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FAO-720-1994 & FAO-721-1994

[112] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

[1] FAO-720-1994 & XOBJC-10-1995
Date of Decision : 08.04.2025

National Insurance Company
Limited, Hissar, Haryana ...Appellant

versus

Sahib Singh and othersRespondents

[2] FAO-721-1994 & XOBJC-11-1995

National Insurance Company
Limited, Hissar, Haryana ...Appellant

versus

Jaspal Kaur and othersRespondents

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Shrenik Jain, Advocate for the appellant.

Mr. Sahibjeet S. Sandhu, Advocate Mr. Deepak Bishnoi,
Advocate Mr. S.S. Swaich, Advocate for respondent No.1-cross
objectors.

Mr. Amandeep Joshi, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

[1] These two appeals are at the behest of Insurance Company. In
both the appeals, there are cross-objections filed by the claimants.

[2] The two appeals arise out of two different claim petitions
related to the same Motor Vehicular Accident dated 20.08.1991.

[3] The two issues involved in the appeals are:-

(i) The Insurance Company i.e. the appellant claims that the
Driver was possessing heavy motor vehicle license but

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was driving a heavy passenger vehicle and was thus not possessing valid driving license, thus, the insurer ought not have been held liable;

(ii) The claimants seek enhancement of compensation.

[4] The issue regarding a driver possessing heavy motor vehicle license but driving a heavy passenger vehicle came up for consideration before Co-ordinate Bench in FAO No.1827 of 1994. The appeal was dismissed by this Court, observing as under:-

“ The driver, who had a heavy motor vehicle licence, was driving a heavy passenger vehicle. It is merely set out as a separate category. There are no different skills necessary nor is there any particular requirement under terms of policy which will exclude the liability for the insurer. The liability cast on the insurer was, under the circumstances, perfectly justified. Both the appeals are consequently dismissed.”

Apart therefrom, after amendment made in Section 10 of 1988 Act vide Act 54 of 1994, difference between license *qua* heavy passenger vehicle and that required for heavy transport vehicle has ceased to exist.

[5] In view of aforesaid settled proposition of law, this Court does not find any merit in the plea raised by Insurer-appellant. The same is thus rejected. Issue carved out *ibid* is thus answered against the appellant-Insurance Company. The appeals are ordered to be *dismissed*.

[6] XOBJC No.10-1995 in FAO-720-1994 is by Sahib Singh, the injured claimant, who filed MACT case No.118-T of 17.08.1992/17.01.1992. Sahib Singh, who was 25 years of age and was employed in a pharmaceutical factory received multiple injuries and was

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rendered permanently disabled. PW-3/Dr. Ram Kumar, Senior Medical Officer (SMO), Civil Hospital, Dera Bassi, opined that claimant shall continue to limp throughout his life having fractured *acetabulum* and *pelvic bone* and dislocated his right hip joint. He remained admitted in a hospital for almost a week. Thereafter, he got treatment from K.D. Hospital, Ambala Cantt. and remained hospitalized for about 15 days and claims to have spent Rs.25,000/-. However, no medical bill was submitted before the Tribunal and Tribunal awarded him an amount of Rs.50,000/-.

[7] Even though, the claimant has not been able to produce any medical bill, having suffered multiple fractures in the fore arms, *pelvic bone* and hip joint dislocation, this Court takes judicial notice of the fact that the cross-objector/claimant spent Rs.20,000/- on medical expenses. Resultantly, he is awarded an amount of Rs.20,000/- on account of medical expenses.

[8] Though, he claimed that he was employed at monthly salary of Rs.1200/- but claimant could not lead any evidence regarding the same. He claims to be working as a Machine Operator with Magus Pharmaceutical Private Limited, Dera Bassi. After the accident, he has been rendered incapacitated from moving. As per Doctors, the injury is permanent. For a person engaged in manual labour and that too as a Machine Operator, hip joint dislocation leads to total loss of income. Resultantly, his functional disability is taken to be 100% in view of ratio of law laid down by 04 Judges Bench of Supreme Court in '**Partap Narain Singh Deo versus Srinivas Sabata and another**' reported as **AIR 1976 Supreme Court 222**. In the absence of any evidence *qua* his salary, the same is taken as Rs.1,000/- per month. 40% future prospects are added keeping in view his age and the ratio

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of law laid down by Supreme Court in the case of '**National Insurance Company Limited versus Pranay Sethi and others**' reported as **2017 (4) RCR (Civil) 1009**. Thus, the loss of income is assessed by applying multiplier of '18'. Keeping in view the ratio of law laid down by Supreme Court in the cases of '**Sarla Verma and others versus Delhi Transport Corporation and another**' reported as **2009(3) RCR (Civil) 77** and '**Pranay Sethi's case (supra)**', the claimant is held entitled for the compensation as tabulated hereunder:-

Particulars	Amount assessed by the High Court
Monthly Income	Rs.1500/- (Rs.1200/- + Rs.300/- over time)
Annual loss of earning due to disability (40% of Rs.1500 x 12 x 18)	Rs.1,29,600/-
Loss of income during laid up period (Rs.1500 x 12)	Rs.18,000/-
Incidental Medical Expenses	Rs.35,000/-
Interest	8%
Conveyance and attendant charges	Rs.30,000/-
Extra nourishment	Rs.15,000/-
Compensation for pain and suffering	Rs.1,00,000/-
Loss for loss of amenities and enjoyment of life	Rs.2,00,000/-
Compensation for future medicinal expenses and treatment	Rs.2,00,000/-
Marriage prospects	Rs.50,000/-
Litigation expenses	Rs.50,000/-
Total	Rs.8,27,600/- with 8% interest

[9] XOBJC No.11-1995 in FAO-721-1994 is at the behest of the claimants, seeking compensation on account of death of Gurjit Singh. As per record, he was 27 years of age at the time of death and was having 6-7 killas of land. The revenue record with respect to land holding has come on record in the form of *jamabandi* (Exhibit P-5). As per which, deceased was

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an Agriculturist and owned 6 killas of land. Tribunal assessed his income at Rs.2,000/- per month. Keeping in view his land holding, this Court finds that the income of the deceased-Gurjit Singh needs to be assessed keeping in view minimum wages notified by the State of Haryana under the Minimum Wages Act and his holding of 5 killas of land. He has to be assessed in a capacity of more than a skilled labour.

[10] Gurjit Singh is survived by a widow and two minor sons, who are the claimants. Thus, deduction of 1/4th needs to be applied. Future prospects of 40% need to be added. Keeping in view his age, multiplier of '17' would be applicable. Under Conventional Heads of loss of estate and funeral expenses, Rs.18,000/- is awarded under each Head. All the three claimants are also held entitled for consortium of Rs.48,400/- each. The compensation awarded is accordingly *modified*. Claimants are also held entitled for an interest @ 6% per annum from the date of filing of the application till the date of actual realization.

[11] Needless to say, anything already paid to both the sets of the claimants shall be set off.

[12] Appeals stand **disposed off**.

[13] All pending miscellaneous application(s), if any, also stands *disposed off*.

[14] Photocopy of this order be placed on the file of connected case.

(PANKAJ JAIN)
JUDGE

08.04.2025

'R. Sharma'

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