



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

231

Date of decision: 06.11.2025

1. FAO-5374-2016 (O&M)

National Insurance Company Limited

...Appellant(s)

Vs.

Phoola Devi and others

...Respondent(s)

AND

2. FAO-6937-2017 (O&M)

Phoola Devi and another

...Appellant(s)

Vs.

M/s. Vishwanhind Logistics Ltd. and others

....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Assem Aggarwal, Advocate for the appellant
in FAO-5374-2016.

NIDHI GUPTA, J.

FAO-5374-2016:

The present appeal has been filed by the Insurance Company seeking modification of the Award dated 20.05.2016 passed by the learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as "the Tribunal"); whereby Claim Petition No. 72 dated 23.11.2015 filed by the claimants/respondents No.1 and 2 herein, under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"), has been allowed; and the claimants have been awarded compensation of Rs.20,17,000/- alongwith interest @ 9% p.a. The 2 claimants are the mother and minor son of the deceased Subhash Chand, who was 44



years old at the time of accident. Performa respondent No.4/widow of the deceased Subhash Chand is found to have left the matrimonial home almost 10 years prior to the accident; and was therefore, held not entitled to compensation.

FAO-6937-2017

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.20,17,000/- granted by the learned MACT, Karnal vide Award dated 20.05.2016 passed in MACP No. 554 dated 23.11.2015 filed under Section 166 of the Act. The 2 claimants are the mother and minor son of the deceased Subhash Chand, who was 44 years old at the time of accident.

CM-22492-CII-2017 in FAO-6937-2017:

Prayer in this application filed by the applicants/claimants under Section 5 of the Limitation Act read with Section 151 of CPC is for condonation of delay of 237 days in filing the appeal.

2. For the reasons cited in the application, which is duly supported by an affidavit of the applicant/appellant No.1, the same is allowed; and the delay of 237 days in filing the appeal is condoned.

FAO Nos.5374-2016 & 6937-2017

Both the above said appeals are being disposed of by this common order as both arise out of the same impugned Award dated 20.05.2016; both appeals are between same parties; and in respect of the same accident dated 10.11.2013; and the facts and issues involved in both the cases are identical.



2. For the sake of facility, facts are being drawn from FAO-5374-2016 filed by the Insurance Company.

3. Brief facts of the case are that the learned Tribunal upon appraisal of the pleadings, and the oral and documentary evidence adduced by the parties, concluded that deceased-Subhash Chand had died due to the injuries suffered by him in a motor vehicular accident that took place on 10.11.2013 due to the rash and negligent driving of a Tralla bearing registration No. HR-38-Q-5177 (hereinafter referred to as 'the offending vehicle'), which was owned by respondent No.1; and insured by respondent No.2/appellant herein. The above said compensation was granted by the learned Tribunal alongwith interest @ 9% per annum from the date of institution of the claim petition till realization. The Insurance Company was held liable to pay the above said compensation.

4. Learned counsel for the appellant/Insurance Company submits that the impugned Award deserves to be modified as learned Tribunal has taken income of the deceased on higher side as Rs.12,000/-p.m. It is submitted that it was pleaded by the claimants before the Tribunal that the deceased was a Driver by profession and was earning Rs.15,000/- p.m. However, no proof of either the said profession, or income was produced by the claimants. Learned counsel contends that in such circumstances, income of the deceased could, at best, have been taken as that of a skilled worker as Rs.5,861/- p.m. as per Minimum Wage Notification dated 13.08.2013 w.e.f. 01.07.2013 issued by State of Haryana, a copy of which is handed over in Court today. However, the learned Tribunal, in a totally



incorrect manner, has merely stated that *"It is a matter of common experience that a person holding licence to drive heavy vehicle can easily earn Rs.12,000/- per month."* Learned counsel contends that mere 'common experience' can constitute no ground for determining income of the deceased as Rs.12,000/- p.m.

5. It is further submitted that learned Tribunal has made addition of 30% towards future prospects, whereas the same ought to have been 25%. Further, an exorbitant amount of Rs.1 lac each has been awarded to both the claimants for loss of love and affection; whereas the same ought to have been Rs.48,000/- p.m. each. It is accordingly prayed that the impugned Award be modified in the above manner.

6. No other argument is made on behalf of Id. counsel for the appellant. I have heard Id. counsel and perused the case file in great detail.

7. In the cross-appeal No. 6937 of 2017 filed by the claimants, none has put in appearance since the inception of the appeal from the year 2017. Even in the present appeal filed by the Insurance Company, none has appeared on behalf of the claimants despite service. As such, matter is being heard and decided in the absence of learned counsel for the claimants.

8. Perusal of the appeal filed by the claimants shows that enhancement of compensation is sought on the ground that *"Learned MACT has not granted any compensation for loss of estate; loss of expectancy of life of the deceased....; interest of 12% is payable on the enhanced compensation...."* Learned MACT has not granted any



compensation for litigation expenses; whereas appellants were entitled for Rs.25,000/- towards cost of litigation.....”.

9. Although, it has been very persuasively argued on behalf of the Insurance Company that income of the deceased has been taken on the higher side however, I find no merit in the said argument. Date of accident is 10.11.2013. As such, income/salary of a heavy vehicle Driver in the year 2013 would be about Rs.12,000/- p.m. In support of their claim, claimants had produced a copy of Driving Licence of the deceased as Mark-A, as per which, deceased was authorized to drive PSVBUS. It is even proved on record that deceased had died while driving Truck bearing registration No. HP-12-D-2354. As such, I find no error in the income as assessed by the Tribunal.

10. Further, the age of the deceased was proved to be about 44 years old from his Driving Licence Mark-A in which his date of birth is mentioned as 25.06.1969. As such, on the date of accident i.e. 10.11.2013, deceased was about 44 years of age. Therefore, as per judgment passed by Hon'ble Supreme Court in **“Sarla Verma Vs. Delhi Transport Corporation” (2009) AIR (SC) 3104 Law Finder Doc ID # 188882**, future prospects of 25% were to be added; and not @ 30% as incorrectly added by the Tribunal. Multiplier of 14 has been correctly applied. As there were two claimants/dependents, deduction of 1/3rd has also been correctly made. Further, learned Tribunal has granted Rs.1 lac each to both the claimants towards loss of love and affection. The said amount is on the higher side as,

as per the structured formula laid down by Hon'ble Supreme Court in



“National Insurance Company Limited vs. Pranay Sethi and others”,
Special Leave Petition (Civil) No. 25590 of 2014, Rs.40,000/- + 10% increase every three years, has to be granted. I also find merit in the pleading of the claimants to the effect that the learned Tribunal ought to have awarded compensation under loss of estate as well.

11. In view of the above, FAO-5374-2016 filed by the Insurance Company is **partly allowed**; and compensation awarded to the claimants is modified as follows:-

Sr.No.	Details	Before the Tribunal	Revised compensation
1.	Income	Monthly: Rs.12,000/-	Monthly: Rs.12,000/-
2.	Future prospects	@ 30% i.e. Rs.16,000/- (12,000+4,000)	@ 25% i.e. Rs.15,000/- (12,000+3,000)
3.	Deduction of 1/3 rd	Rs.10,667 x 12 =Rs.1,28,004	Rs.10,000 x 12 = Rs.1,20,000/-
4.	Multiplier of 14	1,28,004 x 14 = Rs.17,92,056/-	Rs.1,20,000 x 14 = Rs.16,80,000/-
5.	Loss of love and affection	Rs.1 lac each to claimants No.1 and 2	Rs.48,000/- each to claimants No. 1 and 2
6.	Funeral expenses	Rs.25,000/-	Rs.18,000/-
7.	Loss of Estate	Nil	Rs.18,000/-
7.	Total	Rs.20,17,056/- i.e. Rs.20,17,000/-	Rs.18,12,000/-
8.	Deducted compensation	Rs.20,17,000-Rs.18,12,000 = Rs.2,05,000/-	
9.	Interest	9% per annum	9% per annum

FAO-6937-2017 filed by the claimants stands **disposed of** with the above said modification.



12. Pending application(s) if any also stand(s) disposed of.

06.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No