IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

257 **FAO-1757-2019 (O&M)**
Date of Decision : 03.04.2025

POOJA MEHRA (MINOR) AND ORS .... Appellants

VERSUS

RAJINDER SINGH AND ORS .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Madhu Bala, Advocate for
Mr. Janak Singh Bhinder, Advocate for the appellants.

Service of respondents No.1 and 2 dispensed with vide order dated 03.09.2019.

Mr. Punit Jain, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-5294-CII-2019

1. This is an application for condonation of delay of 138 days in filing the main appeal.

2. For the reasons stated in the application, the same is allowed and delay of 138 days in filing the main appeal is condoned. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

FAO-1757-2019

3. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 20.04.2018.

4. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹6,000
2	Annual income	[₹6,000 x 12] = ₹72,000
3	Deduction 1/4th	[₹72,000 - ₹18,000] = ₹54,000
4	Future prospects @ 40%	[₹54,000 + ₹21,600] = ₹75,600
5	Multiplier of ‘17’	[₹75,600 x 17] = ₹12,85,200
6	Funeral expenses	₹15,000
7	Loss of estate	₹15,000
8	Loss of consortium	₹40,000
	Total Compensation	**₹13,55,200**
	Interest	**@6% per annum**

6. Learned counsel appearing on behalf of the claimant-appellants would contend that the claimant-appellants do not lay any challenge to the deduction of 1/4th as made, multiplier of ‘17’ as applied and future prospects @ 40% as added by the Tribunal. Learned counsel, however, states that the income of the deceased, who was a homemaker, was assessed as ₹6,000 per month whereas the same ought to have been done on the basis of the minimum wages applicable to a skilled worker at the prevalent time i.e. ₹9,135 per month and has relied upon the judgment of the Hon’ble Supreme Court in the case of **Kirti & Anr. Vs. Oriental Insurance Company Ltd. [2021 (1) RCR (Civil) 478]**. It is further the contention that the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are also not in accordance with the law laid down by the

Hon'ble Supreme Court. In support of her contentions the learned counsel for the claimant-appellants has relied upon the judgments of the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

7. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount had already been awarded as compensation in the present case and that there is no scope of any enhancement.

8. Heard.

9. Since there is no challenge to the deduction of $1/4^{th}$ as made, multiplier of '17' as applied and future prospects @ 40% as added by the Tribunal, the same are maintained. The argument of the learned counsel for the claimant-appellants that the minimum wages as applicable to a skilled worker ought to have been applied while assessing the income of the deceased deserves to be accepted. The Hon'ble Supreme Court in the case of **Kirti** (supra) while assessing the notional income of a homemaker as per the minimum wages applicable to a skilled worker, has held as under :

> *"42. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the*

purposes of grant of compensation which can be summarized as follows:

a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.

b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.

c. Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.

d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

> e. *The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation."*

The deceased was a homemaker in the present case and as per the law laid down by the Hon'ble Supreme Court in **Kirti's** case (supra), her income ought to have been assessed as that of a skilled worker. Accordingly, the income of the deceased is assessed as ₹9,135 per month.

10. Further, the amounts awarded under the conventional heads and under the head 'loss of consortium' are not 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). Hence, the claimant-appellants would be entitled to ₹18,000 (₹15,000 + 20% increase) each towards loss of estate and towards funeral expenses. The claimant-appellants, being children and husband of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium.

11. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly income	₹9,135
2	Annual income	[₹9,135 x 12] = ₹1,09,620
3	Deduction 1/4th	[₹1,09,620 - ₹27,405] = ₹82,215
4.	Future prospects @ 40%	[₹82,215 + ₹32,886] = ₹1,15,101
5	Multiplier '17'	[₹1,15,101 x 17] = ₹19,56,717
6	Loss of estate	₹18,000
7	Funeral expenses	₹18,000
8	Loss of Consortium : (i) Parental (ii) Spousal's	 ₹2,40,000 [₹48,000 x 5] ₹48,000 [Total ₹2,88,000]
	Total Compensation	**₹22,80,717**

12. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimant-appellants as directed by the Tribunal. However, it is once again made clear that the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

13. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361], Civil Appeal No.4299 of 2025 arising out of SLP (C) No.4484 of 2020 decided on 18.03.2025]**, after calculation of the enhanced amount, the same be transferred by respondent No.3-Insurance Company in the bank account(s) of the claimant-appellants within a period of six weeks from today. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimant-appellants to respondent No.3-Insurance company within a period of two weeks from today and needful shall be done by respondent No.3-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

14. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

03.04.2025 **(ALKA SARIN)**
Aman Jain **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No