

FAO-3925-2018 (O&M)

2025-PHHC-121225



FAO-3987-2018 (O&M) , FAO-4331-2018 (O&M), FAO-4461-2018 (O&M) FAO-1807-2018 (O&M)

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

Date of decision : 26.08.2025

FAO-3925-2018 (O&M)

Laxit (minor) Appellant

Versus

Sher Mohammad & ors. Respondents

FAO-3987-2018 (O&M)

Laxit (minor) & ors. Appellants

Versus

Sher Mohammad & ors. Respondents

FAO-4331-2018 (O&M)

Master Laxit (minor) & ors. Appellants

Versus

Sher Mohammad & ors. Respondents

FAO-4461-2018 (O&M)

Vanshika (minor) Appellant

Versus

Sher Mohammad & ors. Respondents

FAO-1807-2018 (O&M)

ICICI Lombard General Insurance Co., Ltd. Appellant

Versus

Laxit & ors. Respondents



CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Ms.Lipika, Advocate
for the appellant-FAO-3925-2018, FAO-3987-2018
FAO-4331-2018, FAO-4461-2018
for respondent No.1 to 3-FAO-1807-2018

Mr. Rajbir Singh, Advocate
for respondent No.3-FAO-3925-2018, FAO-3987-2018
FAO-4331-2018, FAO-4461-2018
for the appellant-FAO-1807-2018

PANKAJ JAIN, J. (ORAL)

1 This order shall dispose off above mentioned five appeals.

2 These five appeals arise out of a common award dated 30.01.2018 passed by Motor Accidents Claims Tribunal, Gurugram in four different claim petitions related to the same accident dated 31.05.2016 in which claimants, Laxit aged 5 years and Vanshika aged 6 years, lost their parents namely Dharmender Kumar Yadav and Sonia Yadav, who both died at the young age of 30 years.

3 Injured, Laxit filed claim petition bearing MACP No.30/09.01.2018 seeking compensation on account of grievous injuries suffered by him in the accident which left him permanently disabled to the extent of 16 %. Tribunal awarded him compensation tabulated as under :-

<i>Pecuniary Damages</i>			
<i>i)</i>	<i>Expenditure at Paras Hospital (Mark-P1)</i>	<i>=</i>	<i>Rs.2,78,706/-</i>
<i>ii)</i>	<i>Expenditure at Rockland Hospital (Mark-P5)</i>	<i>=</i>	<i>Rs.25,759/-</i>
<i>iii)</i>	<i>Expenditure over Physiotherapy (Exh. PW13/1 to Exh.PW13/3)</i>	<i>=</i>	<i>Rs.42,000/-</i>



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	<i>Total</i>	=	<i>Rs.3,46,465/-</i>
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(rounded off as Rs.3,46,500/-)

<i>Special Damagers or Non-pecuniary damages</i>			
i)	<i>On account of forced rest (notionally for 4 months @ Rs.2,000/- per month)</i>	=	<i>Rs.08,000/-</i>
ii)	<i>Expenditure on Attendant (notionally for 4 months @ Rs.6,000/- per month) (for 4 months @Rs.6,000/- per month)</i>	=	<i>Rs.24,000/-</i>
iii)	<i>Expenditure over Transportation to visits Hospital (notionally for 10 visits @Rs.1,500/- per trip)</i>	=	<i>Rs.15,000/-</i>
iv)	<i>Expenditure over follow-up Pharmacy (notionally)</i>	=	<i>Rs.10,000/-</i>
v)	<i>On account of 16% physical disability (as per certificate Exh.P PW5/1)</i>	=	<i>Rs.32,000/-</i>
vi)	<i>Expenditure over Nourish diet (for 4 months @ Rs.2,500/- per month)</i>	=	<i>Rs.10,000/-</i>
vii)	<i>On account of pain & sufferings</i>	=	<i>Rs.10,000/-</i>
	<i>Total</i>	=	<i>Rs.1,09,000/-</i>
	<i>Grand Total</i>	=	<i>Rs.4,55,500/-</i>

4 Laxit has filed **FAO No.3925 of 2018** seeking enhancement of compensation.

5 Injured, Vanshika preferred MACP No.33 of 09.01.2018 seeking compensation for the injuries suffered by her. Tribunal awarded her compensation of Rs.16,940/- tabulated as under :-

i)	<i>Expenditure at Rockland Hospital (Mark-p4)</i>	=	<i>Rs.03,940/-</i>
ii)	<i>On account of forced rest (notionally for one month @ Rs.2,000/- per month)</i>	=	<i>Rs.02,000/-</i>
iii)	<i>Expenditure on Attendant (notionally for one month @ Rs.6,000/- per month)</i>	=	<i>Rs.06,000/-</i>
iv)	<i>Expenditure over Nourish diet (for one month @ Rs.2,500/- per month)</i>	=	<i>Rs.02,500/-</i>
v)	<i>On account of Pain & sufferings</i>	=	<i>Rs.02,500/-</i>
	<i>Total</i>	=	<i>Rs.16,940/-</i>



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6 Vanshika is in appeal bearing No.4461 of 2018 seeking enhancement of compensation.

7 MACP No.32/09.01.2018 has been filed by the claimants seeking compensation on account of death of Sonia Yadav. Tribunal awarded a compensation of Rs.17,56,250/-. Claimants are in appeal enhancement of compensation in FAO No.3987 of 2018.

8 MACP No.31/09.01.2018 has been preferred by legal heirs of Dharmendra Kumar Yadav seeking compensation on account of death of Dharmendra Kumar Yadav at the age of 30. The Tribunal awarded a sum of Rs.93,55,000/-. Appellants in FAO No.4331 of 2018 seek enhancement of compensation. Award *qua* compensation payable on account of death of Dharmendra Kumar Yadav has been impugned by the insurance company by way of FAO No.1807 of 2018. The insurance company is also aggrieved of quantum of compensation awarded by Tribunal.

FAO No. 4461 of 2018

9 Tribunal while awarding compensation to Vanshika, erred in awarding only Rs.2,500/- on account of pain and suffering and Rs.2,500/- for special diet and Rs.2000/- as notional income for one month she was bedridden. A six-year-old child had to undergo shock and trauma of a motor vehicular accident in which she lost both her parents. Accordingly, the compensation is reworked as under :-

i)	<i>Expenditure at Rockland Hospital (Mark-p4)</i>	=	<i>Rs.03,940/-</i>
ii)	<i>On account of forced rest (notionally for one month</i>	=	<i>Rs.10,000/-</i>



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	@ Rs.2,000/- per month)		
iii)	Expenditure on Attendant (notionally for one month @ Rs.6,000/- per month)	=	Rs.10,000/-
iv)	Expenditure over Nourish diet (for one month @ Rs.2,500/- per month)	=	Rs.10,000/-
v)	On account of Pain & sufferings	=	Rs.25,000/-

10 With the aforesaid modification, appeal stands disposed off.

FAO No. 3925 of 2018

11 Coming on to the appeal preferred by Laxit, who remained hospitalized from 01.06.2016 to 02.07.2016 at Paras Hospital, Gurugram with frontal bone fracture right side with bilateral femur fracture and has been rendered permanently disabled to the extent of 16%. The compensation is reworked as under page :-

Pecuniary Damages			
i)	Expenditure at Paras Hospital (Mark-P1)	=	Rs.2,78,706/-
ii)	Expenditure at Rockland Hospital (Mark-P5)	=	Rs.25,759/-
iii)	Expenditure over Physiotherapy (Exh. PW13/1 to Exh.PW13/3)	=	Rs.42,000/-
	Total	=	Rs.3,46,465/-

(rounded off as Rs.3,46,500/-)

Special Damagers or Non-pecuniary damages			
i)	On account of forced rest (notionally for 4 months @ Rs.2,000/- per month)	=	Rs.25,000/-
ii)	Expenditure on Attendant (notionally for 4 months @ Rs.6,000/- per month) (for 4 months @Rs.6,000/- per month)	=	Rs.40,000/-
iii)	Expenditure over Transportation to visits Hospital (notionally for 10 visits @Rs.1,500/- per trip)	=	Rs.15,000/-
iv)	Expenditure over follow-up Pharmacy (notionally)	=	Rs.50,000/-
v)	Expenditure over Nourish diet (for 4 months @ Rs.2,500/- per month)	=	Rs.40,000/-
vi)	On account of pain & sufferings	=	Rs.1,00,000/-
vii)	On account of 16% physical disability (as per certificate Exh.P PW5/1)	=	Rs.3,78,000/-



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12 Notional income of the five-year-old Laxit is taken as Rs.60,000/- per annum. 40% future prospects need to be added. Multiplier of 18 will be applicable. He suffered 16% disability on account of severe restriction of knee movements as per disability certificate Ex.PW5/1. His functional disability is taken to be 25%. Accordingly, he is entitled for Rs.3,78,000/- on account of permanent disability. Nothing has been awarded for loss of marriage prospects. An amount of Rs.4,00,000/- is also awarded on account of loss of marriage prospect.

13 With the aforesaid modifications, appeal preferred by Lakhit is disposed off.

FAO-3987-2018 (O&M)

14 This appeal pertains to death of Sonia Yadav. It has come on record that Sonia Yadav was a graduate and a homemaker. This Court, in ***United India Insurance Company Limited vs. Poonam Devi and others, FAO-6400-2023, decided on 04.11.2024***, while assessing the notional income of a homemaker, observed as under :-

“ This Court in the case of United India Insurance Co. Ltd vs. Sube Singh and others, passed in FAO No. 218-2014 while dealing with the issue of income of homemaker for the purpose of compensation under MACT held as under:-

“while dismissing the appeal filed by the Insurance Company against the award of the Tribunal wherein the Tribunal took the income of a house wife at Rs.9000/- per month, held that to tag a house wife as skilled labour alone does not do complete justice to her multifarious role as home manager. House wife is something



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more than mere skilled worker and it would not be unreasonable to estimate contribution of deceased at higher figure. The SLP filed against the said judgment has also been dismissed.

12. Thus, income of the deceased, who was a homemaker has to be assessed at Rs.10,000/- per month. An element of 40% future prospects needs to be added. Thus, in the considered opinion of this Court even if the compensation awarded by the Tribunal is recalculated it would not make substantial difference in the same quantitatively.”

15 In view thereof, the income of late Sonia Yadav is taken as Rs.15,000/-. Since the income is being notionally assessed, no deduction is being made. Multiplier of 16 would be applicable. Thus, the compensation payable shall be $\text{Rs.15,000} \times 12 \times 16 = \text{Rs.28,80,000/-}$. Each of the claimants will also be entitled to an amount of Rs.48,400/- on account of loss of consortium. Rs.18,000/- are granted under the head of funeral expenses. Claimants are also entitled for Rs.18,000/- for loss of estate.

16 With the aforesaid modifications, the appeal stands disposed off.

FAO-3925-2018 and FAO-1807-2018

17 Both the claimants as well as Insurance Company seek reassessment of the compensation awarded by MACT to the claimants on account of death of Dharmendra Kumar Yadav. Tribunal while awarding compensation to the claimants observed as under :-



“46. To ascertain the age, petitioners have tendered post-mortem report of deceased Dharmender as Exh.PW9/1 wherein the age of deceased is mentioned as 29 years. In the petition age of the deceased is running recorded as 30 years. Aadhar-card of deceased Dharmender is running tendered as Exh.PW17/7 showing date of birth as 16.07.1986. Keeping in view the same, deceased is falling in the age group of 26 to 30 years, appropriate multiplier for which is 17 as per case-law titled as 'Sarla Verma Vs DTC - 2009(3) RCR 77 (SC).

47. As per official Salary-Slip (Exh.PW7/3) brought by PW7 (ASI Ranbir Singh), deceased Dharmender was serving as Constable in Delhi Police vide Belt No. 1903 and was drawing gross salary amounting Rs.33,763/- for the month May, 2016.

48. Learned counsel for the petitioners has gone placing reliance upon case-law Vimal Kanwar & Others Vs Kishore Dan & Others - 2013(2) RCR(Civil) 945 (SC) wherein deceased was of 28 years and was serving as Assistant Engineer under government at the time of his death. Hon'ble Apex court gone highlighting that pay of the deceased would have doubled if he continued in the service till the date of retirement, hence, 100% increase in the future income of deceased was allowed.

49. Adopting the yardstick settled in case-law Vimal Kanwar (supra), earnings of deceased Dharmender after 100% increase is held as Rs.67,526/- (double of Rs.33,763/-). It comes to Rs.8,10,312/- as annual income.

50. Where deceased was married and number of dependent members is 2 to 3, deduction as expenditure towards personal living expenses of the deceased should be one third as settled in judgment Sarla



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Verma Vs Delhi Transport Corporation - 2009(3) RCR(Civil) 77. Hence, the dependency of the petitioners come to Rs.5,40,208/- per year.

51. On applying the multiplier of 17, amount of compensation to which petitioners are entitled comes to Rs.91,83,536/-. Petitioners are also held entitled for Rs.20,000/- as expenditure over transportation, last rites, etc. After adding the actual expenditure over treatment (vide bill Mark-P6 for Rs.61,407/- proved by PW3 and bill Mark-P2 for Rs.1,10,024/- proved by PW2), total amount of compensation to which petitioners Laxit & Others are entitled to, in equal shares, comes to Rs.93,54,967/- (rounded off as Rs.93,55,000/-)”

18 Keeping in view the ratio of law laid down by the Supreme Court in the case of ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298, National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009 and Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., 2018(4) RCR (Civil) 333***, the compensation awarded by the Tribunal needs to be reassessed. Income of the deceased has been proved by producing salary slip Exh.PW7/3 as Rs.33,763/- per month. 50% future prospects need to be added. Multiplier of 17 needs to be applied. Deduction of 1/3rd will be applicable. Each of the claimants shall be entitled for Rs.48,400/- for loss of consortium. Claimants are also entitled for Rs.18,000/- on account of funeral expenses and Rs.18,000/- for loss of estate.



19 With the aforesaid modification both the appeals are ordered to
be disposed off.

20 In all the appeals the claimants are held entitled to interest
@ 7.5% per annum from the date of filing of the claim petitions till the date
of actual realization. Needless to say, anything paid shall be set off and
adjusted.

21 Photocopy of this order be placed on the connected files.

22 Pending miscellaneous application, if any, also stands disposed
off.

26.08.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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