



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

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Date of decision : 27.02.2025

1. FAO-5754-2009 (O&M)

Oriental Insurance Company Ltd. Appellant

versus

Kulvir Kaur and others Respondents

2. FAO-5755-2009 (O&M)

Oriental Insurance Company Ltd. Appellant

versus

Charanjeet Kaur and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vinod Chaudhri, Advocate
for the appellant.

Mr. Vipul Sharma, Advocate
for respondent No.1.

PANKAJ JAIN, J. (Oral)

1. These two appeals at the behest of the insurance company, arise out of two different claim petitions pertaining to the same accident.

2. FAO No.5754 of 2009 has arisen out of claim petition filed at the behest of Kulvir Kaur and others, who sought compensation on account of death of Avtar Singh in a motor vehicular accident dated 07.08.2006. Claim petition was filed under Section 166 of the Motor Vehicles Act, 1988. Avtar Singh was aged 39 years. He was car painter



by profession. Claimants claimed that deceased was earning Rs.5,000/- per month. Tribunal held driver of the offending insured vehicle to be responsible for the accident and granting claimants compensation of Rs.5,86,000/-.

3. FAO No.5755 of 2009 arises out a claim petition filed by Charanjeet Kaur mother of Balwinder Singh, who died at the age of 24 years in the same accident. As per the claimant, Balwinder Singh was an agriculturist earning Rs.5,000/- per month. Tribunal held claimant entitled for compensation of Rs.6,58,000/-.

4. One of the grounds raised by the insurance company is that there was breach of conditions of insurance policy. Driver was under influence of liquor and thus, insurer is not liable to pay compensation. There is no evidence on record to substantiate the plea raised by counsel for the appellant. In the absence of there being any evidence to dislodge the findings recorded by Tribunal on issue No.1, the findings are hereby affirmed and ordered to be maintained.

5. Counsel for the appellant draws attention of this Court to the compensation assessed by the Tribunal and assails the same. He submits that Avtar Singh died at the age of 39 years, multiplier of 16 has been wrongly applied.

6. Counsel for the respondent further asserts that deduction of 1/3rd was wrongly applied in the case of Avtar Singh. The same has to be 1/4th keeping in view the number of the claimants.

7. In the considered opinion of this Court, the compensation payable to the legal representatives of Avtar Singh needs to be revisited. The income of the deceased has been rightly taken as Rs.4,500/- per



month. Deduction of 1/4th needs to be applied. Multiplier of 15 would to be apt in terms of ratio of law laid down by Supreme Court in the case of '*Smt. Sarla Verma & others vs. Delhi Transport Corporation & another*' (2009) 6 SCC 121. 40% for future prospects needs to be added in terms of '*National Insurance Company Limited vs. Pranay Sethi and others*', (2017) 16 SCC 680. Each of the claimants is entitled for Rs.48,000/- on account of loss of consortium. Rs.18,000/- need to be awarded for loss of estate. Rs.18,000/- are awarded for funeral expenses.

8. With the aforesaid modification in the impugned award, FAO No.5754 of 2009 stands disposed off.

9. Claimants are further held entitled for interest @ 7.5% per annum on the compensation amount for the period commencing from the date of filing of the petition till the date of actual realization.

10. The compensation paid to the legal representatives of Balwinder Singh-deceased also needs to be revisited. Date of accident is dated 07.08.2006. Minimum wages notified on the date of accident by State of Punjab are Rs.160 per day. 1/2 deduction needs to be applied instead of 1/3. Multiplier of 18 is applicable in terms of *Sarla Verma's case (supra)*. 40% on account of future prospects need to be added. An amount of Rs.48,000/- is payable to the claimant on account of loss of consortium. Rs.18,000/- needs to be paid for loss of estate and Rs.18,000/- for funeral expenses. Claimants are further held entitled for interest @ 7.5% per annum on the compensation amount for the period commencing from the date of filing of the petition till the date of actual realization.



11. With the aforesaid modification in the impugned award, FAO No.5755 of 2009 stands disposed off.

12. A photocopy of this order be placed on the file of other connected case.

13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

**(PANKAJ JAIN)
JUDGE**

27.02.2025

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Whether speaking/reasoned : Yes

Whether Reportable : No