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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1403-2020 (O&M)

Date of Decision : 09.10.2025

The New India Assurance Company Ltd.

... Appellant

Versus

Balvir Kaur (Deceased) through LRs and Others

... Respondents

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FAO-3-2022 (O&M)

Balvir Kaur (Deceased) through LRs and Another

... Appellants

Versus

Lakhwinder Singh @ Lakha (deceased) through LRs
and Others

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Punit Jain, Advocate
for the appellant in FAO-1403-2020 and
for respondent No.3 in FAO-3-2022.

Mr. Puneet Kumar Bansal, Advocate
for the appellants in FAO-3-2022 and
for respondent Nos.1(a), 1(b) and 2 in FAO-1403-2020.

ALKA SARIN, J. (Oral)

1. This order shall dispose off the above-captioned appeals. The appeal being FAO-1403-2020 has been filed by the Insurance Company and the appeal being FAO-3-2022 has been filed by the claimants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as 'Tribunal') on account of death of Gurmukh Singh (hereinafter referred to as the 'deceased') vide the

impugned award dated 07.09.2019. The parties are being referred to as the claimants and the Insurance Company for the sake of clarity.

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	Annual income	₹3,19,590/-
2	Deduction - 50%	[₹3,19,590 – 1,59,795] = ₹1,59,795/-
3	Multiplier of 17	[₹1,59,795 x 17] = ₹27,16,515/-
4	Loss of consortium to claimant No.1	₹40,000/-
5	Loss of estate	₹15,000/-
6	Funeral expenses	₹15,000/-
	Total Compensation	₹27,86,515/-
	Interest	7% per annum

4. Learned counsel for the Insurance Company would contend that the Tribunal has erroneously applied a multiplier of '17' relying on the postmortem report of the deceased inasmuch as the age of the deceased as per Ex.CW3/E, which was a document produced by the claimants themselves in order to show the occupation of the deceased, states the date of birth of the deceased as 03.07.1985. Hence, the deceased was 31 years and 06 months old on the date of accident i.e. 15.04.2017 and as per the law laid down by Hon'ble Supreme Court in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, a multiplier of '16' ought to have been applied. Learned counsel for the Insurance Company would further contend that the Tribunal has made an addition of 50% towards loss of future prospects. The deceased was not in a permanent job hence 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], an addition of 40% ought to have been made.

5. *Per contra* learned counsel for the claimants would contend that he does not challenge the income of the deceased however the Tribunal has wrongly applied a deduction of 50% towards personal expenses of the deceased as there were 3 people who were dependent on the income of the deceased hence a deduction of 1/3rd ought to have been applied. It is further the contention that age of the deceased has rightly been taken as 26 years as per postmortem report (Ex.C3). Learned counsel for the claimants has further contended that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' are not in accordance with the law laid down by the Hon'ble Supreme Court. In support of his contentions, he has relied upon the judgments of 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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

6. Heard.

7. A perusal of the impugned award reveals that in para No.1 thereof the Tribunal has wrongly observed that the claim petition was filed on account of death of Tarlok Singh (husband of claimant No.1 and father of claimant No.2) and further while computing the compensation awarded a sum of ₹40,000/- towards loss of consortium to wife/claimant No.1, which is factually incorrect inasmuch as the deceased in the present case was Gurmukh Singh son of Tarlok Singh, who was son of claimant No.1 (since deceased) and brother of claimant No.2.

8. In the present case since there is no challenge to the income of the deceased in either of the appeals, the same is accordingly maintained. The argument of learned counsel for the Insurance Company that as per the document (Ex.CW3/E) the age of the deceased was 31 years and 06 months at the time of accident hence a multiplier of '16' ought to have been applied, deserves to be accepted. The Tribunal while determining the age of the deceased at the time of the accident has relied upon the postmortem report (Ex.C3) however as per Ex.CW3/E, which is an application form submitted by the deceased himself and also bears his own signatures, shows the date of birth of the deceased as 03.07.1985. In view of the evidence led by the claimants themselves, the age of the deceased has to be ascertained as per Ex.CW3/E. Hence, the age of the deceased at the time of accident would be 31 years and 06 months and accordingly, as per the law laid down by Hon'ble Supreme Court in case of **Sarla Verma** (supra), a multiplier of '16' would be applicable. The argument of learned counsel for the Insurance Company that an addition of 50% has wrongly been made towards loss of future prospects also deserves to be accepted. Since the deceased was not in a permanent job, an addition of 40% would have to be made towards loss of future prospects as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra). The same is accordingly modified and an addition of 40% is made towards loss of future prospects.

9. The argument of learned counsel for the claimants that a deduction of $\frac{1}{3}$ rd ought to have been applied cannot be accepted in the absence of any evidence that the brother of the deceased aged 30 years was dependent on the income of the deceased at the time of his death. In view thereof, no fault can be found with the deduction as applied by the Tribunal. The argument of learned counsel for the claimants that the compensation

awarded under the conventional heads as well as under the head ‘loss of consortium’ is not in accordance with the law laid down by the Hon’ble Supreme Court deserves to be accepted. 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** (supra) and **N. Jayasree** (supra), 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 as also 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	Monthly Income	₹17,755/-
2	Annual Income	₹2,13,060/- [₹17,755 x 12]
3	Deduction - 50%	₹1,06,530/- [₹2,13,060 - ₹1,06,530]
4	Future Prospects - 40%	₹1,49,142/- [₹1,06,530 + ₹42,612]
5	Multiplier - 16	₹23,86,272/- [₹1,49,142 x 16]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Filial [₹48,000/- x 3]	₹1,44,000/-
	Total Compensation	₹25,66,272/-

10. In view of the above discussion, the award passed by the Tribunal is modified and both the appeals being FAO-1403-2020 filed by the Insurance Company and FAO-3-2022 filed by the claimants stand disposed off accordingly. Pending applications, if any, also stand disposed off.

09.10.2025
jk

(ALKA SARIN)
JUDGE

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