

2026:PHHC:091122



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

FAO-2190-2003 (O&M)  
XOBJC-2-CII-2015 (O&M)  
Reserved on : 06.07.2026  
Pronounced on : 09.07.2026

THE ORIENTAL INSURANCE COMPANY LTD

...Appellant

Versus

SHYAM LATA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Krishan Kant, Advocate  
for the appellant.

**PARMOD GOYAL, J. (ORAL)**

**FAO-2190-2003**

Present appeal has been preferred by appellant-insurance company being aggrieved by award dated 09.04.2003 vide which appellant-insurance company was held liable to pay compensation of Rs.4,68,600/- to the claimants and then recover the same along with interest from respondent-driver and owner of offending vehicle.

2. Appellant was given liberty to recover the compensation amount from respondent No.2-Singara Singh who was liable to pay compensation being owner and driver of offending vehicle at the time of accident bearing No.HR-06-A-7656. Learned counsel for appellant has argued that since truck (a goods vehicle) was being used for taking passengers who formed a marriage party from Panipat to Village Mandwal, therefore, insurance company is not liable to pay any compensation to the claimants. Learned

Tribunal had accepted the plea of appellant and has found that offending vehicle was being used to carry passengers in violation of terms of insurance policy. Reliance upon evidence of PW1 and PW2 which has gone unrebutted was placed by learned Tribunal to arrive at above noted finding. Issue No.3 was decided against respondent No.2 and in favour of appellant, however, though insurance company was found not liable to indemnify owner and driver of offending vehicle it was directed to pay compensation and recover the same from respondent No.2.

3. On consideration, I do not find any error in the discretion exercised by learned Tribunal while directing appellant-insurance company to pay the compensation. Motor Vehicles Act, 1988 is a beneficial legislation and needs to be interpreted and implemented to achieve objectives so stated by legislature. Vehicles are required to be compulsorily insured with the insurance company. The mandate to get the vehicles insured before they are plied on the road in fact gives rise to legitimate expectation in the mind of third party that if something happens by use of motor vehicle, their interest would be looked after by insurer of the vehicle. The pay and recover policy has found due legitimacy by way of number of judgments of Hon'ble Supreme Court, therefore, no error can be found with approach of learned Tribunal. I find support from the judgment of Hon'ble Supreme Court in **Akula Narayana Vs. The Oriental Insurance Company Ltd. & Anr**, 2025 AIR Supreme Court 5510. In view of facts and circumstances in the present case, direction to pay and recover cannot be stated to be erroneous and accordingly, no interference in the present case is warranted. Appeal is without any merit, hence is dismissed.

**XOBJC-2-CII-2015**

4. Present cross-objection has been preferred by the claimants (in appeal bearing FAO No.2190 of 2003 filed by respondent-insurance company) against the award dated 09.04.2003 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as ‘Tribunal’), vide which the claimants were found entitled to total compensation of Rs.4,68,600/-, on account of motor vehicular accident dated 27.05.1998 caused due to rash and negligent driving of respondent No.1 while driving truck bearing No.HR-06-A-7656. The claimants are seeking enhancement of compensation awarded by learned Tribunal as the same is not in accordance with their entitlement.

5. The Tribunal in the present case had awarded the following compensation :

|                            |                      |
|----------------------------|----------------------|
| Income                     | Rs.2,800/- per month |
| Deduction                  | 1/4 <sup>th</sup>    |
| Multiplier                 | 18                   |
| Loss of dependency         | Rs.4,53,600/-        |
| Funeral Expenses           | Rs.5,000/-           |
| Loss of spousal consortium | Rs.10,000/-          |
| Total compensation awarded | Rs.4,68,600/-        |

6. Claimants had claimed that deceased was earning about Rs.5,000-Rs.6,000/- per month by doing sanitary work. It was further claimed that the claimants were depended on the earnings of the deceased. However, PW-1 Sat Narain, father of deceased except for making oral assertions that deceased was earning Rs.5,000-Rs.6,000/- per month by doing sanitary work had not brought any documentary evidence to show income of deceased. In absence of any evidence supporting oral claim that deceased was earning about Rs.5,000-Rs.6,000/- per month by doing sanitary work, learned Tribunal has rightly taken income of the deceased as

Rs.2,800/- per month. Accordingly, income of deceased is taken as Rs.2,800/- per month as was held by learned Tribunal.

7. Learned Counsel for the claimants has asserted that no addition has been made towards future prospects which ought to be added to the extent of 40% in terms of judgment of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.**, 2017 (16) SCC 680 and deduction of 1/4<sup>th</sup> is required to be made towards personal expenses of deceased as deceased is survived by wife, two minor children and parents. Appropriate amount of compensation needs to be granted under the head funeral expenses, loss of estate and loss of spousal, parental and filial consortium in accordance with law laid down by Hon'ble Supreme Court.

8. Learned Tribunal has taken the income of the deceased as Rs.2,800/- per month. In the present case, deceased was aged about 27 years old at the time of accident and accordingly multiplier of '17' would be applicable while determining loss of dependency. Similarly, keeping in view age of the deceased, 40% towards future prospects ought to be added to the income of the deceased in view of judgment of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi & Ors. (supra)**. Since the deceased is survived by five dependents i.e wife, two minor children and parents, 1/4<sup>th</sup> deductions towards personal expenses needs to be made. Accordingly, claimant No.1 shall also be entitled to compensation for loss of spousal consortium @ Rs.40,000/-, claimants No.2 and 3 shall be entitled to compensation for loss of parental consortium @ Rs.40,000/- each and claimants No.4 & 5 shall be entitled to compensation @ Rs.40,000/- towards loss of filial consortium, Rs.15,000/- towards funeral expenses and

Rs.15,000/- towards loss of estate is also payable to claimants. It is however made clear that in case Hon’ble Supreme Court answer the reference regarding quantum of compensation under conventional head made in **Hasina Yasmin & Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of appellants, appellants shall be free to seek said amount by moving appropriate application in this regard.

9. Accordingly, reworked compensation is as under :-

|                                                   |                                                                             |                      |
|---------------------------------------------------|-----------------------------------------------------------------------------|----------------------|
| Income                                            | Rs.2,800/- per month                                                        | Rs.2,800/- per month |
| Future Prospects                                  | 40%<br>(2800+1120)                                                          | Rs.3,920/-           |
| Deduction                                         | 1/4 <sup>th</sup><br>(3920-980)                                             | Rs.2,940/-           |
| Multiplier                                        | 17                                                                          | 17                   |
| Total loss of dependency                          | Rs.2,940 x12 x 17                                                           | Rs.5,99,760/-        |
| Loss of Estate                                    |                                                                             | Rs.15,000/-          |
| Funeral Expenses                                  |                                                                             | Rs.15,000/-          |
| Loss of spousal consortium to claimant No. 1      |                                                                             | Rs.40,000/-          |
| Loss of parental consortium to claimant nos.2 & 3 | Rs.40,000/- x 2                                                             | Rs. 80,000/-         |
| Loss of filial consortium to claimants no. 4&5    | Rs.40,000/-x2                                                               | Rs.80,000/-          |
| Total Compensation awarded in appeal              |                                                                             | Rs.8,29,760/-        |
| Total Compensation awarded by the Tribunal        | Rs. 4,68,600/-                                                              |                      |
| Enhanced amount of compensation                   | Rs.8,29,760/- (awarded in appeal) – Rs.4,68,600/- (awarded by the Tribunal) | Rs.3,61,160/-        |

10. Claimants shall be entitled to enhanced compensation except for conventional heads i.e. loss of consortium, funeral expenses and loss of estate along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Interest on enhanced compensation under conventional heads shall be payable from August 2017 onwards till its realization. Apportionment and liability to pay compensation shall be as per award.

11. Pending application(s), if any, is/are disposed of accordingly.

09.07.2026  
chiranjeev

(PARMOD GOYAL)  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether Speaking/Reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |