

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) **FAO-4471-2003 (O&M)**

Vijay Kumar and another
...Appellants

VERSUS

PRTC and others
...Respondents

(ii) **FAO-4472-2003 (O&M)**

Smt.Darshana Devi and others
...Appellants

VERSUS

PRTC and others
...Respondents

(iii) **FAO-4473-2003 (O&M)**

Smt.Mohinder Kaur and another
...Appellants

VERSUS

PRTC and others
...Respondents

(iv) **FAO-4474-2003 (O&M)**

Smt.Amarjit Kaur and others
...Appellants

VERSUS

PRTC and others
...Respondents

**FAO-4471-2003 and connected case****-2-****(v) FAO-4475-2003 (O&M)**

Smt.Shinder Kaur and others

...Appellants

VERSUS

PRTC and others

...Respondents

Date of Decision: August 27, 2024**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**Present: Mr.Vijay Sharma, Advocate
for the appellants.Mr.Abhilaksh Gaind, Senior counsel with
Mr.Aman Kumar Sirswa, Advocate
for respondent No.1.Mr.Vinod Gupta and Mr.Mayank Gupta, Advocates
for respondent No.5.

ARCHANA PURI, J.

In the accident, which took place on 30.09.2001, five persons, namely, Manoj Kumar, Prem Nath, Charan Singh, Fakir Chand and Ram Pal, had died. Arising from the same, five claim petitions were filed, relating to which, Award dated 23.04.2003 was passed by learned Motor Accident Claims Tribunal, thereby, granting compensation and while holding bus bearing registration No.PB-11H-9783 and Swaraj Mazda (Canter) bearing registration No.PB-11F-9008, to have equally contributed in taking place of the accident.

Feeling aggrieved by the findings, so recorded by learned

**FAO-4471-2003 and connected case****-3-**

Tribunal, the appellants-claimants have filed the appeals, particulars whereof, have been given aforesaid, thereby, challenging the finding of contributory negligence, on the part of driver of Swaraj Mazda bearing registration No.PB-11F-9008 and also assailing the adequacy of the compensation awarded.

The facts germane, to be noticed, are as follows:-

That, on 30.09.2001, Manoj Kumar, Prem Nath, Charan Singh, Fakir Chand and Ram Pal, together with some other persons, were coming from Dera Sacha Sauda, Sirsa to Patiala, in Swaraj Mazda bearing registration No.PB-11F-9008, driven by Bakshish Singh (respondent No.4). When the said vehicle crossed village Fatta Maluka and covered distance of 1½ kms. towards village Jhanjir, then PRTC bus bearing registration No.PB-11H-9783, driven by its driver (since deceased), rashly and negligently, came from Mansa side and struck against the Swaraj Mazda, as a result whereof, Swaraj Mazda turned turtle and occupants suffered multiple injuries. Manoj Kumar and various other persons, as specified aforesaid, had died, on account of the injuries sustained in the accident in question. Vijay Kumar and Jaswant Ram, who were sitting besides the driver, on the front seat of Swaraj Mazda, had witnessed the accident. The accident was caused due to rash and negligent driving of PRTC bus, whose driver had also died, at the spot. FIR No.60 dated 30.09.2001 at police station Jhanjir, was got recorded by Gurtej Singh s/o Ram Partap, thereby, alleging that negligence is of the driver of Swaraj Mazda.

Further, it was pleaded in the petitions that in case, the negligence, on the part of Swaraj Mazda is established, then the claimants are entitled to get

**FAO-4471-2003 and connected case****-4-**

compensation from drivers, owners and insurers of both the vehicles.

Besides the aforesaid, in the respective claim petitions filed, the appellants-claimants had also pleaded about the age of the deceased as well as source of their livelihood and also about the fact of dependence of the appellants-claimants upon the deceased and thereby, sought compensation, on account of their death in the accident in question.

However, in their respective written statements, respondents No.1 and 2 have asserted about the accident, to have taken place, due to rash and negligent driving of Swaraj Mazda by respondent No.4. The accident was never caused by driver of bus bearing registration No.PB-11H-9783, as it was being driven at slow speed and on correct side of the road, by its driver. It was also denied that driver of PRTC bus caused the accident.

Likewise, respondents No.3 and 4 (who are owner and driver of the Swaraj Mazda) asserted that the accident was caused by the driver of the PRTC bus, owned by respondent No.1, due to rash and negligent driving. The deceased themselves had taken the ride in the Swaraj Mazda, owned by respondent No.3 and driven by respondent No.4. Respondent No.5- insurance company is liable to indemnify all the genuine claims, as Swaraj Mazda was duly insured with respondent No.5.

Respondent No.5, in its written statement, raised the plea that drivers of both the vehicles, were not holding valid driving licences. Swaraj Mazda was not holding valid route permit and fitness certificate. No information of the accident was given to the insurance company. If the claimants are able to prove that deceased were travelling in Swaraj Mazda, then they were travelling as gratuitous passengers.

**FAO-4471-2003 and connected case****-5-**

The issues were framed in respective claim petitions and thereupon, the claim petitions were consolidated and evidence was adduced.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about the present case to be a case of contributory negligence, as there was head-on collision with the PRTC bus and Swaraj Mazda, in question and the blameworthiness was equally imputed upon both the aforesaid vehicles.

However, respondent No.5-insurance company, insurer of Swaraj Mazda was exonerated from the liability. 50% liability was fastened upon respondents No.1 and 2 i.e. PRTC and National Insurance Company, insurer of bus bearing registration No.PB-11H-9783 and the liability of other 50%, was fastened upon, respondents No.3 and 4, owner and driver of Swaraj Mazda, bearing registration No.PB-11F-9008.

Further, the compensation was assessed in each case and the impugned consolidated Award was passed, while directing the payment of the compensation amount, to be paid within a period three months, from the date of pronouncement of Award, failing which, the claimants would be entitled to interest @ 9%, from the date of decision, till recovery.

Feeling aggrieved by the impugned Award, the appellants-claimants, have filed the respective appeals, thereby, questioning the adequacy of the compensation and also challenged the finding of contributory negligence.

So far as, the factum and manner of taking place of the accident is concerned, suffice to take into consideration the testimonies of PW-1 Vijay Kumar and PW-2 Jaswant Ram, the two occupants of Swaraj Mazda

**FAO-4471-2003 and connected case****-6-**

in question, at the relevant time. However, it is pertinent to mention that driver of the PRTC bus, had died in the accident, but respondent No.4-Bakhshish Singh, who was driving the aforesaid Swaraj Mazda, at the relevant time, had chosen to remain away from the witness box. FIR qua the accident in question is Ex.R5. The same was lodged, on the statement of Gurtej Singh. The said author of the FIR has not been examined as a witness by any of the parties to the lis. But anyhow, from the contents of the FIR Ex.R5, it is evident that police was informed about the accident, to have been caused, due to rash and negligent driving of Swaraj Mazda by its driver. The date, time, place and manner of accident, as mentioned in Ex.R5, is the same, as deposed by PW-1 Vijay Kumar and PW-2 Jaswant Singh and also, as pleaded in the respective claim petitions.

Even, the post-mortem reports of the deceased, have duly been proved in evidence, as Ex.P1, P3, P4, P5 and P7. However, learned Tribunal had made threadbare discussion, with regard to the testimonies of PW-1 and PW-2 and their cross-examination. Even though, in the respective claim petitions, there is no mention made about the bus having struck the Swaraj Mazda from backside or front side, as it was stated that it was coming from Mansa side, but however, keeping in view the spot of accident and from the direction, the bus was coming, as well as the considering the cross-examination of PW-1 and PW-2, wherein, they stated that the bus was coming from the opposite side, it was head-on collision between the two vehicles.

Though, aspect of blameworthiness would have been straightened, had the driver of the Swaraj Mazda, stepped into witness box,

**FAO-4471-2003 and connected case****-7-**

but, he had not stepped into witness box. Thus, taking clue from the manner, in which, the witnesses had spotted the bus, coming from the opposite side and also looking at the location and also considering, the width of the road, as well as the time, when the bus was seen by them, learned Tribunal had concluded about the drivers of both the said vehicles to be equally negligent.

However, it is pertinent to mention that neither PRTC or its insurer of PRTC bus, nor the driver and owner of Swaraj Mazda, bearing registration No.PB-11F-9008, upon whom, the liability has been fastened, have filed any appeal, to assail the finding, with regard to the blameworthiness, fastened to each one of them, to the extent of 50%. In fact, Bakhshish Singh, driver of Swaraj Mazda, had also chosen to remain away from the witness box.

In the given circumstances, from the evidence, brought on record, on perusal of the testimonies of PW-1 Vijay Kumar and PW-2 Jaswant Singh, who are the eye witnesses and also appraising the various circumstances, spelt out from their cross-examinations, the blameworthiness, as fastened by learned Tribunal, is not worthy of interference. As such, the findings on this aspect, as recorded by learned Tribunal, is hereby affirmed.

Now, let us consider the scope of enhancement qua compensation passed by learned Tribunal, on account of death of various persons.

FAO-4471-2003 relating to MACT No.45 of 2002

The present case was filed by Vijay Kumar and Smt.Asha Singla, thereby, seeking compensation, on account of death of their son Manoj Kumar, in the accident in question. It was pleaded in the claim



petition about Manoj Kumar to be 14 years old and was student of 9th class in Khalsa Sewal Jatha High School, Patiala and school leaving certificate of Manoj Kumar was proved as Ex.P2, which contained the recital of his date of birth as 01.08.1987. The certificate of middle standard class passed by Manoj Kumar is Ex.P8, wherein, the same date of birth is mentioned. On the basis thereof, it was concluded by learned Tribunal that deceased Manoj Kumar was 14 years old and he had passed 8th class and was student of 9th class. His monthly income was assessed as Rs.3000/-, annual whereof, comes to be Rs.36,000/-. However, dependency of the parents was taken to be Rs.1500/- per month, annual whereof, comes to be Rs.18,000/-. Considering the age of the father of Manoj Kumar to be 36 years and Asha Singla to be 32 years, the multiplier of '6' was applied and the compensation was worked upon as Rs.1,08,000/-, and the liability was fastened upon the respondents, as stated aforesaid.

However, the computation of compensation as aforesaid, do call for re-determination, as per prevalent settled law.

So far as, the age of deceased well as his being student of 9th class, is concerned, the same stands amply established from the evidence, brought on record. Also, from the evidence, it stands established that the deceased had stood first in 8th class. Thus, he was brilliant and hardworking student. Had he not met with the accident, he would have well settled in life.

At this juncture, before proceeding further, beneficial reference is made to '*State of Haryana and another vs. Jasbir Kaur and others, 2003(4) RCR (Civil) 140*', wherein, it was held as herein given:-

"It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to



*make an award determining the amount of compensation which is to be in the real sense "**damages**" which in turn appears to it to be "just and reasonable". It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be "just" and it cannot be a bonanza; nor a source of profit; but the same should not be a pittance. The courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be 'just' compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of 'just' compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression 'just' denotes equitability, fairness and reasonableness, and non-arbitrary, if it is not so it cannot be just. (See **Helen C. Rebello v. Maharashtra SRTC, 1998(4) RCR (Civil) 177 (SC): 1991(1) SCC 90**)."*

The determination of damages for loss of human life, is extremely difficult task and it becomes all the more baffling, when the deceased is a child and/or a non-earning person. The future of a child is uncertain. Where the deceased is a child and he was earning nothing but had a prospect to earn, the question of assessment of compensation, therefore, becomes stiffer. The figure of compensation in such cases, involves a good deal of guesswork.

In **Lata Wadhwa and others vs. State of Bihar and others, 2001(4) RCR (Civil) 673 (SC)**, the Hon'ble Supreme Court, held that while computing compensation, distinction between deceased children falling



within the age group of 5 to 10 years and age group of 10 to 15 years, can be made. Further, it was observed that the compensation determined for the children, for all age group, could be doubled, of what is stated in Schedule II of the Motor Vehicle Act, as the determination was made grossly inadequate and the loss of children is irrecoverable and no amount of money could compensate the parents. The principles laid down in aforesaid case, was made applicable to the facts in the case of **Krishan Gopal's case (supra)** and it was thus considered as 'just and reasonable' to take notional income of Rs.30,000/- and applying the multiplier as laid down in **Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77** and observed as herein given:-

*"In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of **Sarla Verma v. Delhi Transport Corporation**, the multiplier of 15 can be applied to the multiplicand. Thus, $30,000 \times 15 = 4,50,000$ and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in **Kerala SRTS v. Susamma Thomas**, which is referred to in Lata Wadhwa's case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants."*

In '**Kurvan Ansari alias Kurvan Ali and another v/s Shyam Kishore Murmu and another, 2022 (1) SCC 317**', the Hon'ble Supreme Court was of the view that it was necessary to increase the notional income by taking into account the inflation, devaluation of the rupee and cost of living and the notional income of a child aged about 10 years was considered



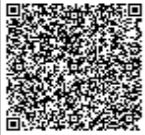
as Rs.10,000/-.

Before advertng to the case in hand, it is pertinent to mention that in *Krishan Gopal's case (supra)*, the accident had taken place on 19.07.1992. In '*Meena Devi v/s Nunu Chand Mahto @ Nemchand Mahto and others, 2022(4) RCR (Civil) 553*', the Hon'ble Supreme Court had considered the case of death of a 12 year child, in a motor vehicular accident and while granting compensation, had observed that the principles laid down in case of *Kishan Gopal's case (supra)*, are aptly applicable to the facts of the case (in hand), and thus, took the notional earnings as Rs.30,000/- including future prospects and applied the multiplier of '15' [in view of the decision of the Hon'ble Apex Court *Sarla Verma's case (supra)*] and the loss of dependency was worked upon to be Rs.4,50,000/- and addition of Rs.50,000/- was made under the conventional heads. The total compensation was worked upon as Rs.5,00,000/-.

However, it should be noted that in *Meena Devi's case (supra)*, the date of accident was 29.07.2003.

Taking into consideration the aforesaid case law, in modest estimate, the notional earnings of deceased Majoj Kumar, in the case in hand, who died in the accident, which took place on 30.09.2001, can conveniently be taken as Rs.30,000/- per annum. After applying the multiplier of '15', the loss of dependency comes to be $\text{Rs.}30000 \times 15 = \text{Rs.}4,50,000/-$.

Besides the same, as per '*Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*', the claimants are entitled to compensation, on the loss of consortium, be it



‘parental’, ‘spousal’ or ‘filial’. Taking into consideration, the claimants, who are parents of the deceased, are entitled to compensation, on the count of ‘filial’ consortium. As held in *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, with the enhancement clause of 10%, after every three years of the passing of the judgment, the compensation payable, at present, on the count of ‘loss of consortium’ is to the extent of Rs.48,400/- i.e. $\text{Rs.48,400} \times 2 = \text{Rs.96,800/-}$. Likewise, on the counts of ‘loss of estate’ and ‘funeral expenses’, the compensation payable, comes to be **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to claimants, on account of death of Manoj Kumar, is re-computed, as herein given:-

Loss of dependency	:	Rs.4,50,000/-
Loss of consortium	:	Rs.96,800/-
Funeral expenses	:	Rs.18,150/-
Loss of estate	:	Rs.18,150/-
Total	:	Rs.5,83,100/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.5,83,100-1,08,000=Rs.4,75,100/-**.

FAO-4472-2003 relating to MACT No.43 of 2002

The present case has been filed by the appellants-cliamants, thereby, seeking compensation, on account of death of Prem Nath, in the accident in question. It is the pleaded case of the appellants that deceased was 38 years old, at the time of accident and he was working as Cashier/Clerk in State Bank of Patiala, YPS Branch, Patiala and his monthly earnings were Rs.11178.54. In the post-mortem report Ex.P7, the age of the



deceased Prem Nath was mentioned as 38 years. His matriculation certificate is Ex.P18, which contains recital of his date of birth as 08.12.1963, which amply establish about the deceased to be 38 years old.

Even, from the testimony of PW-7 Janender Gupta, Clerk, State Bank of Patiala and the documents proved by the said witness, it stands established that deceased was employed as Clerk/Cashier in State Bank of Patiala. Also, it stands established that the appellants-claimants No.2 to 4 are the minor children of the deceased. The salary certificate is Ex.PW7/B, which reveals about his earnings to be Rs.11178.54.

However, learned Tribunal had taken the carry home salary of the deceased, which was Rs.6447.54, for ascertaining the dependency of the claimants. After deducting 1/3rd, the dependency was taken as Rs.4300/- per month, annual whereof, comes to be Rs.51,600/-. Multiplier of '8' was applied and the compensation was worked upon as Rs.4,12,800/-.

Even, the compensation worked upon, in the aforesaid manner, calls for re-computation.

On the computation of compensation, which is payable, we are guided by the judgment of the Constitution Bench of Hon'ble Supreme Court passed in ***Pranay Sethi's case (supra)*** and taking guidelines from the same, it is the 'established income minus tax component', which is to be taken into consideration, for making assessment of the compensation, to be awarded. Thus, salary of deceased is taken as Rs.11178.54, annual whereof, comes to be Rs.1,34,142.48/-

As per prevalent income tax slab, the tax on the initial income of Rs.50,000/- was 'nil'. The tax for the next amount from Rs.50,000/- to

**FAO-4471-2003 and connected case****-14-**

Rs.60,000/-, was 10% i.e. Rs.1000/-. For the next Rs.60,000/- to Rs.1,50,000/-, the tax payable was 20%. In the present case, the taxable amount was Rs.74142.48/- (Rs.134142.48-Rs.60,000), the tax payable thereof, fall in the bracket of 20%, which comes to be Rs.14828.49. Thus, the total tax payable comes to be Rs.15828.49, which is rounded off as Rs.15828/-. After deduction of this amount, the residue annual earnings of the deceased comes to be Rs.134142-15828=Rs.1,18,314/-.

Looking at the number of dependents, as per *Sarla Verma's case (supra)*, the deduction on the count of 'personal expenses' has to be 1/4th, instead of 1/3rd, as done by learned Tribunal. Thus, after deducting the same, the loss of dependency is worked upon as Rs.118314-29578(1/4th)=**Rs.88736/-**.

Since, the deceased was permanent employee and was less than 40 years of age, as per *Pranay Sethi's case (supra)*, addition of 50%, ought to be made, on the count of 'future prospects'. Thus, the annual income of the deceased is worked upon as Rs.88736+44368(50%)=**Rs.1,33,104/-**.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate and suitable multiplier, to be applied is '15', instead of '8' as applied by learned Tribunal, and thus, by applying the same, the loss of dependency, works out to be Rs.133104x15=**Rs.19,96,560/-**.

As per *Pranay Sethi's case (supra)*, the compensation payable, on the count of 'loss of consortium is to the extent of Rs.48,400/- to each of the claimant i.e. Rs.48,400x4=**Rs.1,93,600/-**. Likewise, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.



Considering the same, the compensation payable to claimants, on account of death of Prem Nath, is re-computed, as herein given:-

Loss of dependency	:	Rs.19,96,560/-
Loss of consortium	:	Rs.1,93,600/-
Funeral expenses	:	Rs.18,150/-
Loss of estate	:	Rs.18,150/-
Total	:	Rs.22,26,460/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be Rs.22,26,460-4,12,800=Rs.18,13,660/-.

FAO-4473-2003 relating to MACT No.44 of 2002

The present case was filed by Smt.Mohinder Kaur and Jatinder Singh, thereby, seeking compensation, on account of death of Charan Singh, in the accident in question. It is the pleaded case of the appellants-claimants that deceased Charan Singh was 50 years old and was working as Carpenter and earning Rs.8000/- per month. PW-2 Jaswant Ram, brother of the deceased, has stepped into witness box and he has deposed about the age as well as the vocation followed by the deceased. Even, PW-3 Mohinder Kaur, widow of the deceased, deposed as per the pleaded case.

Learned Tribunal, while considering the deceased to be skilled worker, has taken the earnings of the deceased as Rs.3000/- per month. After making deduction of 1/3rd, on the count of ‘personal expenses’, the monthly loss of dependency was taken as Rs.2000/-, annual whereof, comes to be Rs.24000/-. Considering the age of the deceased, multiplier of ‘6’ was applied and the compensation was worked upon as Rs.1,44,000/-.



Even, the aforesaid work on of the compensation, calls for enhancement, as per prevalent settled law.

The extent of earnings, as that of skilled work, has been appropriately taken by learned Tribunal. Even, as per the post-mortem report, the age of the deceased has been correctly taken to be 50 years and further, the deduction, on the count of ‘personal expenses’, has been correctly made.

However, taking the loss of dependency to be Rs.2000/-, addition on the count of ‘future prospects’, considering the age of the deceased, ought to be made to the extent of 25%, which comes to be Rs.2000+500(25%)=Rs.2500/-, annual, whereof, comes to be Rs.30,000/-.

Considering the age of the deceased, as per *Sarla Verma’s case (supra)*, the appropriate and suitable multiplier, to be applied is ‘13’, and thus, by applying the same, the loss of dependency, works out to be Rs.30000x13=Rs.3,90,000/-.

The compensation now payable, on the count of ‘loss of consortium’ is to the extent of Rs.48,400/- to each of the claimant, i.e. Rs.48,400x2=Rs.96,800/-. Likewise, on the counts of ‘loss of estate’ and ‘funeral expenses’, the compensation payable, comes to be Rs.18,150/-, on each count.

Considering the same, the compensation payable to claimants, on account of death of Charan Singh, is re-computed, as herein given:-

Loss of dependency	:	Rs.3,90,000/-
Loss of consortium	:	Rs.96,800/-
Funeral expenses	:	Rs.18,150/-
Loss of estate	:	Rs.18,150/-

**FAO-4471-2003 and connected case****-17-**

Total : Rs.5,23,100/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.5,23,100-1,44,000=Rs.3,79,100/-**.

FAO-4474-2003 relating to MACT No.46 of 2002

The present case was filed by appellants-claimants Amarjit Kaur, as well as minor children and parents of deceased Fakir Chand, for grant of compensation, on account of death of Fakir Chand, in the accident in question. It is pleaded case of the appellants that deceased Fakir Chand was 30 years old and he was working as an agriculturist and earning Rs.15,000/- per month.

As per the post-mortem report Ex.P4, the deceased was stated to be 30 years old. The jamabandies were also proved as Ex.P11 to Ex.P13, to establish about the extent of land owned by the deceased, as observed by learned Tribunal, in paragraph No.44 of the impugned Award.

However, considering the material on record, the income of the deceased was taken as Rs.3000/- per month. The matriculation certificate Ex.P17, contains the recitals of date of birth of the deceased as 02.09.1968 and taking the same into consideration, learned Tribunal had assessed the age of the deceased as 33 years, at the time of his death. 1/3rd was deducted, on the count of 'personal expenses' and the loss of dependency was worked upon as Rs.2000/-, annual whereof, comes to be Rs.24,000/-. Multiplier of '7' was applied and the compensation was worked upon as Rs.1,68,000/-.



The work on of the compensation aforesaid, also calls for re-determination.

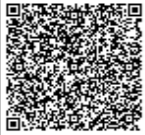
From the revenue record, proved in evidence, it stands established that the deceased was owner of agricultural land. The land still remains with the claimants. However, the managerial loss, on account of death of Fakir Chand, is certainly there and considering the same, the earnings have been appropriately considered as Rs.3000/- per month. However, the deduction made on the count of 'personal expenses' is on higher side. Taking guidelines from the Sarla Verma's case (*supra*), where the dependents are 4 to 6, the deduction has to be made to the extent of 1/4th. Thus, in the present case, the deduction of 1/4th ought to be made and the loss of dependency, comes to be $\text{Rs.}3000-750=\text{Rs.}2250/-$ per month.

Considering the age of the deceased, addition on the count of 'future prospects' ought to be made to the extent of 40%, which comes to be $\text{Rs.}2250+900(40\%)=\text{Rs.}3150/-$, annual, whereof, comes to be Rs.37,800/-.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate and suitable multiplier, to be applied is '16', and thus, by applying the same, the loss of dependency, works out to be $\text{Rs.}37800 \times 16 = \text{Rs.}6,04,800/-$.

The compensation now payable, on the count of 'loss of consortium' is to the extent of Rs.48,400/- to each of the claimant i.e. $\text{Rs.}48,400 \times 5 = \text{Rs.}2,42,000/-$. Likewise, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be Rs.18,150/-, on each count.

Considering the same, the compensation payable to claimants,



FAO-4471-2003 and connected case

-19-

on account of death of Fakir Chand, is re-computed, as herein given:-

Loss of dependency	:	Rs.6,04,800/-
Loss of consortium	:	Rs.2,42,000/-
Funeral expenses	:	Rs.18,150/-
Loss of estate	:	Rs.18,150/-
Total	:	Rs.8,83,100/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.8,83,100-1,68,000=Rs.7,15,100/-**.

FAO-4475-2003 relating to MACT No.70 of 2002

The present claim petition was filed by appellants-claimants Shinder Kaur, minor daughter as well as parents of the deceased Ram Pal, to seek compensation, on account of death of Ram Pal, in the accident in question.

It was pleaded case of the appellants-claimants that deceased Ram Pal was 20 years old, at the time of accident and he was indulging into dairy farming and was earning Rs.5000/- per month. Also, it was pleaded about the deceased to have purchased two plots of 150 sq. yards and 60 sq. yards and copies of the sale deeds had been proved as Ex.P9 and Ex.P10. Copy of the jamabandi of the ownership of the plots, had also been proved. Upon these plots, he was rearing the cattle.

The deceased had passed 10+2 class. Learned Tribunal had assessed the age of the deceased to be 30 years. The income of the deceased was taken to be Rs.2500/- per month. 1/3rd was deducted, on the count of ‘personal expenses’ and the loss of dependency was worked upon as

**FAO-4471-2003 and connected case****-20-**

Rs.1600/- per month, annual whereof, comes to be Rs.19,200/-. Multiplier of '9' was applied and the compensation was worked upon as Rs.1,72,800/-.

However, the aforesaid work on of the compensations, do call for re-determination.

Anyhow, from the sale deeds, proved in evidence as Ex.P9 and Ex.P10, it stands established that deceased was owner of plots of 150 sq. yards and 60 sq. yards. It is specific case that deceased was having 10 milch buffaloes. From the testimony of the witnesses, it stands established that deceased was indulging in dairy business. However, the earnings have been taken as Rs.2500/- per month, do call for enhancement. Proximate to the reality, the earnings of the deceased, as such, are taken as Rs.3000/- per month.

However, learned Tribunal had made deduction to the extent of 1/3rd, on the count of 'personal expenses'. While considering the number of dependents, deduction to the extent of 1/4th ought to be made and thus, the loss of dependency, comes to be $\text{Rs.}3000 - 750 = \text{Rs.}2250$ /- per month.

Considering the age of the deceased to be 30 years, addition on the count of 'future prospects' ought to be made to the extent of 40%, which comes to be $\text{Rs.}2250 + 900(40\%) = \text{Rs.}3150$ /-, annual, whereof, comes to be Rs.37,800/-.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate and suitable multiplier, to be applied is '17', and thus, by applying the same, the loss of dependency, works out to be $\text{Rs.}37800 \times 17 = \text{Rs.}6,42,600$ /-.

The compensation now payable, on the count of 'loss of



consortium’ is to the extent of Rs.48,400/- to each of the claimant i.e. Rs.48,400x4=**Rs.1,93,600/-**. Likewise, on the counts of ‘loss of estate’ and ‘funeral expenses’, the compensation payable, comes to be **Rs.18,150/-**, on each count.

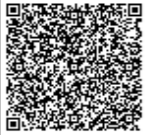
Considering the same, the compensation payable to claimants, on account of death of Fakir Chand, is re-computed, as herein given:-

Loss of dependency	:	Rs.6,42,600/-
Loss of consortium	:	Rs.1,93,600/-
Funeral expenses	:	Rs.18,150/-
Loss of estate	:	Rs.18,150/-
Total	:	Rs.8,72,500/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.8,72,500-1,72,800=Rs.6,99,700/-**.

The apportionment of the enhanced amounts, as detailed aforesaid, shall also be paid to all the appellants-claimants, in respective appeals, as ordered by learned Tribunal. However, it is pertinent to mention that learned Tribunal had only granted penal interest, in the eventuality of awarded compensation, not being paid within a period of three months, from pronouncement of the Award and said penal interest was @ 9% per annum, till date of recovery.

However, the aforesaid observation is hereby set aside and the appellants-claimants are held entitled to interest @ 6% per annum, from the date of filing of the claim petitions, till realization of the entire amount, as worked upon aforesaid. Remaining all terms of Award, shall remain the same.



FAO-4471-2003 and connected case

In view of the aforesaid observations, all the appeals filed by the appellants-claimants, stand allowed.

August 27, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No