
(iv) Total income:	Rs.1191.70/- (2/3rd of 1191.70+595.85)
(v) Multiplier :	16 (age 31 ½)
(vi) Annual dependency:	Rs. 2,28,806.40/- (1191.70x16x12)
(vii) Funeral expenses:	Rs. 18000/-
(viii) Loss of estate :	Rs.18000/-



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(ix) Loss of consortium:	Rs.1,32,000 (44000x3)
Total compensation awarded	Rs. 3,96,806.40/- (Annual dependency+funeral expenses+loss of estate+loss of consortium)
Less MACT award	Rs.1,74,700/-
Enhancement	Rs.2,22,106.00/- (approx.)

13. This court shall next deal with the cross-objection of the heirs of the deceased Parveen Kumar Loomba. On the basis of the evidence adduced, Tribunal held that the deceased was drawing Rs.2530-60 per month as salary, after deductions, from the Department of Agriculture, where he was working as Inspector, Soil Conservation. The Tribunal has worked out the family’s dependency at Rs.1631/- per month which deserves to be increased in view of the judgment of the Supreme Court. However, multiplier of 16 awarded by the Tribunal deserves to be reduced to 15 as the deceased was found to be 38 years of age on the basis of the birth certificate produced on record. The dependents are also entitled to future prospectus, besides loss of consortium, loss of estate and funeral expenses.

14. Accordingly, the compensation payable to the dependents of Parveen Kumar Loomba are worked out as under:-

HEAD	COMPENSATION AWARDED
(i) Income :	Rs.2530.60/- per month
(ii) Future prospectus :	Rs.1265.30 (50% of income)
(iii) Deduction towards personal	Rs. 1265.30 (1/3rd of



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expenditure :	(2530.60+1265.30)
(iv) Total income:	Rs.2530.60(2/3rd of 2530.60+1265.30)
(v) Multiplier :	15 (38 years old)
(vi) Annual dependency:	Rs.4,55,508/- (2530.60x12x15)
(vii) Funeral expenses:	Rs.18000
(viii) Loss of estate :	Rs.18000
(ix) Loss of consortium:	Rs.1,32,000/- (Rs.44000x3)
Total compensation awarded	6,23,508/- (Annual dependency+ funeral expenses+ loss of estate+ loss of consortium
Less MACT award	Rs.3,13,200/-
Enhancement	Rs.3,10,308/-

15. Accordingly, both the appeals and cross-objections are disposed of.

16. The dependents of the deceased are found entitled to the amount worked out in paras 12 and 14 above.

17. The enhanced amount will earn interest @ 6% per annum from the date of this order till payment. The liability of the Insurance Company shall be restricted to Rs.1,50,000/- along with interest in each case and the claimants shall be entitled to recover the balance amount from the other respondents. Award of the Tribunal is modified, accordingly.



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18. Since the main appeal has been decided, pending application(s), if any, shall stand disposed of.

19. In the end, this Court places on record its appreciation for the valuable assistance rendered by Mr. Aman Bahri, Advocate, learned Amicus Curiae.

28.05.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>