



FAO-5194-2012 (O&M) with
FAO-5898-2012 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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Date of decision: 20.05.2024

FAO-5194-2012 (O&M)

USHA AND ANOTHERPETITIONERS
Versus

MANOHAR LAL AND OTHERSRESPONDENTS

FAO-5898-2012 (O&M)

USHA AND OTHERSPETITIONERS
Versus

MANOHAR LAL AND OTHERSRESPONDENTS

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Naresh Kaushik, Advocate,
for the appellants in both appeals.

Mr. Lalit Garg, Advocate,
for respondent No. 3-Insurance Company in both appeals.

Mr. Amandeep Soni, Advocate,
for Driver-respondent No. 1 in both appeals.

RITU TAGORE, J.

1. By this common judgment, I propose to dispose of these two connected appeals i.e. FAO No. 5194 of 2012 and FAO No. 5898 of 2012 as the facts involved in these appeals are same, which have been preferred by the appellants-claimants for enhancement of quantum of compensation, arising out of awards of even date i.e., 02.11.2011 in MACT Case No. 20200016/2009 and MACT Case No. 20200015/2009 respectively, passed by learned Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as ‘the Tribunal’).

2. Both the counsel for the parties have agreed and consented for the disposal of these appeals on the basis of the paper-book.



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3. In the current appeals, the parties involved shall be addressed with the same appellations as they were referred to during the proceedings before the Tribunal.

4. Briefly, the facts of the case are as under:-

On 09.06.2009, Ranjit Kumar (deceased) son of Lakha Ram, along with his brother Pardeep Kumar (deceased) and niece Jaspreet (deceased) were on a motorcycle bearing registration No. PB67-B-3513. The motorcycle was driven by Ranjit Kumar. Near Balmik Dharamshala, Village Uggi, they met with fatal accident caused by respondent No. 1/driver, who drove the offending tractor trolley bearing registration No PB33-C-6930 in a rash and negligent manner. FIR No. 109 dated 09.06.2009 under Sections 279/304-A/427 IPC was registered at Police Station Nakodar, District Jalandhar against respondent No. 1, driver of the offending vehicle, regarding the accident.

5. Claimants filed the above-mentioned petitions under Section 166 of the Motor Vehicle Act, 1988 (hereinafter referred to as 'the Act') for the deaths of Ranjit Kumar and Pardeep Kumar, seeking compensation.

6. Respondents (driver, owner and Insurer) filed their respective pleadings, denied the averments of the claimants as to cause and manner of the accident, age and income of the deceased, dependency of the claimants upon the deceased, and their entitlement to seek compensation.

7. On the basis of pleadings of the parties, learned Tribunal framed the issues, as detailed in the impugned awards.

8. Upon appraisal of evidence led by the parties, learned Tribunal answered Issues No. 1 and 2 in favour of the claimants and issue No. 3 in favour of the Insurance Company concluding that respondent No. 1 (driver) was not



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holding a valid and effective Driving Licence at the time of the accident and passed the award of Rs. 3,29,000/- in favour of the claimants in a death case of Ranjit and Rs. 2,75,000/- for the death of Pardeep Kumar (wrongly mentioned as Parkash Chand) along with grant of interest @ 7.5% per annum from the date of filing of petition till its realization, and made all the respondents jointly and severally liable to satisfy the award, with recovery rights to the Insurance Company to recover compensation amount from respondents No. 1 and 2 after the payment to the claimants.

9. Being dissatisfied with the awarded amount, the claimants preferred these appeals.

10. Learned counsel for the claimants urges that the learned Tribunal erred in considering the age of the parents for selection of the multiplier and also did not add future prospects while assessing the loss of dependency. Furthermore, it is urged that compensation under the conventional heads needs to be given as per principles laid down in '*National Insurance Company Limited vs. Pranay Sethi and others*' (2017) 16 SCC 680. Accordingly, a prayer is made to re-determine the compensation amount accordingly.

11. On the other hand, learned counsel for the Insurance Company could not deny that determination of multiplier for the assessment of loss of dependency is required to be based on the age of the deceased and not the parents. Learned counsel also could not deny that the future prospects and compensation under the conventional heads need to be determined as per guidelines given in *Pranay Sethi and others (supra)* followed in subsequent judicial pronouncements. It is also stated by the learned counsel for the



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Insurance Company that no appeal has been preferred by the owner and driver against the impugned award.

12. I have heard learned counsel for the parties and with their able assistance, have gone through the paper-book.

13. There is no dispute that the deceased, Ranjit Kumar and Pardeep Kumar, died in a road side motor vehicular accident in question, caused by respondent No. 1-driver, driving the offending vehicle in a rash and negligent manner. There is also no dispute regarding the determination of the age, income and status of both the deceased, who were bachelors at the time of their deaths. It is settled position of law, as adumbrated in plethora of judicial precedents, that the multiplier is to be selected based on the age of the deceased and not his parents.

14. Admittedly, in the present case, the learned Tribunal selected the multiplier based on the age of the parents of deceased. This method is certainly flawed in the light of the settled position of law. Considering the uncontroverted age of both the deceased at 20-21 years at the time of their deaths, the multiplier of 18 is required to be adopted, and the future prospects needs to be added at 40%. Undisputedly, both the deceased were bachelors at the time of their deaths. Therefore, deduction of 1/2th of total income towards self maintenance and expenditure is also not in controversy. The grant of compensation under the conventional heads is also not in accordance with the directions given in ***Pranay Sethi and others (supra)***. Therefore, these amounts need to be re-determined accordingly.

15. In view of the above discussion, the compensation is re-assessed as under:-



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Name of the deceased –Ranjit Kumar Age – 20/21 years. Amount given by learned MACT - Rs.3,29,000/- along with 7.5% interest per annum			Name of deceased – Pardeep Kumar Age – 20/21 years. Amount given by learned MACT - Rs.2,75,000/- along with 7.5% interest per annum	
Reassessment of award amount				
Sr. No.	Heads	Income (in Rupees)	Heads	Income (in Rupees)
1.	Income	Rs.3,600/-	Income	Rs.3000/-
2.	Future prospects @ 40%	Rs.5,040/- (Rs.3,600 + 1,440)	Future prospects @ 40%	Rs.4200/- (Rs.3000 + 1,200)
3.	Deduction 1/2 towards personal expenses	Rs.2520/-	Deduction 1/2 towards personal expenses	Rs.2,100/-
4.	Total income	Rs. 2520/-	Total income	Rs.2100/-
5.	Multiplier	18	Multiplier	18
6.	Total loss of dependency	Rs.5,44,320/- (Rs.2520 x 12 x18)	Total loss of dependency	Rs.4,53,600/- (Rs.21,00 x 12 x 18)
7.	Loss of estate (10% increase in every three years in view of Pranay Sethi (supra)	Rs.18,000/-	Loss of estate (10% increase in every three years in view of Pranay Sethi (supra)	Rs.18,000/-
8.	Loss of funeral expenses (10% increase in every three years in view of Pranay Sethi (supra)	Rs.18,000/-	Loss of funeral expenses (10% increase in every three years in view of Pranay Sethi (supra)	Rs.18,000/-
9.	Loss of consortium x 2 (10% increase in every three years	Rs.96,400/- (Rs.48,200/- x 2)	Loss of consortium x 2 (10% increase in every three years in view of	Rs.96,400/- (Rs.48,200/- x 2)



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	in view of Pranay Sethi (supra)		Pranay Sethi (supra)	
10.	Total	Rs.6,76,720 /-	Total	Rs.5,86,000/-

16. In FAO No, 5194 of 2012 in case of death of Ranjit Kumar, he is entitled to enhanced amount of **Rs. 3,47,720/-** (Rs.6,76,720 – Rs.3,29,000) and in FAO NO. 5898 of 2012 in case of death of Pardeep Kumar, claimants are entitled to **Rs. 3,11,000/-** (Rs. 5,86,000-2,75,000/-) over and above, the amount already granted by learned Tribunal, along with same rate of interest as granted by learned Tribunal from the date of filing the petition till its realization, payable within 30 days from the date of receipt of certified copy of this judgment. Remaining conditions of disbursal of amount and recovery rights given by the learned Tribunal to the Insurance Company shall remain unaltered. Needless to mention that the amount, if any, already deposited by Insurance company shall be adjusted.

17. No other point was raised or pressed.

18. Accordingly, both the appeals preferred by the claimants are allowed in the above terms.

19. Pending miscellaneous application(s), if any, stand disposed of accordingly.

May 20, 2024
pj

(RITU TAGORE)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*



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