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

1.

FAO-5564-2012 (O&M)**Date of Decision : 25.11.2024**

New India Assurance Co Ltd

... Appellant(s)

Versus

Ranvir Kaur & Ors

... Respondent(s)

2.

FAO-5552-2014 (O&M)

Ranvir Kaur & Ors

... Appellant(s)

Versus

Parminder Singh & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate
for the appellant in FAO-5564-2012 and
for the respondent No.3 in FAO-5552-2014.

Mr. Naveen Sharma, Advocate
for the respondent Nos.1 to 4 in FAO-5564-2012 and
for the appellants in FAO-5552-2014.

Mr. Gurcharan Dass, Advocate
for the respondent Nos.5 and 6 in FAO-5564-2012 and
for the respondent Nos.1 and 2 in FAO-5552-2014.

ALKA SARIN, J. (Oral)

1. The present order shall dispose off the above noted two appeals.

The parties are being referred to as the Insurance Company, claimants and
owner and driver for the sake of clarity. FAO No.5564 of 2012 has been

preferred by the Insurance Company challenging the impugned award dated 23.05.2012 passed by the Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'Tribunal') on the ground that it was a case of contributory negligence and that the deceased, who was driving the Alto Car bearing registration No.PB-08-0076, had contributed to the accident as it was a head-on collision. FAO No.5552 of 2014 has been preferred by the claimants aggrieved by the quantum of compensation awarded by the Tribunal vide the impugned award dated 23.05.2012.

2. Learned counsel for the Insurance Company in FAO-5564-2012 would contend that it is a clear case of contributory negligence inasmuch as it was a head-on collision which had taken place. It is further the contention of the learned counsel that the driver of the offending vehicle had also stepped into the witness box.

3. Learned counsel for the claimants in FAO-5564-2012 would contend that one of the eyewitness i.e. PW3-Harbhajan Lal had stepped into the witness box and had tendered his affidavit in examination-in-chief as Ex.PW3/A wherein he stated that on 27.12.2010 at about 08.15 am, when he was driving his Maruti Car bearing registration No.PB-08-C-6070 and reached near Lally Farm, VPO Chuharwali, District Jalandhar, a bus bearing registration No.PB-07-T-7695 of Doaba Transport Company Ltd., Hoshiarpur was going from Hoshiarpur to Jalandhar City which was being driven by the driver of the offending vehicle in a rash, negligent and in a zig zag manner and the said bus hit the Alto Car bearing No.PB-08-AF-0076 which was coming from Jalandhar on its correct side of the road. It is further

the contention of the learned counsel that there is no evidence to the contrary and that there is no reason to disbelieve the statement of the eye-witness. It is further the contention of the learned counsel that despite being cross-examined, nothing could be elicited to shake the testimony of the eye-witness.

4. The learned counsel for the claimants in FAO-5552-2014 would further contend that though the amounts awarded under all the other heads are as per the law laid down by the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, however, the amounts awarded under the conventional heads as well as under the head loss of consortium are not in accordance with the law as laid down in the cases of **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. Learned counsel for the Insurance Company in FAO-5552-2014 is not in a position to deny that the amounts awarded under the conventional heads as well as under the head loss of consortium are not in accordance with the law as laid down by the Hon'ble Supreme Court.

6. Heard.

7. In the present case, the accident took place on 27.12.2010 at about 08.15 am when the deceased – Kramjit Singh – was returning from duty and was on the way home in his Alto Car bearing registration No.PB-

08-0076 from Jalandhar side to Adampur. When he reached near Lally Farms, VPO Chuhrwali, District Jalandhar, a bus bearing registration No.PB-07-T-7695 belonging to Doaba Transport Company Limited which was coming from Hoshiarpur to Jalandhar City after overtaking the vehicle of the eye-witness - Harbhajan Lal (PW3) - hit the Alto Car head on. The car as per the statement of the eye-witness - Harbhajan Lal (PW3) - was being driven on the correct side of the road. Harbhajan Lal PW3 - who is the eye-witness of the accident, clearly stated that the bus was being driven in a rash and negligent manner and after overtaking his vehicle, the said bus hit the Alto Car being driven by deceased - Karamjit Singh - head on. It has further come in the statement of the eye-witness as well as cross-examination that the Alto Car was being driven on the correct side of the road. No evidence to the contrary has been pointed out by the learned counsel for the Insurance Company, none having been led. In view thereof, there is no reason to disbelieve the statement of the eye-witness whose testimony, despite lengthy cross-examination, could not be shaken. Thus, there is no merit in the appeal of the Insurance Company.

8. The argument of the learned counsel for the claimants that the amounts awarded under the conventional heads as well as under the head loss of consortium are not in consonance with the law laid down by the Hon'ble Supreme Court, deserves to be accepted. Accordingly, the claimants would be entitled to Rs.18,000/- (Rs.15,000+20% increase) towards loss of estate and Rs.18,000/- (Rs.15,000+20% increase) towards funeral expenses and the claimants would also be entitled to Rs.48,000/- each

(Rs.40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.24,000/-
2	Annual Income	[Rs.24,000x12]=Rs.2,88,000/-
3	Deduction 1/4 th	[Rs.288000-72000]=Rs.2,16,000/-
4	Future Prospects - 50%	[Rs.216000+108000]=Rs.3,24,000/-
5	Multiplier - 15	[Rs.324000x15]=Rs.48,60,000/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Parental (ii) Filial (iii) Spousal's	[Rs.48,000/-x2] =Rs.96,000/- [Rs.48,000/-x1] =Rs.48,000/- Rs.48,000/- (Total Rs.1,92,000/-)
	Total Compensation	Rs.50,88,000/-

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5 % per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimants as directed by the Tribunal.

10. In view of the above discussion, the appeal being FAO No.5564 of 2012 filed by the Insurance Company is dismissed and the appeal being FAO No.5552 of 2014 filed by the claimants is allowed. The impugned award stands modified to the extent discussed above. Pending applications, if any, also stand disposed off.

25.11.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO