



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

(i) FAO-1627-2015 (O&M)

The Oriental Insurance Company Ltd.

...Appellant

VERSUS

Master Abhishek and others

...Respondents

(ii) FAO-1709-2015 (O&M)

Master Abhishek and others

...Appellants

VERSUS

Parveen Kumar and others

...Respondents

Date of Decision: February 15, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ram Avtar, Advocate
for the appellant (in FAO-1627-2015) and
for respondent No.3 (in FAO-1709-2015).

Mr.Digvijay, Advocate for
Mr.Ashish Gupta Advocate
for respondents No.1 to 4 (in FAO-1627-2015) and
for the appellants (in FAO-1709-2015).

Mr.Jai Bhagwan Sharma, Advocate
for respondents No.5 and 6 (in FAO-1627-2015) and
for respondents No.1 and 2 (in FAO-1709-2015).

ARCHANA PURI, J.

These are two cross appeals, filed at the instance of insurance

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company as well as the claimants, thereby, assailing the Award dated 15.09.2014, passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted by learned Tribunal, on account of death of Surjeet Singh, in a motor vehicular accident, which took place on 07.12.2012.

FAO-1627-2015 has been filed by the insurance company, thereby, seeking reduction of the compensation and also sought deduction of the amount, received by the claimants, in pursuance of death of Surjeet Singh, on the basis of **Haryana Compassionate to the Dependents of Deceased Government Employees Rules, 2006**.

FAO-1709-2015 has been filed by the claimants, thereby, seeking enhancement of the compensation.

For the convenience of discussion, the parties are referred to as making appearance before learned Tribunal.

There is no dispute with regard to the factum and manner of taking place of the accident. Also, from the evidence, brought on record, it stands established that deceased Surjeet Singh was employed as Peon at District Court, Karnal. From the record, brought by witness PW-2 Manoj Kumar, Bill Clerk, the date of birth of Surjeet Singh was established to be 28.01.1973 and as such, he was 39 years old, at the time of accident.

Considering the earnings of the deceased as Rs.18,000/- per month and making addition to the extent of 50%, on the count of 'future prospects', the monthly earnings were taken as Rs.27,000/-, the annual whereof, was worked upon as Rs.3,24,000/-. After making deduction to the extent of 1/4th on the count of 'personal expenses, the residue was worked

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as Rs.2,43,000/-. Applying the multiplier of '15', the loss of dependency was taken as Rs.36,45,000/-. Besides the same, Rs.1,00,000/- was awarded, on the count of 'loss of consortium' and another amount of Rs.1,00,000/- was granted towards 'loss of love and affection'. Besides the aforesaid, an amount of Rs.25,000/- was granted towards 'funeral expenses'. Thus, in total, the compensation worked upon was Rs.38,70,000/-.

Feeling aggrieved, both the insurance company as well as the claimants have filed the rival appeals.

However, the 'work on' of the compensation, do call for re-computation.

The salary certificate of deceased Surjeet Singh is Ex.P1, which reveals that his monthly salary was Rs.17,802/-, besides the education allowance of Rs.1000/-. As such, his salary was Rs.18,802/-, which is rounded off as Rs.18,800/-. However, learned Tribunal had worked upon the compensation, while taking the salary as Rs.18,000/-. No reason, is assigned for reduction of the earnings. In the given circumstances, for the purpose of 'work on' of loss of dependency, the monthly earnings of deceased Surjeet Singh are taken as Rs.18,800/-, the annual whereof, comes to be Rs.2,25,600/-.

However, learned Tribunal has not worked upon the income tax liability. As per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, for the purposes of assessment of the compensation, actual salary ought to be taken minus tax component. As per the tax slab, prevalent in the year 2012-2013, the income upto Rs.2,00,000/- was exempted from tax. However, from the income bracket of Rs.2,00,000-

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5,00,000/-, income tax payable was 10%. After deduction of Rs.2,00,000/-, the residue taxable amount works out to be Rs.25,600/- and therefore, working upon the tax on this amount @ 10%, it comes to be Rs.2560/-. Thus, the tax payable, comes to be **Rs.2560/-**. After making deduction of the aforesaid extent of income tax amount, the residue annual income, comes to be Rs.2,25,600-2560=**Rs.2,23,040/-**.

As per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, considering the number of dependents, deduction to the extent of 1/4th, on the count of 'personal expenses', ought to be made, as done by learned Tribunal and as such, the loss of dependency comes to be Rs.2,23,040-55,760=Rs.1,67,280/-. Considering the age of the deceased, as per *Pranay Sethi's case (supra)*, addition of 50% ought to be made, on the count of 'future prospects' and thus, the income of the deceased is worked upon as Rs.1,67,280+83,640=Rs.2,50,920/-.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate and suitable multiplier, to be applied is '15', as applied by learned Tribunal and thus, by applying the same, the loss of dependency, works out to be Rs.250920x15=**Rs.37,63,800/-**.

However, learned Tribunal had granted an amount of Rs.1,00,000/-, on the counts of 'loss of consortium' and Rs.25,000/- on account of funeral expenses, but this is on higher side. As per *Pranay Sethi's case (supra)*, the amount on the count of 'loss of consortium' has been fixed as Rs.40,000/-, with clause of enhancement to the extent of 10%, after period of every three years of pronouncement of the judgment and thus, the compensation, at present, works out to be Rs.48,400/-. As per *Magma*



General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130, all the appellants-claimants/dependents are entitled to 'spousal' 'parental' and 'filial', as required. Thus, on the count of 'loss of consortium', the appellants-claimants are entitled to Rs.48,400x4=Rs.1,93,600/-. As per ***Pranay Sethi's case (supra)***, working on the same parameters, even, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Also, it is pertinent to mention that learned Tribunal had granted Rs.1,00,000/-, on the count of '**loss of love and affection**'. However, in ***Magma's case (supra)***, it is laid down that '**loss of love and affection is comprehended in loss of consortium**' and in this context, it was observed that there is no justification to award compensation towards '**loss of love and affection**', as a separate head, which view was further endorsed in '***United India Insurance Company Limited vs. Satinder Kaur Alias Satwinder Kaur and Others, (2021) 11 SCC 780***'.

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

Loss of dependency	:	Rs.37,63,800/-
Loss of consortium	:	Rs.1,93,600/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.39,93,700/-

However, deceased Surjeet Singh is established to be a government employee and died in harness. Therefore, the claimants are



entitled to compensation under the policy of **Haryana Compassionate to the Dependents of Deceased Government Employees Rules, 2006**. In this regard, suffice to consider Ex.R1, letter No.12422 dated 11.04.2013, issued by Registrar General, Punjab and Haryana High Court, Chandigarh, wherein, directions were issued that Smt.Kamlesh, wife of deceased employee (Surjeet Singh) was directed to receive financial assistance, a sum of equal to pay and other allowances, that were last drawn by her husband for a period of twelve years or till the date the employee would have retired, on attaining the age of superannuation, whichever is less, if the employee at the time of his death, had attained the age of thirty five years but had not attained the age of forty-eight years, in accordance with Rule 5(1)(b) of Haryana Compassionate Assistance to the dependents of deceased Government Employees Rules,2006.

Considering the same, the amount, is ought to be received by the claimants. Even, PW-1 Kamlesh, while facing cross-examination has admitted about receiving the amount. PW-2 Manoj Kumar, Bill Clerk, Office of Civil Judge, Senior Division, also stated that the widow of deceased is getting an amount of Rs.17,276/-, towards monthly financial assistance, from the office of Civil Judge, Senior Division, Karnal.

Learned Tribunal had not made deduction of the aforesaid amount.

It has been assiduously submitted by learned counsel for the insurance company that the amount received under the aforesaid Rules, ought to be deducted, from the compensation, so worked upon.

Though, much resistance is shown to the same by learned counsel for



the claimants, but however, in this regard, suffice to making reference to *CA No.9654 of 2016*, titled as *Reliance General Insurance Co. Ltd. vs. Shashi Sharma and others*, decided on **23.09.2016**, wherein, it was held that the amount so received under the aforesaid Rules, ought to be deducted. Though, there is some variation coming forth, in the evidence, with regard to the extent of amount received under the aforesaid Rules, but however, fact remains that the claimants are receiving the amount. Anyhow, it is not evident, as to how much amount has been received till date of the impugned Award.

In the light of the same, before disbursement of the compensation worked upon aforesaid, learned Tribunal shall verify about the fact of extent of amount received by the claimants, being beneficiaries under the policy of **Haryana Compassionate to the Dependents of Deceased Government Employees Rules, 2006**, by way of taking of an affidavit of all the claimants 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.

The claimants shall be entitled to the interest, at the rate of 6% per annum, on the total compensation, as now worked upon, from the date of filing of the claim petition, till realization of the enhanced amount of compensation. However, learned Tribunal, as ordered aforesaid, shall work upon the amount so received by the claimants under the requisite Rules and deduct the same with proportionate interest and disburse the residue to the claimants, as ordered vide impugned Award. However, liberty is also

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granted to the concerned department, to recover the amount, if paid in excess.

Accordingly, the impugned Award dated 15.09.2014 stands modified, to the extent, as indicated aforesaid.

In the light of the aforesaid observations, **FAO-1627-2015**, filed by appellant-insurance company stands partly allowed, whereas, **FAO-1709-2015**, filed by the appellants-claimants, stands allowed.

February 15, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No