



FAO-670-2017 (O&M)

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

(220-1)

FAO-670-2017 (O&M)
Date of decision:- 07.03.2025

New India Assurance Company Limited

... Appellant

Versus

Shana Parveen and others

... Respondents

(220-2)

FAO-1028-2017

Shana Parveen and others

... Appellants

Versus

Vijay Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Neeraj Khanna, Advocate
for the appellant in FAO-670-2017 and
for respondents No. in FAO-1028-2017.

Mr. Vipul Sharma, Advocate
for the appellants/claimants in FAO-1028-2017 and
for respondents No.1 to 7 in FAO-670-2017.

SUVIR SEHGAL, J. (ORAL)

1. This order shall dispose off both the above noted appeals filed under Section 173 of the Motor Vehicles Act, 1988 (for brevity hereinafter referred to as "MV Act") by the insurance company and the claimants against a common award passed by the Motor Accident Claims Tribunal, Chandigarh (for short "the Tribunal"). For the sake of convenience, factual position is being taken from FAO-670-2017.



2. This appeal has been filed by the appellant-insurance company, assailing award dated 17.10.2016, passed by the Tribunal whereby a petition filed by the claimants-respondents No.1 to 7 for grant of compensation on account of death of Maksud Ahmed, has been partly accepted.

3. Facts, in brief, leading to the fling of the appeals are that on 04.04.2016, Maksud Ahmed was riding his cycle and his son, Danish alias Mohd Danish, was following him on another cycle. While they were crossing the traffic light point at Poultry Farm Chowk, Chandigarh, a truck bearing registration No. HP-38B-6917, driven by respondent No.8, hit Maksud's cycle and he fell on the road. Maksud Ahmed sustained serious injuries and was taken to GMCH Sector 32, Chandigarh, and was later referred to PGI Chandigarh, where he succumbed to his injuries. An FIR, Ex.P1, bearing No.114 dated 05.04.2016 was lodged under Sections 279, 304-A IPC at Police Station, 31, Chandigarh. Claimants filed a claim petition under Section 166 of the MV Act, claiming compensation on account of the death of Maksud Ahmed, which has been partly accepted vide award dated 17.10.2016 and they have been granted compensation of Rs.14,45,000/-. Appellant and respondents No.8 and 9 have been held jointly and severally liable to pay the amount, along with interest @ 6% per annum from the date of filing of the claim petition.

4. I have heard counsel for the parties and have considered their respective submissions. Both the counsel have disputed the computation of compensation and have sought its revision.

5. On the basis of the evidence adduced, the Tribunal has come to the conclusion that the accident took place on account of rash and negligent driving by respondent No.8 and Maksud Ahmed died in the vehicular accident.



Tribunal found that respondent No.8 had a valid driving license Ex.RW1 and offending vehicle, owned by respondent No.9, was fully insured under insurance policy Ex.RX.

6. Compensation has been inadequately assessed by assuming the income of the deceased as a skilled laborer to be Rs.7,500/- per month. Mohd. Iqbal, PW-3, who was the employer of the deceased, has been examined by the claimants. He deposed that he is doing tailoring business and is running Iqbal Sons in the basement in Sector 17, Chandigarh. The deceased was one of his seven workers, who were paid for stitching on per piece basis. He has testified that deceased was professionally creative and was earning Rs.15,000/- per month. Unless there is any doubt about the statement of the employer, his deposition deserves to be accepted. In **Parminder Singh Versus New India Assurance Co. Ltd. and others (2019) 7 SCC 217**, Supreme Court assessed the income of the deceased on the basis of the affidavit of the employer. Accordingly, the monthly income of the deceased has to be enhanced to Rs.15,000/-.

7. The age of the deceased at the time of accident was 55 years as per LIC policy, Ex.P4. Therefore, the multiplier of 13 applied by the Tribunal has to be reduced to 11 in view of judgment passed by Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**. Furthermore, 1/4th of the income has been deducted towards personal and living expenses of the deceased, which has to be reduced to 1/5th as the number of dependents exceeded six. Tribunal has also erred in awarding future prospects at 30% which deserves to be reduced to 10%, in view of the settled legal position.

8. In the light of the principles laid down by the Supreme Court in **Smt.**



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Sarla Verma's case (supra), National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 and Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130, claimants are entitled to award under conventional heads, for future prospects, etc. The court is of the view that head-wise computation deserves to be modified as below:-

Sr. No.	Heads	Compensation Awards
1	Monthly Income	Rs.15,000/-
2	Deduction towards personal expenditure 1/5 th	Rs.3,000/- (Rs.15,000/- x 1/5)
3	Future prospects	Rs.1,200/- (10% of Rs.12,000/-)
4	Total Monthly Income	Rs.13,200/- (Rs.12,000/ + Rs.1,200/-)
5	Multiplier	11
6	Annual dependency	Rs.17,42,400/- (Rs.13,200/- x 12 x 11)
7	Loss of Estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of consortium	Rs.3,36,000/- (Rs.48,000/- payable to each of seven dependents)
10	Total compensation	Rs.21,14,400/-
11	Less: Award by MACT	Rs.14,45,000/-
12	Enhancement	Rs.6,69,400/-

9. Accordingly, claimants are held entitled to additional compensation of Rs.6,69,400/-, which shall be payable to them with interest @ 7.5% per annum from date of filing of the claim petition.

10. Both the appeals are disposed off.

11. As the main appeals have been decided, pending application(s), if any, is/are disposed off.

07.03.2025

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No