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

1.

FAO-3702-2017 (O&M)**Date of Decision : 17.02.2025**

United India Insurance Co. Ltd.

... Appellant(s)

Versus

Darshana & Ors

... Respondent(s)

2.

FAO-7573-2017 (O&M)

Darshna & Anr

... Appellant(s)

Versus

Amrik Singh & Anr

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Suman Jain, Advocate and
Mr. Shubham Jain, Advocate
for the appellant in FAO-3702-2017 and
for respondent No.2 in FAO-7573-2017.

Mr. Narender Kaajla, Advocate
for respondent Nos.1 and 2 in FAO-3702-2017 and
for the appellants in FAO-7573-2017.

None for respondent No.3 in FAO-3702-2017.

ALKA SARIN, J. (Oral)

1. The present order shall dispose of both the above-captioned appeals. The parties are being referred to as Insurance Company, claimants and owner-cum-driver of the offending vehicle for the sake of clarity. **FAO-3702-2017** has been filed by the Insurance Company and **FAO-7573-2017** has been filed by the claimants aggrieved by the impugned award dated 07.02.2017 passed by the Motor Accident Claims Tribunal, Fatehabad (hereinafter referred to as 'Tribunal') in a motor vehicle accident which occurred on 27.09.2014.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.
3. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹6,000/-
2.	50% future prospects	[₹6,000 + 3,000] = ₹9,000/-
3.	50% deduction	[₹9,000 – 4,500] = ₹4,500/-
4	Multiplier of 18	[₹4,500 x 12 x 18] = ₹9,72,000/-
5	Funeral expenses	₹28,000/-
6	Love and affection	₹1,00,000/-
7	Medical bills	₹50,000/-
8	Total	₹11,50,000/-
	Interest	7.5%

4. Learned counsel for the claimants has not laid any challenge to the future prospects @ 50%, multiplier of ‘18’ as well as deduction of 50%. However, he has contended that the deceased in the present case was a young boy of 17 years who was studying in 11th standard and had a very bright future ahead and the Tribunal has erred in assessing his notional income only as ₹6,000/- per month. The learned counsel for the claimants has relied upon a judgment of the Hon’ble Supreme Court in the case of **Bishnupriya Panda V/s Basanti Manjari Mohanty and Anr. [2023 (4) TAC 44]** to contend that the deceased in that case was a 4th year student of MBBS and Hon’ble Supreme Court had assessed his notional income as ₹50,000/- per month for an accident that took place on 27.07.2013. Further, reliance has been placed upon the judgment passed by the Hon’ble Supreme Court in the case of **Arjun Kumar Aggarwal V/s The New India**

Assurance Co. Ltd. And Ors. [2023(3) TAC 23] wherein the notional income of the deceased was taken as ₹29,166/- on the basis of an appointment letter. Further, reliance has been placed on the case of an engineering student in the case of **Kandasami & Ors. vs. Lindabriyal & Anr. [2023 ACJ 1653]** where the accident took place on 28.09.2008 and the notional income was assessed as ₹25,000/- per month. It is further the contention of the learned counsel for the claimants that no amount has been awarded towards loss of estate.

5. Learned counsel for the Insurance Company has contended that in the present case recovery rights ought to have been given as the Driving Licence was a fake licence since on an application filed under the Right to Information Act, 2005, the PIO and District Transport Officer, Tuensang, Nagaland stated that the record could not be traced. The learned counsel for the Insurance Company has further contended that the said letter has been appended with an application (**CM-12096-CII-2017**) for additional evidence under Order 41 Rule 27 of the Code of Civil Procedure, 1908. Qua the quantum of compensation, the learned counsel for the Insurance Company has contended that future prospects @ 50% has wrongly been awarded which ought to have been 40% as per the law laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**. It is further the contention of the learned counsel that the amounts awarded under the conventional heads and under the head 'loss of consortium' are also on the higher side. It is further the contention of the learned counsel for the Insurance Company that the income of the deceased has rightly been assessed by the Tribunal and

that there is no scope of any enhancement.

6. None has put in appearance on behalf of the owner-cum-driver of the offending vehicle despite service.

7. I have heard the learned counsel for the parties.

8. The argument raised by the learned counsel for the Insurance Company that in the letter received from the PIO and District Transport Officer, Tuensang, Nagaland it has been stated that the record of the licence was not traceable would hence mean that the driving licence was fake, cannot be accepted. A perusal of the letter (Annexure A1) appended alongwith an application (CM-12096-CII-2017) for additional evidence reveals that the only thing stated in the said letter is that the licence was generated in the legacy application which is no longer in use and the certified copy of the driving test report could not be traced and they would intimate as and when the same is traced. It is not stated in the said letter that the said licence was fake. Further still, it has been stated in the said letter that as per the Government of Nagaland, Transport Commissioner's order, the driving licences other than the Smart Card format are to be treated as cancelled w.e.f. December 2014. However, the accident in the present case took place on 27.09.2014. Hence, the argument of the learned counsel for the Insurance Company that the driving licence was fake or that the same was cancelled as per the remark given in the said letter, is also rejected.

9. Qua the quantum of compensation, the deceased in the present case was 17 years of age and was studying in 11th standard at the time of the accident. The Tribunal has only assessed the income of the deceased as ₹6,000/- per month. Hon'ble Supreme Court in the case of **Bishnupriya**

Panda (supra) had taken the notional income of the deceased as ₹50,000/- per month for the accident which took place in the year 2013. In a similar case of **Arjun Kumar Aggarwal** (supra) the notional income of the deceased was taken as ₹29,166/- per month and in the case of **Kandasami** (supra) notional income as ₹25,000/- per month was taken for an accident which took place in the year 2008. Thus, taking a conservative estimate, as the date of the accident in the present case was 27.09.2014, the notional income of the deceased is assessed as ₹15,000/- per month. Further, the Tribunal has erred in making addition towards loss of future prospects @ 50% which ought to have been 40% in view of the law laid down by Hon'ble Supreme Court in case of **Pranay Sethi** (supra). Since there is no challenge to the deduction @ 50%, multiplier of '18' and the amount of ₹50,000/- awarded towards medical bills, hence, the same are maintained. The amounts awarded under the conventional heads as well as under the head loss of consortium are also not in accordance with the law laid down by the Hon'ble Supreme Court and hence as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**, the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly,

the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Notional income	₹15,000/- per month
2.	Annual income	[₹15,000/- x 12] = ₹1,80,000/-
3.	Deduction 50%	[₹1,80,000 – 90,000] = ₹90,000/-
4.	Future prospects @ 40%	[₹90,000+ ₹36,000/-] = ₹1,26,000/-
5.	Multiplier 18	[₹1,26,000 x 18] = ₹22,68,000/-
6.	Loss of estate	₹18,000/-
7.	Funeral expenses	₹18,000/-
8.	Loss of Consortium : (i) Filial	[₹48000 x 2] = ₹96,000/-
9	Medical bills	₹50,000/-
	Total Compensation	₹24,50,000/-

10. 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.

11. In view of the above discussion, the impugned award passed by the Tribunal is modified to the above extent and accordingly, both the appeals (FAO-3702-2017 & FAO-7573-2017) stand disposed off. Pending applications, if any, also stand disposed off.

17.02.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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