

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****110****FAO No.8437 of 2014 (O&M)
Date of Decision : 22.07.2024**

United India Insurance Company Ltd.

....Appellant

VERSUS

Savitri and Others

....Respondents

110-1**FAO No.5721 of 2014**

Savitri

....Appellant

VERSUS

Dulla Ram and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satpal Dhamija, Advocate
for the appellant-Insurance Company in FAO-8437-2014 and
for respondent No.5 in FAO-5721-2014.

Mr. Dheeraj Narula, Advocate
for the appellant in FAO-5721-2014 and
for respondent No.1 in FAO-8437-2014.

None for respondent Nos.2 to 5 in FAO-84372014 and
None for respondent Nos.1 to 4 in FAO-5721-2014.

ALKA SARIN, J. (Oral)

1. This common order will dispose off both the above captioned appeals being FAO-8437-2014 filed by the Insurance Company and FAO-5721-2014 filed by the claimant against the award passed by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as the 'Tribunal') vide award dated 04.03.2014.

2. The Tribunal awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,300/-
2	Annual income	[Rs.3,300 x 12] = Rs.39,600/-
3	Amount after applying 1/3 rd deduction	[Rs.39,600 – 13,200] = Rs.26,400/-
4	Multiplier of 9 as per age of the mother of the deceased	[Rs.26,400 x 9] = Rs.2,37,600/-
5	Funeral expenses	Rs.25,000/-
6	Loss of love and affection	Rs.25,000/-
	Total Compensation	Rs.2,87,600/-
	Interest	7.5% per annum

FAO-8437-2014

3. Present appeal has been preferred by the Insurance Company. Learned counsel for the Insurance Company would contend that the offending vehicle in the present case was involved after one month from the alleged accident that took place on 17.11.2010.

4. Learned counsel for the claimant would contend that though the registration number of the offending vehicle was given a month later, however, complete description of the vehicle was mentioned in the FIR itself. It is further the contention of learned counsel for the claimant that the driver of the offending vehicle also faced trial in the present case and that he chose not to step into the witness-box before the Tribunal.

5. Heard.

6. The only argument raised by learned counsel for the Insurance Company is that the offending vehicle was not involved in the accident. The argument of learned counsel for the Insurance Company that the registration

number of the offending vehicle was introduced a month later and hence there was no involvement of the offending vehicle deserves to be rejected on the ground that in the FIR complete description of the offending vehicle was given. It is an admitted case that the driver of the offending vehicle also faced trial *qua* the alleged accident. The driver of the offending vehicle chose not to step into the witness-box. It is further to be noted that PW2 Bhag Singh, the author of the FIR (Ex.PA), had categorically stated in the FIR that he could identify the driver and the trolley loaded with paddy crop which was attached with the tractor in question. Before the Tribunal he supported the version as given in the FIR.

7. In view of the above, I do not find any merits in the appeal (FAO-8734-2014) filed by the Insurance Company. The same is accordingly dismissed.

FAO-5721-2014

8. The present appeal has been filed by the claimant. Learned counsel for the claimant would contend that in the present case a multiplier of 9 has been applied by the Tribunal keeping in view the age of the mother (claimant), however, a multiplier of 16 ought to have been applied keeping in view the age of the deceased, who was 20 years of age at the time of accident. Further, learned counsel for the claimant has relied upon a judgment of the Hon'ble Supreme Court in case of **Kurvan Ansari alias Kurvan Ali & Anr. vs. Shyam Kishore Murmu & Anr. [2022(1) RCR (Civil) 165]** to contend that even in the case of a claim petition filed under

Section 163-A of the Motor Vehicles Act, 1988, the Hon’ble Supreme Court has awarded compensation towards loss of consortium and funeral expenses.

9. Learned counsel for the Insurance Company is not in a position, to deny the fact that a multiplier of ‘16’ would be applicable as per age of the deceased and not ‘9’ as per age of the mother. Learned counsel for the Insurance Company would further contend that no amount could be awarded towards loss of consortium in a petition filed under Section 163-A of the Motor Vehicles Act, 1988.

10. Keeping in view the judgment of the Hon’ble Supreme Court in the case of **Kurvan Ansari alias Kurvan Ali** (*supra*), the mother of the deceased, who is the only surviving claimant, is awarded an amount of Rs.48,000/- towards loss of filial consortium. The Tribunal has erroneously applied a multiplier of 9 which should be 16 keeping in view the age of the deceased.

11. Accordingly, the reworked out compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,300/-
2	Annual income	[Rs.3,300 x 12] = Rs.39,600/-
3	Amount after applying 1/3 rd deduction	[Rs.39,600 – 13,200] = Rs.26,400/-
4	Multiplier of 16	[Rs.26,400 x 16] = Rs.4,22,400/-
5	Filial consortium	Rs.48,000/-
6	Funeral expenses	Rs.25,000/-
	Total Compensation	Rs.4,95,400/-
	Interest	7.5% per annum

12. In view of the above discussion, the award passed by the Tribunal is modified accordingly. 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 realization of the entire amount.

13. Accordingly, the appeal being FAO-8437-2014 filed by the Insurance Company is dismissed whereas the appeal being FAO-5721-2014 filed by the claimant i.e. mother of the deceased is allowed. Pending applications, if any, also stand disposed off.

22.07.2024
jk

(ALKA SARIN)
JUDGE

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