

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) **FAO-473-2007 (O&M)**

Bhupender Kumar
...Appellant

VERSUS

Karam Singh and others
...Respondents

(ii) **FAO-981-2007 (O&M)**

Palo Devi
...Appellant

VERSUS

Karam Singh and others
...Respondents

(iii) **FAO-982-2007 (O&M)**

Rachna Ram
...Appellant

VERSUS

Karam Singh and others
...Respondents

(iv) **FAO-983-2007 (O&M)**

Prem Singh
...Appellant

VERSUS

Karam Singh and others
...Respondents

(v) **FAO-984-2007 (O&M)**

Bhajan Kaur
...Appellant

VERSUS

Karam Singh and others
...Respondents

FAO-473-2007 and connected case		2024:PHHC:034745 -2-
	(vi)	FAO-985-2007 (O&M)
Satnam		...Appellant
	VERSUS	
Karam Singh and others		...Respondents
	(vii)	FAO-986-2007 (O&M)
Jyoti		...Appellant
	VERSUS	
Karam Singh and others		...Respondents
	(viii)	FAO-987-2007 (O&M)
Neeru Devi		...Appellant
	VERSUS	
Karam Singh and others		...Respondents
	(ix)	FAO-988-2007 (O&M)
Raghuvir Singh		...Appellant
	VERSUS	
Karam Singh and others		...Respondents
	(x)	FAO-989-2007 (O&M)
Ravi		...Appellant
	VERSUS	
Karam Singh and others		...Respondents

FAO-473-2007 and connected case		2024:PHHC:034745 -3-
	(xi)	FAO-990-2007 (O&M)
Bachni Devi		...Appellant
VERSUS		
Karam Singh and others		...Respondents
	(xii)	FAO-991-2007 (O&M)
Harpreet Singh		...Appellant
VERSUS		
Karam Singh and others		...Respondents
	(xiii)	FAO-992-2007 (O&M)
Kaka		...Appellant
VERSUS		
Karam Singh and others		...Respondents
	(xiv)	FAO-993-2007 (O&M)
Bittu alias Harpal Singh		...Appellant
VERSUS		
Karam Singh and others		...Respondents
	(xv)	FAO-994-2007 (O&M)
Smt.Charanjeet Kaur		...Appellant
VERSUS		
Karam Singh and others		...Respondents

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(xvi)

FAO-995-2007 (O&M)

Joginder Singh

...Appellant

VERSUS

Karam Singh and others

...Respondents

(xvii)

FAO-996-2007 (O&M)

Mukhtiar Singh

...Appellant

VERSUS

Karam Singh and others

...Respondents

Date of Decision: March 11, 2024

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sanjiv Gupta, Advocate
for the appellant (in FAO-473-2007).

Ms.Anamika Sheroan, Advocate for
Mr.Vikas Singh, Advocate
for the appellants (in remaining appeals).

Mr.Vinod Gupta, Advocate
for the respondent-insurance company (in all appeals).

ARCHANA PURI, J.

These are 17 appeals filed by the respective appellants-claimants to assail the Award dated 04.05.2006 passed by learned Motor Accident Claims Tribunal, whereby, a bunch of claim petitions, arising out of the same accident, were decided.

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

That, on 14.09.2002, the claimants along with other pilgrims, were returning from Bangarh Rajasthan, after paying homage, in bus bearing registration No.PB-13C-8487. The driver of the bus was driving the bus rashly and negligently and at a very high speed. At about 9.00 p.m., when the bus reached in the area of village Kasampur at Samana-Sawah Gaon Road and crossing the bridge, the driver of bus, lost his control and the bus fell into the river, after breaking the left side of the bridge. As a result of this accident, Ajmero, Mukhtiar Kaur, Naib Kaur, Hamiro Devi and Gurmail Kaur, occupants of the bus had died, whereas, various other had sustained injuries in the accident in question. The dead bodies as well as the injured were taken to Civil Hospital, Samana and then to Rajindra Hospital, Patiala. Consequently, various claim petitions were filed by the LRs of the deceased as well as injured themselves to seek compensation.

Vide impugned Award, five claim petitions of the alleged injured persons were dismissed. In another five claim petitions, compensation was granted qua death of aforesaid persons and in another seven claim petitions, compensation was granted to persons, injured in the accident in question.

Being aggrieved, the aforesaid FAOs have been filed.

FAOs No.981, 982, 985, 986, 991-2007, relate to five claim petitions, which were dismissed qua injured-Palo Devi, Rachna Ram, Satnam, Jyoti and Harpreet, respectively.

FAOs No.473, 984, 987, 989, 990, 992, 994-2007 relates to enhancement sought qua injured, namely Bhupender Kumar, Bhajan Kaur,

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Neeru Devi, Ravi, Bachni Devi, Kaka and Smt.Charanjeet Kaur,

respectively.

FAOs No. 983, 988, 993, 995, 996-2007 relates to enhancement of compensation granted, qua death of Smt.Mukhtiar Kaur, Smt.Hamiro Devi, Smt.Naib Kaur, Smt.Ajmero and Smt.Gurmail Kaur, respectively.

Be it noted that appeals have been filed, either for allowing of the claim petitions or seeking enhancement of the compensation. However, none of the respondents have filed any appeal to challenge the fact of accident and manner thereof, as well as the liability fastened upon them. Thus, the aforesaid aspects call for no further judicial scrutiny.

Learned counsel for the parties heard and record perused.

At the very outset, learned counsel for the appellants submitted that the injured/deceased were all occupants of the ill-fated bus, at the time of accident. All the injured, who have been denied compensation were the occupants and they have stepped into witness box themselves or in case of children, their parents have stepped into witness box and deposed about the injuries sustained. As such, they ought to have been granted the compensation. Even, the compensation granted to seven injured-claimants, is on lower side, which calls for extensive enhancement. It is submitted that many counts, which ought to have been taken into consideration, have been given amiss. Even, qua the deceased persons, very minimal compensation, has been granted. Now, as per the settled law, compensation ought to be enhanced, more particularly, vis-a-vis, funeral expenses, which has been denied by learned Tribunal.

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Before proceeding further, at the very outset, it is pertinent to reiterate the concept of ‘**just**’ compensation under Section 168 of the Act. It is a settled proposition, now through catena of decision, including the one, rendered by the Constitution Bench in *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, that compensation must be fair, reasonable and equitable. Further, the determination of quantum is a fact dependent exercise, which must be liberal and not parsimonious. Furthermore, the Motor Vehicle Act of 1988 is a beneficial and welfare legislation, that seeks to provide compensation as per the contemporaneous position of an individual, which is essentially forward looking. It must be emphasized that compensation is a more comprehensive form of pecuniary relief, which involves broad-based approach, keeping in view the purpose of providing stability and continuity in peoples’ life, in the future. In *Kirti and another v/s Oriental Insurance Company Ltd., 2021(2) SCC 166*, the Hon’ble Apex Court held that any compensation, awarded by a Court, ought to be just, reasonable and consequently, undoubtedly be guided by the principles of fairness, equity and good conscience. In view of the above-mentioned principle, let us advert to bunch of appeals in hand.

Firstly, let us consider the appeals filed by the injured, whose claim petitions were dismissed.

In FAO-981-2007, injured Palo Devi had herself stepped into witness box as PW-5 and deposed that she had received injuries on her hands. Her right hand was fractured and she also received injuries on her back, left side joint was dislocated and many other injuries were sustained by her. She further stated that she spent about Rs.50,000/- on her treatment,

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special diet and transportation.

In FAO-982-2007, injured-Rachna Ram stepped into witness box as PW-11 and deposed that he received injuries on his neck, legs, suffered fractures and joint of his left leg was dislocated. He further deposed that he had spent Rs.45,000/- on his treatment etc. Similarly, in FAO-985-2007, relating to injured Satnam, Rachna Ram, grand-father of injured-claimant Satnam had stepped into witness box as PW-11 and deposed about injuries sustained by Satnam on his hands, fracture on left hand and about expenditure of Rs.50,000/- incurred on the treatment, special diet and transportation of Satnam.

In FAO-986-2007, relating to injured-claimant Jyoti, Sona Devi, mother of Jyoti, aged 7 month, stepped into witness box as PW-10 and deposed about injuries suffered on various parts of her body and fracture on her left leg. She further deposed about spending Rs.30,000/- on treatment of Jyoti.

In FAO-991-2007, injured-claimant Harpreet Singh himself stepped into witness box as PW-13 and deposed about injuries sustained by him on various parts of body and also about expenditure of Rs.40,000/- incurred on his treatment etc.

Also, it is pertinent to mention that all the aforesaid injured-witnesses or their parents, have also deposed about firstly, having taken the injured to Civil Hospital, Samana and thereafter, having shifted to Mahavir General Hospital, Cheeka and all of them, claimed compensation, to the extent of Rs.5 lakhs, on account of the injuries, so suffered in the accident in the question.

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Apart from the testimonies of the injured themselves or their parents, no other evidence, to connect about the injuries sustained by them, in the accident, has been led. No record from Civil Hospital, Samana or from Mahavir General Hospital, Cheeka, where they were admitted after the accident and had undergone treatment, has been produced. No medical vouchers or receipts, as such, have been produced on record.

In the given circumstances, considering the lack of satisfying evidence to connect the injuries, as alleged to have been suffered in the accident in question, learned Tribunal had correctly held the aforesaid appellants-claimants to be not entitled to any compensation and hence, dismissed the claim petitions. Precisely, on this account, **FAOs No.981, 982, 985, 986, 991-2007**, filed at their instance, sans merit and are hereby dismissed.

Now, coming to the appeals filed qua death of some of the occupants of the ill-fated bus. These FAOs relate to the compensation granted, on account of death of various women, who have been considered as housewives. In *Arun Kumar Aggarwal vs. National Insurance Company Ltd., 2010(9) SCC 218*, it was observed by the Court that the contribution made by the wife to the house, is invaluable and cannot be computed in terms of money. Furthermore, it was observed that the gratuitous services rendered by the wife with true love and affection to the children and her husband and managing the household affairs, cannot be equated with the services rendered by others. Besides the same, also it was observed that it was impossible to quantify any amount, in lieu of the services rendered by the wife/mother, to the family, but however, for the purposes of award of

compensation to the dependents, some pecuniary estimate has to be made of the services of the housewife/mother. In this context, it was held that the term “**services**” is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife.

Beneficial reference is also made to *Kirti’s case (supra)*, wherein, the Hon'ble Supreme Court, while considering the case of death of a homemaker, has observed, as herein given:-

“32. Returning to the question of how such notional income of a homemaker is to be calculated, there can be no fixed approach. It is to be understood that in such cases the attempt by the Court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and circumstances.”

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“35. However, it must be remembered that all the above methods are merely suggestions. There can be no exact calculation or formula that can magically ascertain the true value provided by an individual gratuitously for those that they are near and dear to. The attempt of the Court in such matters should therefore be towards determining, in the best manner possible, the truest approximation of the value added by a homemaker for the purpose of granting monetary compensation.

36. Whichever method a Court ultimately chooses to value the activities of a homemaker, would ultimately depend on the facts and circumstances of the case. The Court needs to keep in mind its duty to award just compensation, neither assessing the same conservatively, nor so liberally as to make it a bounty to claimants [National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680; Kajal v. Jagdish Chand, (2020) 4 SCC 413].”

Therein, it was also held that effects of inflation would equally

be applied to the cases of assessment of notional income of the homemaker and on this account, it was further held that the future prospects, also are required to be taken into consideration.

Thus, summing up, general observations were made regarding the issue of calculation of notional income for homemakers and grant of future prospects, with respect to them, for the purposes of grant of compensation, which was summarized, as follows:-

“a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.

b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation’s international law obligations and our constitutional vision of social equality and ensuring dignity to all.

c. Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.

d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.”

Besides the aforesaid, also it is pertinent to mention that while working upon the compensation, qua the homemakers, who had died in the accident, learned Tribunal had denied compensation, on account of funeral expenses and further, had also given an amount of Rs.10,000/-, on the count of ‘love and affection’. However, as per settled prevalent law, the compensation is required to be worked upon under the conventional heads of

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‘loss of consortium, ‘funeral expenses’ and ‘loss of estate’, which as such, ought to be considered in the death cases of the appeals in hand.

So far as, loss of consortium is concerned, in *Pranay Sethi’s case (supra)*, the compensation, at first instance, was stated to be Rs.40,000/- as ‘loss of consortium’ to each of the dependents and Rs.15000/- each on the counts of ‘funeral expenses’ and ‘loss of estate’. However, while considering the clause of enhancement of 10%, after every three years of passing of the judgment, now the amount payable under the heads of ‘loss of consortium’ is to the extent of Rs.48,400/- for each of the dependent and Rs.18,150/- each on the counts of ‘funeral expenses’ and ‘loss of estate’. Besides the aforesaid, it is also pertinent to mention that as per *‘Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130’*, the claimants-dependents are also entitled to compensation, on the count of ‘parental’, ‘spousal’ and ‘filial’ consortium. It was further held that **‘loss of love and affection is comprehended in loss of consortium’**. Hence, there is no justification to award compensation towards loss of love and affection, as a separate head.

In this backdrop, now, let us consider the appeals filed vis-a-vis, death of persons, in the accident in question. In some of the claim petitions, the compensation relates to the major children. However, as per *National Insurance Company Limited vs. Birender, 2020 (11) SCC 356*, the major children are also entitled to compensation.

FAO-995-2007 relates to compensation granted qua death of Ajmero. Ajmero is asserted to have died in the accident in question. Joginder Singh-claimant, her husband has stepped into witness box as PW-

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17 and has deposed about Ajmero to be 45 years old, at the time of her death in the accident and he deposed, in consonance with the pleaded case. However, considering the recitals of the post-mortem report Ex.PAD and more particularly, when no other document relating the assessment of age, as such, has come on record, learned Tribunal has appropriately considered the age of the deceased as 60 years. However, at this age, even, women folk, have significant contribution towards looking after their families. The, learned Tribunal, as per the Schedule of the Motor Vehicles Act had taken the notional earnings of the deceased as Rs.15000/- per annum and after deduction of 1/3rd, her contribution was taken to be Rs.10,000/- and multiplier of '10' was applied. The total compensation granted was Rs.1,00,000/- and another Rs.10,000/- was granted on the count of 'love and affection' and the same was ordered to be apportioned equally to the appellant Joginder Singh and two of the major sons, who are proforma respondents No.5 and 6. However, the multiplier process, ought to have been followed, in the present case. Considering the significant contribution made by the women folk, at the age of 60 also, towards looking after the family, the value of services of Ajmero (since deceased), very close to the proximate reality, is taken as Rs.2000/- per month.

Looking at the age of the deceased, no addition on the count of 'future prospects' is to be made. However, in view of the number of dependents, deduction of 1/3rd is to be made, on the count of 'personal expenses', after making said deduction, the residue amount comes to be Rs.1334/-, annual whereof comes to be Rs.16008/-.

Considering the age of the deceased, as per *Sarla Verma's case*

(*supra*), the appropriate multiplier to be applied in the present case is ‘9’ and after, so applying this multiplier, the loss of dependency comes to be Rs.16008x9=**Rs.1,44,072/-**.

Besides the same, the amounts are to be paid under the conventional heads, such like, loss of consortium, loss of estate and funeral expenses as already observed in the earlier portion of the judgment.

Considering the same, the compensation payable to dependents, on account of death of Ajmero, is re-computed, as herein given:-

Loss of dependency	:	Rs.1,44,072/-
Loss of consortium (three dependents)	:	Rs.1,45,200/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.3,25,572/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.3,25,572-1,10,000=Rs.2,15,572/-**. Out of the enhanced compensation, appellant-claimant-Joginder Singh is held entitled to Rs.1,15,572/- and, whereas, proforma-respondents No.5 and 6 are held entitled to Rs.50,000/- each.

FAO-983-2007 relates to the compensation granted qua death of Mukhtiar Kaur. Prem Singh, husband of Mukhtiar Kaur, had stepped into witness box as PW-6 and deposed about her age to be 53 years and further deposed, in consonance with the pleaded case. However, learned Tribunal had considered the recitals of the post-mortem report Ex.PAE, when no other document relating the assessment of age, as such, has come on record and learned Tribunal has appropriately considered the age of the deceased as

60 years. Considering it to be so, on the same parameters, as worked upon aforesaid, the value of services rendered by deceased Mukhtiar Kaur, towards her family, is taken to be Rs.2000/- per month. However, looking at the age of the deceased, no addition on the count of ‘future prospects’ is to be made.

Furthermore, the claim petition had been filed by the husband only. As such, the deduction of 50% ought to be made, on the count of ‘personal expenses’ and after making said deduction, the residue amount comes to be Rs.1000/-, annual whereof, comes to be Rs.12000/-.

Considering the age of the deceased, as per *Sarla Verma’s case (supra)*, the appropriate multiplier to be applied in the present case is ‘9’ and after, so applying this multiplier, the loss of dependency comes to be Rs.12000x9=**Rs.1,08,000/-**.

Besides the same, the amounts are to be paid under the conventional heads, such like, loss of consortium, loss of estate and funeral expenses, as already observed aforesaid.

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

Loss of dependency	:	Rs.1,08,000/-
Loss of consortium	:	Rs.48,400/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.1,92,700/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.1,92,700-1,10,000=Rs.82,700/-**.

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Now, coming to FAO-988-2007, relating to the death of Hamiro Devi. Raghuvir Singh, husband of Hamiro Devi had stepped into witness box as PW-7 and deposed about the age of the deceased to be 53 years, at the time of her death and further deposed, in consonance with the pleaded case. However, learned Tribunal appropriately considering the recitals of the post-mortem report Ex.PAF, assessed the age of the deceased to be 60 years, as no other document relating to the age, as such, has come on record. Considering it to be so, on the same pattern, as worked upon aforesaid, the value of services rendered by deceased Hamiro Devi, towards her family, is taken to be Rs.2000/- per month. Considering the age of the deceased, no addition on the count of ‘future prospects’ is to be made.

The claim petition had been filed by the husband only. As such, the deduction of 50% ought to be made, on the count of ‘personal expenses’ and after making said deduction, the residue amount comes to be Rs.1000/-, annual whereof comes to be Rs.12000/-.

Considering the age of the deceased, as per *Sarla Verma’s case (supra)*, the appropriate multiplier to be applied in the present case is ‘9’ and after, so applying this multiplier, the loss of dependency comes to be Rs.12000x9=**Rs.1,08,000/-**.

Moreover, the compensation is to be paid under the conventional heads, as already detailed aforesaid.

Considering the same, the compensation payable to dependent, on account of death of Hamiro Devi, is re-computed, as herein given:-

Loss of dependency	:	Rs.1,08,000/-
Loss of consortium	:	Rs.48,400/-
Loss of estate	:	Rs.18,150/-

Funeral expenses	:	Rs.18,150/-
Total	:	Rs.1,92,700/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.1,92,700-1,10,000=Rs.82,700/-**.

Now, let us consider FAO-996-2007, qua death of Gurmail Kaur. Mukhtiar Singh, husband of Gurmail Kaur had stepped into witness box as PW-8 and deposed about her age to be 50 years, at the time of accident. He also deposed that Gurmail Kaur was admitted in the Rajindra Hospital, Patiala on 14.09.2002 and died on 15.09.2002. The post-mortem report of deceased Gurmail Kaur is Ex.PAC. Therein, also her age is mentioned as 50 years. Thus, learned Tribunal had appropriately considered the age of the deceased as 50 years.

As observed aforesaid, the value of services of the deceased as homemaker is taken to be Rs.2000/-. Looking at the age of the deceased, as per *Pranay Sethi's case (supra)*, addition of 25%, on the count of 'future prospects' ought to be made. Thus, making it to be so, the earnings are taken as Rs.2500/- per month.

Besides the husband, the deceased also had one son Major Singh and two daughters, Satnam Kaur and Kulwinder Kaur. Considering the number of dependents, as such, the deduction, on the count of 'personal expenses' is to be made to the extent of 1/4th. After making said deduction, the residue amount comes to be Rs.1875/-, annual whereof, comes to be Rs.22,500/-.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate multiplier to be applied in the present case is '13'

and after, so applying this multiplier, the loss of dependency comes to be Rs.22500x13=**Rs.2,92,500/-**.

Moreover, the compensation is to be paid under the conventional heads, as already detailed aforesaid.

Considering the same, the compensation payable to dependents, on account of death of Hamiro Devi, is re-computed, as herein given:-

Loss of dependency	:	Rs.2,92,500/-
Loss of consortium (four dependents)	:	Rs.1,93,600/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.5,22,400/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.5,22,400-1,50,000=Rs.3,72,400/-**. Out of the enhanced compensation, appellant-claimant Mukhtiar Singh is held entitled to Rs.2,22,400/- and, whereas, proforma-respondents No.5, 6 and 7 are held entitled to Rs.50,000/- each.

Now, coming to appeal filed qua death of Naib Kaur i.e. FAO-993-2007. Prem Singh-claimant, who is father-in-law of deceased Naib Kaur had stepped into witness box as PW-6 and deposed about the age of Naib Kaur to be 40 years, at the time of accident and further deposed about deceased having got admitted in Rajindra Hospital, Patiala on 14.09.2002 and she died on 13.10.2002. Even, in the post-mortem report Ex.PAG, the age of deceased Naib Kaur is mentioned as 40 years and thus, learned Tribunal had considered the age of the deceased to be 40 years. As observed aforesaid, the value of services rendered by the deceased is taken as

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Rs.2000/- per month. However, the deceased had seven children, besides father-in-law Prem Singh. Bittu @ Harpal one of the sons of deceased has filed the appeal, wherein, the remaining claimants have been impleaded as proforma respondents No.5 to 11. The husband of deceased Naib Kaur had already died and Prem Singh, father-in-law was also dependent upon Naib Kaur.

Looking at the age of the deceased, as per *Pranay Sethi's case (supra)*, addition of 25%, on the count of 'future prospects' ought to be made. Thus, making it to be so, the earnings are taken as Rs.2500/- per month. Considering the number of dependents, as such, the deduction, on the count of 'personal expenses' is to be made to the extent of 1/5th, which comes to be Rs.500. After making said deduction, the residue amount comes to be Rs.2000/-, annual whereof, comes to be Rs.24,000/-.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate multiplier to be applied in the present case is '15' and after, so applying this multiplier, the loss of dependency comes to be Rs.24000x15=Rs.3,60,000/-.

Since, the deceased had remained admitted in the hospital for a period of one month, learned Tribunal had appropriately granted the medical expenses incurred as Rs.50,000/-.

Moreover, the compensation is to be paid under the conventional heads, as already detailed aforesaid.

Considering the same, the compensation payable to dependents, on account of death of Naib Kaur, is re-computed, as herein given:-

Loss of dependency	:	Rs.3,60,000/-
Loss of consortium	:	Rs.3,87,200/-

(seven dependents)		
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Medical expenses	:	Rs.50,000/-
 Total	 :	 Rs.8,33,500/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.8,33,500-2,25,000=Rs.6,08,500/-**. Out of the enhanced compensation, appellant-claimant Bittu alias Harpal Singh and profoma-respondents No.5 to 10, are held entitled to Rs.75,000/- each and, whereas, proforma-respondents No.11- Prem Singh is held entitled to residue amount of 83,500/-.

Proceeding further, now let us consider the appeals, relating to the enhancement sought by the injured-claimants, who had sustained injuries in the accident in question. It is submitted that various counts have been taken into consideration by learned Tribunal, while making assessment of compensation to be granted to the claimants, but however, on peculiar aspect, which has been overlooked, relates to attendant charges.

Though, none of the appellants-claimants, who sustained injuries had suffered permanent disability, but however, they had suffered fractures and also must have undergone lot of trauma and they remained admitted in the hospital. During this period, they must have been looked after by the attendant. Though, no evidence, as such, is coming on record, about employment of attendant, but, even if not so, they must have been looked after by the family members. It should be noted that they could perform the role of care-giver, only by diverting their own time, from any form of gainful employment, which could have generated some income.

FAO-984-2007 relates to the injuries sustained by Bhajan Kaur. Appellant-claimant Bhajan Kaur stepped into witness box as PW-12 and deposed about having received injuries, in the accident in question. She also categorically deposed about having taken to Civil Hospital, Samana, where she was medically examined. The bed head ticket of claimant Bhajan Kaur from Rajindra Hospital, Patiala, is Ex.PT, which clearly reveals about the injured to be 40 years old and admitted in the hospital on 15.09.2002, on account of the injuries sustained in the accident. She remained admitted in the said hospital till 22.09.2002. As such, she remained admitted for eight days. Considering the same and also considering the X-rays having conducted as well as having suffered fracture, learned Tribunal had appropriately granted compensation to the extent of Rs.25,000/-, on account of medical expenses. Further, Rs.5,000/- each was granted, on the counts 'special diet' and 'pain and suffering'. Since, the injured was also rendering assistance to her husband in the Halwai and Dairy business, on the count of 'loss of income', another amount of Rs.5,000/- was granted. In total, the compensation, awarded by learned Tribunal was Rs.40,000/-.

However, the aforesaid work on, calls for recomputation. So far as, medical expenses are concerned, it has been appropriately granted as **Rs.25,000/-**. However, the value of services rendered by the injured, towards the household as well as looking after the business of Halwai and Dairy of her husband, the 'loss of income' is taken as Rs.2000/- per month. On account of fracture sustained, at least for a period of five months, she ought not to have been able to take care of her household as well as rendering assistance to the business of her husband. On this account, the

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loss of earnings is worked upon as **Rs.10,000/-**. Besides the same, on the count of 'special diet', the compensation stands enhanced from Rs.5000 to **Rs.8000/-**. Likewise, on the count of 'pain and suffering' also, the compensation stands enhanced to **Rs.10,000/-** from Rs.5000/-. As already observed aforesaid, on the count of 'attendant charges', an amount of **Rs.7000/-** is granted. In total, compensation granted to injured-claimant Bhajan Kaur stands enhanced from Rs.40,000/- to **Rs.60,000/-**.

Now, coming to the appeal i.e. FAO-992-2007 filed by appellant-claimant Kaka, who was 7 years old at the relevant time. Bhajan Kaur, mother of the claimant had stepped into witness box as PW-12 and deposed about Kaka, her son to have sustained injuries on various parts of his body and his right arm was fractured. He was firstly taken to Civil Hospital, Samana and thereafter, shifted to Rajindra Hospital, Patiala. The bed head ticket of the injured has been proved as Ex.P2/1. He remained admitted in the hospital for three days and had undergone X-ray, which proved fracture of bones. Learned Tribunal had appropriately granted compensation to the extent of Rs.15,000/-, on the count of 'medical expenses' and also granted Rs.5,000/-, on the count of special diet. However, remaining aspects, were given amiss.

It is quite obvious, looking at the age of the injured-claimant, that it must have been arduous job for the family to look after him and he must be cranky, off and on. As such, attendant charges, ought to be granted to him. Besides the same, the child must have remained under lot of trauma and thus, compensation ought to be granted, on the count of 'pain and suffering'. Even, the compensation granted on the count of 'special diet',

needs to be enhanced. Thus, the compensation granted to injured-claimant Kaka is re-computed, as herein given:

Medical expenses	:	Rs.15,000/-
Attendant charges	:	Rs.8,000/-
Pain and suffering	:	Rs.10,000/-
Special diet	:	Rs.10,000/-
Total	:	Rs.43,000/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.43,000-20,000=Rs.23,000/-**.

Now, coming to the appeal i.e. FAO-994-2007 filed by appellant-claimant Charanjeet Kaur. Injured-claimant Charanjeet Kaur herself stepped into witness box as PW-14 and deposed about having received injuries on various parts of the body and that she was taken to Civil Hospital, Samana and was medically examined. She also deposed that she was working as labourer. Even, bed head ticket of the injured-claimant of Rajindra Hospital, Patiala has been duly proved, which reveals about her to be 40 years old, at the time of accident and she remained in the hospital from 15.09.2002 till 21.09.2022 i.e. for seven days and she had also sustained fracture. Considering the same, learned Tribunal had granted compensation to the extent of Rs.20,000/-, on the count of ‘medical expenses’ and another sum of Rs.5,000/- each, on the counts of ‘special diet’ and ‘pain and suffering’. In total, compensation to the extent of Rs.30,000/- was granted.

So far as, medical expenses is concerned, learned Tribunal had appropriately considered the amount as **Rs.20,000/-**. However, on the count of ‘special diet’, the amount stands enhanced to **Rs.8,000/-** and qua ‘pain

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and suffering' also, the compensation granted is on lower side and the same stands enhanced to **Rs.15,000/-**. Besides the same, during the healing process, on account of fracture suffered, **Rs.10,000/-** is granted, on the count of 'attendant charges'. In total, compensation granted to injured-claimant Charanjeet Kaur stands enhanced from Rs.30,000/- to **Rs.53,000/-**.

FAO-987-2007 relates to injuries sustained by Neeru Devi. Injured-claimant Neeru Devi stepped into witness box as PW-15 and deposed, in consonance with the pleaded case, about having suffered injuries on her legs and that ribs were fractured. She suffered fracture on other parts of her body and was taken to Civil Hospital, Samana, where from, she was referred to Rajindra Hospital, Patiala. She remained admitted in the aforesaid hospital from 15.09.2002 to 26.09.2002. She deposed that she was also helping her husband in agricultural work. The bed head ticket of the injured-claimant has been proved as Ex.PU, which reveals about her admission in Rajindra Hospital, Patiala, for a period of 12 days and she had suffered serious injuries on her body. X-rays were conducted and she had suffered fractures also. Considering the same, learned Tribunal had granted compensation on the count of 'medical expenses' as Rs.25,000/- and 'special diet' Rs.5,000/- and Rs.5,000/- as 'pain and suffering'. In total, Rs.35,000/- was granted.

So far as, medical expenses are concerned, learned Tribunal had appropriately granted the amount of Rs.25,000/-. However, on the count of 'special diet', the compensation stands enhanced to Rs.8000/- and on the count of 'pain and suffering', the compensation stands enhanced to Rs.10,000/-. Besides the same, another sum of Rs.10,000/- is granted, on

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the count of 'attendant charges'. In total, compensation granted to injured-claimant Neeru Devi, stands enhanced to **Rs.58,000/-** from Rs.35,000/-.

Now, let us consider the appeal i.e. FAO-989-2007, filed qua injuries sustained by Ravi. Injured-claimant Ravi has stepped into witness box as PW-16 and deposed about having sustained injuries on various parts of his body. His left hand wrist was fractured. He was taken to Civil Hospital, Samana and from there, referred to Rajindra Hospital, Patiala. The bed head ticket of the injured-claimant is Ex.PV, which reveals about his admission in Rajindra Hospital, Patiala on 15.09.2002, on account of injuries sustained in the accident and remained admitted till 17.09.2002. He suffered fracture on his hands. Considering the same, learned Tribunal has appropriately granted compensation to the extent of **Rs.15,000/-**, on the count 'medical expenses'. Besides the same, amount of Rs.5,000/- was granted, on the count of 'special diet', which now stands enhanced to **Rs.8000/-** and on the count of 'pain and suffering', the compensation granted to the extent of Rs.5000/-, now stands enhanced to **Rs.10,000/-**. The injured was working as labourer and therefore, for some period of time, he ought not to have been able to do labour work, more particularly, on account of fracture of wrist. Thus, on the count of 'loss of earnings' another amount of **Rs.8000/-** is granted. Besides the same, on the count of 'attendant charges', an amount of **Rs.8000/-** is granted. In total, the compensation, granted to the appellant-claimant Ravi, stands enhanced from Rs.25,000/- to **Rs.49,000/-**.

FAO-990-2007 relates to the injuries sustained by Bachni Devi. Injured-claimant Bachni Devi had stepped into witness box as PW-4 and deposed about having sustained injuries on various parts of her body. Her

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left arm was fractured and she also received injuries on her head and stitches were applied. She was taken to Civil Hospital, Samana and further was referred to Rajindra Hospital Patiala, where she remained admitted from 15.09.2002 to 29.09.2002. The bed head ticket of Bachni Devi has been proved as Ex.P2, which reveals that she was 78 years old, at the relevant time. Considering the same, on the count of medical treatment, Rs.15,000/- was granted by learned Tribunal and a sum of Rs.5000/- was granted on the count of ‘special diet’ and another amount of Rs.5,000/- was granted on the count of ‘pain and suffering’. In total, a sum of Rs.25,000/- was granted.

So far as, the compensation of **Rs.15,000/-** granted, on the count of ‘medical expenses’ is concerned, it is appropriately granted by learned Tribunal. However, considering the age of the deceased, the healing process ought to take time and therefore, very rich diet must have been given to the injured-claimant and on this account, the amount of Rs.5,000/- granted on the count of ‘special diet’ stands enhanced to **Rs.10,000/-**. Even, considering her age, on the count of ‘pain and suffering’ also, the amount stands from Rs.5000/- to **Rs.15,000/-**. Besides the same, **Rs.10,000/-** is granted on the count of ‘attendant charges’. Considering the age of the injured-claimant, it is obvious that she is bound to have some complications, with regard to the injuries sustained, which ought to call for future medical treatment and considering the same, another amount of **Rs.5,000/-** is granted as ‘future medical expenses. Thus, the compensation granted to injured-claimant Bachni Devi is re-computed, as herein given:

Medical expenses	:	Rs.15,000/-
Special diet	:	Rs.10,000/-
Pain and suffering	:	Rs.15,000/-

Attendant charges	:	Rs.10,000/-
Future medical expenses	:	Rs.5,000/-
Total	:	Rs.55,000/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.55,000-25,000=Rs.30,000/-**.

Now, let us consider FAO-473-2007 filed by appellant-claimant Bhupender Kumar. Injured-claimant Bhupender Kumar stepped into witness box as PW-2 and has deposed about having sustained injuries on various parts of his body. He was firstly taken to Civil Hospital, Samana, where from, he was referred to Rajindra Hospital, Patiala, where he remained admitted for some days. The MLR of the injured-claimant has been proved as Ex.A1, which reveals about Bhupender Kumar to have suffered injuries/fractures on different parts of his body. Considering the same, learned Tribunal had appropriately granted a sum of Rs.15,000/-, on the count of ‘medical expenses’, which calls for no further intervention. Besides the same, a sum of Rs.5,000/- was granted, on the count of ‘diet’ and another amount of Rs.5,000/-, on the count of ‘pain and suffering’. Also, on the count of ‘loss of income’, an amount of Rs.5,000/- was granted.

So far as, the medical expenses, as already observed aforesaid, the amount of **Rs.15,000/-** granted is appropriate. However, on the count of ‘special diet’, the amount stands enhanced from Rs.5,000/- to **Rs.8,000/-**, for ‘pain and suffering’ from Rs.5,000/- to **Rs.10,000/-** and for loss of income, the amount stands enhanced to **Rs.8000/-** from Rs.5,000/-. Besides the same, **Rs.8,000/-** is granted on the count of ‘attendant charges’. Thus, the

total compensation granted stands enhanced from Rs.30,000/- to Rs.49,000/-.

On the enhanced amount of the compensation, as now awarded, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the appeals, till realization of the enhanced amount of compensation. The remaining terms of the Award, shall remain the same.

With the above observations, FAOs No.473, 983, 984, 987, 988, 989, 990, 992, 993, 994, 995, 996-2007 stand allowed.

March 11, 2024	(ARCHANA PURI)
Vgulati	JUDGE
Whether speaking/reasoned	Yes
Whether reportable	Yes/No