



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

(i) **FAO-5323-2017 (O&M)**

Iffco Tokio General Insurance Company Ltd. ...Appellant

VERSUS

Rohit Yadav and others

...Respondents

(ii) **FAO-5324-2017 (O&M)**

Iffco Tokio General Insurance Company Ltd. ...Appellant

VERSUS

Rohit Yadav and others

...Respondents

(iii) **XOBJC-176-CII-2018 (O&M)**

Iffco Tokio General Insurance Company Ltd. ...Appellant

VERSUS

Rohit Yadav and others

...Respondents

(iv) **XOBJC-258-CII-2018 (O&M)**

Iffco Tokio General Insurance Company Ltd. ...Appellant

VERSUS

Rohit Yadav and others

...Respondents

Date of Decision: March 01, 2025

**FAO-5323-2017 and connected cases****-2-****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Neeraj Khanna, Advocate for
Mr.Ravinder Arora, Advocate
for the appellant.

Mr.Ashish Gupta, Advocate
for respondents No.1 and 2/cross-objectors.

Mr.Sahil Mehra, Advocate
for Mr.Nipun Vashisht, Advocate
for respondents No.3 and 4.

ARCHANA PURI, J.

These are two appeals i.e. FAOs-5323 and 5324-2017, filed at the instance of appellant-Iffco Tokio General Insurance Company Ltd., to assail the Award dated 02.01.2017 passed by learned Motor Accident Claims Tribunal, vide which, the compensation was granted on account of deaths of Bijender Singh and Indrawati, in a motor vehicular accident.

In the aforesaid appeals, cross objections, i.e. XOBJC-176-CII-2018 and XOBJC-258-CII-2018, have also been filed by the claimants, thereby, seeking enhancement of the compensation.

The facts germane, to be noticed, are as follows:-

That, on 10/11.06.2015, the claimants along with their parents Bijender Singh and Indrawati, besides various other persons, were coming by Tata Safari bearing registration No.HR-26BY-0474 after visiting Vrindavan. One truck bearing registration No.RJ-02GA-9254, driven by respondent No.1-Ram Avtar, in a rash and negligent manner, which was going ahead of them, all of a sudden, had applied the brakes of the truck, while coming on wrong side, as a result whereof, the Tata Safari got

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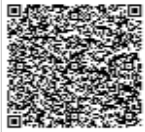
entangled in the same and was badly damaged. Bijender Singh and Indrawati had suffered fatal injuries, whereas, other occupants had also suffered injuries. FIR was got registered qua the accident in question by Raj Hans, co-passenger.

The claimants, who are children of deceased Bijender Singh and Indrawati had filed the respective claim petitions for seeking compensation, on account of death of their parents.

FAO-5323-2017 relates to death of Bijender Singh, whereas, FAO-5324-2017 relates to death of Indrawati. Even, cross-objections have been filed by the claimants, in both the appeals, for seeking enhancement of the compensation.

Even though, the factum and manner of taking place of the accident was assailed in the grounds of appeal, but however, learned counsel for the insurance company, during the course of arguments, has restricted his submissions, only with regard to seeking reduction of the compensation awarded in both the claim petitions.

In this backdrop, firstly, let us consider the claim qua death of Indrawati, who was a housewife. From the evidence on record, it is established that deceased Indrawati was 45 years old, at the relevant time. However, her earnings were taken as Rs.3000/- per month, annual whereof is Rs.36,000/-. Considering her age to be 45 years, multiplier of '14' was applied and compensation was worked upon as Rs.5,04,000/-. Besides the aforesaid amount, another amount of Rs.20,000/- was granted, on the count of 'loss of estate', Rs.20,000/- towards 'funeral expenses' and Rs.20,000/-, on account of non-pecuniary damages as well as medical expenditure of



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Rs.41,317/-, as per the bills Ex.P1, P5 and P6 was also granted. Thus, in total, the compensation to the extent of Rs.6,05,317/- was granted.

So far as, deceased Bijender Singh is concerned, learned Tribunal had considered that deceased was allegedly receiving pension of Rs.15,795/-, on account of being Ex-serviceman. Further, he was re-employed as Maths Instructor in ITI Berli Kalan, Rewari and his earnings were Rs.38,113/-.

So far as, the amount of pension is concerned, the same was excluded from consideration by learned Tribunal, and thus took his earning as Rs.38,113/-, annual whereof was worked upon as Rs.4,57,356/-. The income tax was deducted as Rs.19,298/- and the residue amount was worked upon as Rs.4,38,058/-. On the basis thereof, bifurcation on monthly basis was done and the earnings were taken as Rs.36,505/- and multiplier of ‘13’ was applied. However, 1/3rd ought to be deducted, but however, the same was erroneously not done by learned Tribunal. On account of ‘future prospects’ 30% was added and the compensation worked by learned Tribunal, in tabular form, is reproduced as herein given:-

Income of deceased per month (after deduction of income tax)	Rs.36,505/-
Add 30% for the loss of future income	Rs.10,952/-
Total monthly Income with inclusion of 30%	Rs.47,457/-
Annual income (47,457x12)	Rs.5,69,484/-
Multiplier as age was 48 years	13
Loss of dependency (5,69,484x13)	Rs.74,03,292/-
Funeral expenses	Rs.20,000/-
Loss of estate	Rs.20,000/-
Non-pecuniary damages	Rs.20,000/-
Total	Rs.74,63,292/-

However, the compensation worked upon aforesaid in both the

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claim petitions, do call for re-computation.

At the very outset, it is pertinent to mention that the compensation worked upon in both the claim petition was only granted to claimant No.2-Kumari Pooja Yadav, daughter of both the deceased, whereas, claimant No.1-Rohit Yadav was denied compensation, who is major son of both the deceased.

No doubt, the son of both the deceased was major but however, outrightly, it cannot be concluded about he is not dependent upon the deceased. It should be noticed that in the Indian society, the children as well as the parents remain dependent upon each other, at various stages of life. It is pertinent to mention that the word '**dependent**' has a different meaning in different connotation. Some may be dependent in terms of money and others may be dependent in terms of service. Thus, dependency is a relative criteria to claim compensation for loss of dependency. It does not mean financial only. It also includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money. Thus, considering the same, even the major son of both the deceased, ought not to be deprived of the compensation. Beneficial reference in this regard is made to ***National Insurance Company Limited v. Bijender Singh, (2020) 11 SCC 356.***

Firstly, let us consider the compensation to be granted, on account of death of Indrawati. Keeping in view the date of accident, it is pertinent to mention that, at the relevant time, the earnings of unskilled worker was Rs.5639/- per month. As such, it is less than the earnings of

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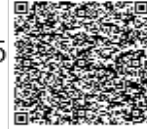
unskilled worker, which has been taken into consideration by learned Tribunal. The earnings so taken by learned Tribunal are miserably on lower side.

Time and again, it has been held by the Courts that the compensation awarded should be '**just**' and '**reasonable**'. Any mode or method may be adopted for assessing the compensation, but the same, has to be considered, in the background of '**just**' compensation, which is pivotal consideration. In any case, the multifarious duties rendered by the homemaker to the house, cannot be equated lower than that of unskilled worker.

One has to keep in mind that valuable services rendered by the homemaker and the same, in any manner, cannot be computed in terms of money, which is less than the earnings of the unskilled worker. The term '**services**' is required to be given a broad meaning and must be construed by taking into consideration the loss of personal care and attention given by the deceased to her family.

Considering the same, beneficial reference is also made to ***Kirti and another v/s Oriental Insurance Company Ltd., 2021(2) SCC 166***, wherein, it was held by the Hon'ble Supreme Court that the effect of inflation, ought to be taken into consideration and the future prospects also, are required to be taken into consideration, on the notional income of the housewife.

Considering the aforesaid and also taking into consideration, the minimum wages of the unskilled worker, in the modest estimate, while having realistic approach, the earnings of deceased Indrawati can

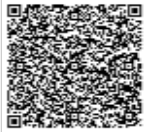
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conveniently be taken as Rs.6000/- per month. To the said amount, addition on the count of 'future prospects' ought to be made. Considering the age of the deceased to be 45 years, as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, addition of 25% ought to be made, on the count of 'future prospects'. Thus, the income of the deceased is worked upon as $\text{Rs.6000} + 1500 = \text{Rs.7500/-}$, annual whereof comes to be Rs.90,000/-.

As per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, deduction ought to be made to the extent of 1/3rd as 'personal expenses'. Taking it to be so, the annual loss of dependency is worked upon as $\text{Rs.90000} - 30000 = \text{Rs.60,000/-}$.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate and suitable multiplier to be applied is '14', as applied by learned Tribunal. Thus, by applying the same, the loss of dependency, works out to be $\text{Rs.60000} \times 14 = \text{Rs.8,40,000/-}$.

Besides the aforesaid, as per '*Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*', each of the appellants-claimants are entitled to 'parental', 'spousal' or 'filial' consortium, as required. Considering the same, as per *Pranay Sethi's case (supra)*, an amount of Rs.40,000/- is required to be granted to the dependents, which also called for further enhancement to the extent of 10%, after period of every three years of pronouncement of the judgment and taking it to be so, the compensation, on the count of 'loss of consortium', at present, works out to be Rs.48,400/- to each of the claimants i.e. $\text{Rs.48400} \times 2 = \text{Rs.96,800/-}$ and likewise, on the counts of 'loss of estate'



and ‘funeral expenses’, the compensation payable, comes to be **Rs.18,150/-**, on each count.

On account of medical bills Ex.P1, Ex.P5 and Ex.P6, proved in evidence, the claimants are also entitled to an amount of Rs.41,317/-, as granted by learned Tribunal.

Considering the same, the compensation payable to claimants, on account of death of Indrawati, is re-computed, as herein given:-

Loss of dependency	:	Rs.8,40,000/-
Loss of consortium	:	Rs.96,800/
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Medical expenses	:	Rs.41,317/-
Total	:	Rs.10,14,417/-

Now, coming to the claim for compensation qua death of Bijender Singh. From the evidence on record, it stands established that Bijender Singh was Ex-serviceman and was receiving pension of Rs.15,795/- and he was re-employed as Maths Instructor in ITI Berli Kalan, Rewari and his salary was Rs.38,113/-. However, the pension was erroneously not taking into consideration by learned Tribunal. In this regard, it is pertinent to mention that as per *Pranay Sethi’s case (supra)*, for the purposes of assessment of the compensation, actual salary ought to be taken minus tax component. However, the deduction on account of pension/family pension, ought not to be made, while working upon the loss of dependency.

In this regard, suffice to make reference to *Narinder Kaur and others vs. Jagmeet Singh and others, 2024 NCPHHC 15790, Helen C. Rebello vs*

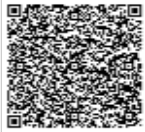


Maharashtra SRTC, reported as (1999) 1 SCC 90' and '***Lal Dei and others vs Himachal Road Transport***', (2007) 8 SCC 319'. On the basis thereof, the amount of pension, ought to be taken into consideration.

Considering the same, now for the purpose of 'work on' of the compensation, the total earnings of deceased Bijender Singh, to be considered are Rs.38,113/- per month, as salary from re-employment and Rs.15,795/- per month, as pension, the total whereof, comes to be Rs.53,908/- and the annual earnings comes to be Rs.6,46,896/-.

As per the tax slab, prevalent in the year 2015-2016, the income upto Rs.3,00,000/- was exempted from tax. However, from the income bracket of Rs.3,00,000-5,00,000/-, income tax payable was 10%, which is to the extent of Rs.20,000/-. Furthermore, for the income bracket of Rs.5,00,000-10,00,000/-, the tax payable was 20%. After deduction of Rs.5,00,000/-, the residue taxable amount works out to be Rs.1,46,896/- and therefore, working upon the tax on this amount @ 20%, it comes to be Rs.29,379/-. Thus, the total tax payable, comes to be **Rs.49,379/-**. After making deduction of the aforesaid extent of income tax amount, the residue annual income, comes out to be Rs.6,46,896-49,379=**Rs.5,97,517/-**.

As per ***Sarla Verma's case (supra)***, considering the number of dependents, deduction to the extent of 1/3rd, on the count of 'personal expenses', ought to be made and as such, the loss of dependency comes to be Rs.5,97,517-1,99,172=Rs.3,98,345/-. Considering the age of the deceased to be 48 years, as per ***Pranay Sethi's case (supra)***, addition of 30% ought to be made, on the count of 'future prospects' and thus, the income of the deceased is worked upon as Rs.3,98,345+1,19,503=Rs.5,17,848/-.



Considering the age of the deceased, as per *Sarla Verma’s case (supra)*, the appropriate and suitable multiplier, to be applied is ‘13’, and thus, by applying the same, the loss of dependency, works out to be $Rs.517848 \times 13 = Rs.67,32,024/-$.

As already observed aforesaid in the claim qua Indrawati, on account of death of Bijender Singh, also the claimants are entitled to compensation under the conventional heads i.e. **Rs.96,800/-**, on the count of ‘loss of consortium’ and **Rs.18,150/-** on each counts of ‘loss of estate’ and ‘funeral expenses’.

Considering the same, the compensation payable to claimants, on account of death of Bijender Singh, is re-computed, as herein given:-

Loss of dependency	:	Rs.67,32,024/-
Loss of consortium	:	Rs.96,800/
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.68,65,124/-

Proceeding further, it is pertinent to mention that learned Tribunal had only granted compensation to daughter of both the deceased. During the course of evidence, it came forth in the testimony of PW-3 Ram Avtar, who was working as Deputy Superintendent, Government ITI. Berli Kalan, Rewari that under the Haryana Government rules applicable to the department, their department is paying basic pay+DA+medical to the daughter of deceased Bijender Sinh, till her marriage or upto 25 years of age, whichever is earlier.

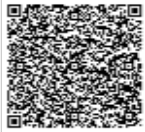
However, this aspect, as such, has not been taken into



consideration by learned Tribunal. Though, specific amount, as such, is not coming forth, which is received by Kumari Pooja Yadav, from the Government, but it should be noted that at the time of filing of the claim petition in the year 2015, Kumari Pooja Yadav was stated to be 20 years old. By this time, even if, she is presumed to be unmarried, but however, she has definitely attained the age of 25 years. The total amount, so received under the compassionate rules, ought to be taken into consideration. In this regard, suffice to make reference to decision rendered in ***CA No.9654 of 2016***, titled as ***Reliance General Insurance Co. Ltd. vs. Shashi Sharma and others***, decided on ***23.09.2016***.

In the given circumstances, the compensation worked upon aforesaid, has to be awarded to both the claimants, in the ratio of 40:60, as detailed aforesaid. In the light of the same, before disbursement of the compensation worked upon aforesaid in both the cases, learned Tribunal shall verify about the fact of extent of amount received by claimant No.2- Kumari Pooja Yadav, being beneficiary under the policy of Haryana Government, by way of taking of an affidavit of claimant No.2 and verify the same, at its own level and also from the concerned department. Upon such verification, the amount so received under the aforesaid rules, shall be deducted from the compensation, as now worked upon aforesaid, qua deceased Bijender Singh.

The amount of compensation, as now worked upon in both the cases, shall be disbursed to the claimants-cross objectors, in the ratio of 40:60. The claimants-cross objectors, shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till



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realization of the enhanced amount of compensation.

Claimant No.1-Rohit Yadav is held entitled to 40% whereas, claimant No.2-Kumari Pooja Yadav, is held entitled to 60% of the compensation amount. However, any amount paid to claimant-Kumari Pooja Yadav earlier, shall be adjusted to the amount of compensation, falling to her share.

However, learned Tribunal, as ordered aforesaid, shall work upon the amount so received by claimant No.2, under the Haryana Government Rules and deduct the same with proportionate interest and disburse the residue amount to the claimants, in the ratio, as detailed aforesaid.

Accordingly, the impugned Award dated 02.01.2017 stands modified, to the extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

In view of the above observations, appeal i.e. **FAOs-5323-2017** stands dismissed and **FAO-5324-2017** stands allowed, whereas, **XOBJC-176-CII-2018** stands partly allowed and **XOBJC-258-CII-2018** stands allowed.

The pending civil misc. applications, if any, shall stand disposed of.

March 01, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No