2025:PHHC:029049

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

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**Date of decision : 10.02.2025**

1. FAO-1573-2016 (O&M)

BHARTI AXA GENERAL INSURANCE COMPANY LTD. ..APPELLANTS

V/S

GURMEET KAUR & ORS ...… RESPONDENTS

2. FAO-1574-2016 (O&M)

BHARTI AXA GENERAL INSURANCE COMPANY LTD. ..APPELLANTS

V/S

HARJEET KAUR & ORS ...… RESPONDENTS

3. FAO-1592-2016 (O&M)

BHARTI AXA GENERAL INSURANCE COMPANY LTD. ..APPELLANTS

V/S

MANINDER KAUR AND ORS ...… RESPONDENTS

4. FAO-681-2021 (O&M)

HARJEET KAUR AND ORS ..... APPELLANTS

V/S

RANJEET KAUR AND ORS ...… RESPONDENTS

5. FAO-691-2021 (O&M)

GURMEET KAUR AND ORS ..... APPELLANTS

V/S

RANJEET KAUR AND ORS ...… RESPONDENTS

6. FAO-694-2021 (O&M)

SUMANPREET KAUR AND ANR ..... APPELLANTS

V/S

RANJEET KAUR AND ORS ...… RESPONDENTS

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Sanjeev Goyal, Advocate
for the appellants-Insurance Company and
for the respondents in FAO Nos.681, 691 and 694 of 2021.

Mr. V.K. Sandhir, Advocate
for the appellant in FAO-681-2021 and
for the respondents in FAO-1573.

None for the appellants in FAO Nos. 691 and 694 of 2021.

Mr. Ankush Rampal, Advocate for
Mr. Kushagra Mahajan, Advocate
for respondents No.1 to 5 in FAO-681-2021.

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**PANKAJ JAIN, J. (Oral)**

1. By this common order, I intend to dispose off the afore captioned six appeals arising out of three different claim petitions decided by Motor Accident Claim Tribunal, Amritsar by common judgment dated 02.11.2015.

2. FAO No.1573 of 2016 is at the behest of insurance company arising out of MACT petition No.14743 of 2013. FAO No.691 of 2020 is the cross appeal at the behest of the claimants. FAO No.1574 of 2016 is at the behest of insurance company arising out of MACT petition No.14683 of 2013. FAO No.681 of 2021 is the cross appeal preferred by the claimants. FAO No.1592 of 2016 is at the behest of insurance company arising out of MACT petition No.1292 of 2015 and FAO No.694 of 2016 is the cross appeal.

3. The claim petitions arise out of an unfortunate motor vehicular

accident dated 02.06.2012 wherein three persons, namely, Lakhwinder Singh s/o Assa Singh, Sukhdev Singh s/o Gurdial Singh and Iqbal Singh s/o Hardeep Singh died. The claim petitions were accepted by the Tribunal holding Sukhdev Singh liable and negligent. While granting compensation in claim petition No.14683 of 2013 on account of death of Iqbal Singh, Tribunal observed as under:-

> "xx xx xx
> In the assessment year 2009-10, deceased had an income of Rs.8,21,063/-. In the next assessment year i.e. 2010-11, the deceased had an income of Rs. 10,93,918/-, There was an increase of Rs.2,72,855/- over the income of previous year. In the next assessment year, the deceased had an income of Rs. 10,34,513/-which means there was decrease in the income by Rs.59,405/-. Thus, the deceased can be said to be having annual income in the range of Rs.11,00,000/- during the assessment year 2012-13."

4. The Tribunal accordingly granted compensation to the claimants on account of death of Iqbal Singh observing as under:-

| | | |
|---|---|---|
| | Date of accident | 2/6/2012 |
| Age of deceased | | 58 years |
| Occupation | | Self employed |
| Claimants | | Wife, son and mother |
| | Heads of claim | Tribunal |
| Sr. No. | | Amount (Rs.) |
| 1. | Income | 11,00,000/- per annum. |
| 2. | Add 15% | 1,65,000/- |
| 3. | Deduction towards income tax | 2,15,785/- |
| 4. | Deduction 1/3rd | 3,49,738/- |
| 5. | Loss of dependency per annum | 6,99,477/- |
| 6. | Multiplier | 9 |
| 7. | Loss of dependence | 62,95,293/- |
| 8. | Loss of consortium | 1,00,000/- |
| 9. | Loss of estate | 5,000/- |
| 10. | Funeral expenses | 25,000/- |
| 11. | Total | 64,25,293/- |

5. Counsel representing insurance company submits that the Tribunal erred in taking income of deceased Iqbal Singh as Rs.11 lakh which includes income of Rs.1,34,523/- from other sources. He submits that income tax payable also ought to have been deducted.

6. *Per contra*, counsel for the claimants submits that nothing has been paid on account of loss of consortium. The said amount needs to be granted in terms of ratio of law laid down by Supreme Court in the case of ***'National Insurance Company Limited vs. Pranay Sethi and others', (2017) 16 SCC 680.***

7. In the considered opinion of this Court, income tax return for the assessment year 2010-11 has been proved on record as Ex.CW1/B. Income tax return for the year 2011-12 has been proved on record as Ex.CW1/C. The same shows total income of the deceased for assessment year 2011-12 as Rs.10,34,513. Date of accident is 02.06.2012. Tribunal has rightly ignored income tax return for the assessment year 2012-13 Ex.CW1/D which shows gross total income as Rs.46,16,622/- as the same was filed on 31.12.2012 after the death of the deceased. In these circumstances, Tribunal ought to have assessed the income of the deceased as per last income tax return i.e. for the assessment year 2011-12 i.e. Rs.10,34,513/-. Income tax payable has rightly been deducted. Deduction of 1/3 has been wrongly applied. The same should be 1/4. Future prospects need to be awarded @ 10% instead of 15%. Multiplier of 9 has been rightly applied. On account of loss of consortium, each of the claimants is entitled for Rs.48,000/-. For loss of estate and funeral expenses also, the claimants are entitled for Rs.18,000/- under each of the heads.

8. With the aforesaid modification, the appeals preferred by the claimants as well as the insurance company are disposed off.

9. In claim petition No.14743 of 2013, relating to death of Sukhdev Singh s/o Paramjit Singh, income of the deceased has been proved to be Rs.5,04,276/-. At the time of death, he was about 48 years of age. Future prospects of 30% need to be granted in terms of ratio of law laid down in ***Pranay Sethi's case (supra)***. Deduction of 1/4 has been rightly applied. Multiplier of 13 has been rightly granted. Each of the claimants is entitled for Rs.48,000/- on account of loss of consortium. Rs.18,000/- under each of the heads of loss of estate and funeral expenses is awarded. Modified accordingly.

10. In the appeal arising out of claim petition No.1292 of 2015, deceased-Iqbal Singh is stated to be in private job. His income has been proved on record to be Rs.7,000/- per month. 40% future prospects need to be awarded instead of 50%. Deduction of 1/4 has been rightly applied. He was 36 years of age. Multiplier of 15 has been rightly applied. Each of the claimants is entitled for Rs.48,000/- on account of loss of consortium. Rs.18,000/- under each head of loss of estate and funeral expenses.

11. With the aforesaid modification, the appeals are disposed off.

12. A photocopy of this order be placed on the files of other connected cases.

13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

**(PANKAJ JAIN)**
**JUDGE**

**10.02.2025**
Dinesh

Whether speaking/reasoned : Yes
Whether Reportable : No