

2024:PHHC:124458



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2024:PHHC:124463



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 17.09.2024
Pronounced on: 19.09.2024

I. FAO-5293-2009
KARAMJIT KAUR AND OTHERS

... .APPELLANTS

Vs.

NIRBHAI SINGH @ BHOLA AND OTHERS

... .RESPONDENTS

II. FAO-5294-2009
MANDEEP SINGH AND OTHERS

... .APPELLANTS

Vs.

NIRBHAI SINGH @ BHOLA AND OTHERS

... .RESPONDENTS

III. FAO-5295-2009
BAGGA SINGH

... .APPELLANT

Vs.

NIRBHAI SINGH @ BHOLA AND OTHERS

... .RESPONDENTS

IV. FAO-5297-2009
HARWINDER KAUR AND OTHERS

... .APPELLANTS

Vs.

NIRBHAI SINGH @ BHOLA AND OTHERS

... .RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. M.K. Singla, Ms. Shikha Singla and
Mr. Dinesh Kumar, Advocates, for the appellants.

Mr. Pardeep Goyal and Ms. Simran, Advocates,
for respondent No.3-Insurance Company

DEEPAK GUPTA, J.

These four appeals have arisen out of common award dated 01.06.2009 passed by learned MACT, Sangrur. Though as many as seven claim petitions were filed arising out of same motor vehicular accident resulting into the common award dated 01.06.2009, but only the claimants of four of the claim petitions have approached this court by way of present appeals, seeking enhancement in compensation.

2. Motor vehicular accident had taken place on 21.02.2008. Claimants /appellants do not dispute the factum of the accident or any other finding of the Tribunal except to the extent of quantum of compensation. Even on the aspect of assessing the compensation amount in all the four appeals, the only plea raised by learned counsel for the claimants-appellants is that the compensation under the traditional heads of loss of estate and funeral expenses have not been awarded. Besides, no future prospectus were added in the total income of the deceased and the loss of consortium or filial consortium was not adequately granted.

3.1 Ld. counsel for the appellants-claimants has prayed for enhancing the compensation in the light of the law explained by Hon'ble Supreme Court in ***"Sarla Verma and others v. Delhi Transport Corporation and another"***, (2009) 6 Supreme Court Cases 121; ***"National Insurance Company Limited v. Pranay Sethi and others"*** 2017(4) RCR (Civil) 1009 and ***"Magma General Insurance Company Ltd. v. Nanu Ram @ Chuhru Ram and others"***, 2018(18) SCC 130 and ***"N. Jai Shree and others Vs. Chola Mandalum M.S. General Insurance Company Ltd."*** 2021 (4) RCR (Civil) 642.

3.2 Learned counsel for the Insurance Company has very fairly con-

ceded that compensation amount needs to be enhanced, as no compensation has been awarded under the traditional heads and also for the loss of consortium.

4. I have heard Id. counsel for both the parties.

5. Although the income of the four deceased in these four cases appear to have been taken on lesser side, but counsel for the claimants-appellants does not dispute the income of the deceased and has requested to enhance the compensation by taking the income as such, as has been taken into consideration by the Tribunal.

6.1 In **FAO-5293-2009 'Karamjit Kaur and others Vs. Nirbhai Singh @ Bhola'**, deceased Jaswinder Singh was aged 29 years. There are five claimants. The Tribunal has assessed the total compensation to be ₹7,27,000/- by taking the monthly income of the deceased at ₹5000/- and taking the multiplier of 18.

6.2 In **FAO-5294-2009 'Mandeep Singh and others Vs. Nirbhai Singh @ Bhola'** deceased Inderjit Kaur was aged 33 years. There are three claimants. The Tribunal has assessed the total compensation at ₹4,10,000/- by taking the monthly income of the deceased as ₹5000/- and applying the multiplier of 17.

6.3 In **FAO-5295-2009 'Bagga Singh and another Vs. Nirbhai Singh @ Bhola'**, deceased Sinder Kaur was aged 34 years. There are two claimants. The Tribunal has assessed the total compensation of the amount of ₹3,67,000/- by taking the monthly income of the deceased as ₹3000/- and taking the multiplier to be 15.

6.4 In **FAO-5297-2009 'Harwinder Kaur and others Vs. Nirbhai Singh @ Bhola'** deceased Supinder Singh was aged 32 years. There are three claimants. The Tribunal has assessed the total compensation at ₹5,51,000/- by taking the monthly income of the deceased as ₹4,000/- and applying the multiplier of 17.

7. Keeping in view the latest legal position as explained by Hon'ble

Supreme Court in **Sarla Verma; Pranay Sethi; and Nanu Ram @ Chuhru Ram (supra)**, the re-worked amount of compensation will be as under: -

I. FAO No.5293 of 2009

(Karamjit Kaur and others v. Nirbhai Singh @ Bhola and others)

	Deceased Jaswinder Singh Age – 29 years Number of claimants - 5	Compensation awarded by MACT (in ₹)	Compensation assessed by this Court (in ₹)
1.	Monthly earning of deceased	5,000/-	5,000/-
2.	Annual Income	60,000/-	60,000/-
3.	Deduction for self expenses	1/3	1/4
4.	Annual income after deduction for self expenses	60,000 – 20,000 = 40,000/-	60,000 – 15,000 = 45,000/-
5.	After adding future prospects of 40 %	----	45,000 +18,000/- = 63,000/-
6.	Multiplier	18	17
7.	Compensation	40,000 x 18 = 7,20,000/-	63,000 × 17 = 10,71,000/-
8	Loss of estate	---	18,000/-
9.	Funeral expenses	2,000/-	18,000/-
10.	Loss of consortium (i) Parental (ii) Filial (iii) Spousal	5,000/-	48,000 x 2 = 96,000/- 48,000 x 2 = 96,000/- 48,000 Total = (2,40,000/-)
	Total compensation	7,27,000/-	13,47,000/-
	Enhanced compensation	6,20,000/-	

II. FAO No.5294 of 2009

(Mandeep Singh and others v. Nirbhai Singh @ Bhola and others)

	Deceased Inderjit Kaur Age – 33 years Number of claimants : 3	Compensation awarded by MACT (in ₹)	Compensation assessed by this Court (in ₹)
1.	Monthly earning of deceased	3,000/-	3,000/-
2.	Annual Income	36,000/-	36,000/-
3.	Deduction for self expenses	1/3	1/3
4.	Annual income after deduction for self expenses	36,000 – 12,000 = 24,000/-	36,000 – 12,000 = 24,000/-
5.	After adding future prospects of 40 %	----	24,000 +9,600 = 33,600/-
6.	Multiplier	17	16
7.	Compensation	24,000 x 17 = 40,8000/-	33,600 x 16 = 5,37,600/-
8.	Loss of estate	---	18,000/-
9.	Funeral expenses	2,000/-	18,000/-
10.	Loss of consortium (i) Parental (ii) Filial (iii) Spousal	----	48,000 x 3 = 1,44,000/- Total = (1,44,000/-)
	Total compensation	4,10,000/-	7,17,600/-
	Enhanced compensation	3,07,600/-	

III. FAO No.5295 of 2009

(Bagga Singh and another v. Nirbhai Singh @ Bhola and others)

	Deceased Sinder Kaur Age – 34 years Number of claimants : 2	Compensation awarded by MACT (in ₹)	Compensation assessed by this Court (in ₹)
1.	Monthly earning of deceased	3,000/-	3,000/-
2.	Annual Income	36,000/-	36,000/-
3.	Deduction for self expenses	1/3	1/3
4.	Annual income after deduction for self expenses	36,000 – 12,000 = 24,000/-	36,000 – 12,000 = 24,000/-
5.	After adding future prospects of 40 %	----	24,000 +9,600 = 33,600/-
6.	Multiplier	15	15
7.	Compensation	24,000 x 15 = 3,60,000/-	33,600×15 = 5,04,000/-
8.	Loss of estate	---	18,000/-
9.	Funeral expenses	2,000/-	18,000/-
10.	Loss of consortium (i) Parental (ii) Filial (iii) Spousal	5,000/-	48,000/- 48,000/- (96,000/-)
	Total compensation	3,67,000/-	6,36,000/-
	Enhanced compensation	2,69,000/-	

IV. FAO No.5297 of 2009

(Harwinder Kaur and others v. Nirbhai Singh @ Bhola and others)

	Deceased Supinder Singh Age – 32 years Number of claimants : 3	Compensation awarded by MACT (in ₹)	Compensation assessed by this Court (in ₹)
1.	Monthly earning of deceased	4,000/-	4,000/-
2.	Annual Income	48,000/-	48,000/-
3.	Deduction for self expenses	1/3	1/3
4.	Annual income after deduction for self expenses	48,000 – 16,000 = 32,000	48,000 – 16,000 = 32,000
5.	After adding future prospects of 40 %	----	32,000 +12,800 = 44,800/-
6.	Multiplier	17	16
7.	Compensation	32,000 x 17 = 5,44,000/-	44,800 × 16 = 7,16,800/-
8.	Loss of estate	---	18,000/-
9.	Funeral expenses	2,000/-	18,000/-
10.	Loss of consortium (i) Parental (ii) Filial (iii) Spousal	5,000/-	48,000
			48,000
			48,000
			1,44,000/-
			Total = (1,44,000/-)
	Total compensation	5,51,000/-	8,96,800/-
	Enhanced compensation	3,45,800/-	

8. The claimants-appellants of the respective claim petitions shall be entitled to the enhanced compensation along with interest @ 7.5% per an-

num from the date of filing of the claim petition till the realization. The compensation amount shall be paid in the same proportion as awarded by the Tribunal. It is further made clear that if during the pendency of these appeals, any of the claimants has expired, the compensation amount of his share shall be paid to his legal heirs.

9.
- All the four appeals are hereby disposed of accordingly.

Photocopy of this order be placed on the connected case files.

19.09.2024

Vivek/sarita

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?

Whether reportable?

Yes

No