

2025:PHHC:178911



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

FAO-3207-2019**Reserved on: 15.12.2025****Pronounced on: 24.12.2025****Uploaded on: 24.12.2025****ANITA DEVI AND ANOTHER****.....Appellants****Vs.****LAL CHAND @ LALLI AND OTHERS****.....Respondents****CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA***

Present: Mr. Manglesh Kumar, Advocate for
Mr. Shakti Mehta, Advocate for the appellants.

Mr. Maninder Arora, Advocate with
Mr. Harmeet Singh, Advocate for respondent No. 3.

HARKESH MANUJA, J.

1. By way of present appeal, challenge has been laid to an award dated 13.02.2019 passed by the learned Motor Accident Claims Tribunal, Chandigarh (for brevity, "the Tribunal"), whereby an amount of Rs. 7,89,000/- was awarded as compensation to the appellants/claimants along with interest @ 7.5% per annum from the date of institution of claim petition till its realization on account of death of Ashish Kumar in a motor vehicular accident, occurred on 25.03.2017.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, as such, detailed narration of the facts of the case is not reproduced for the sake of brevity.

ARGUMENTS**ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS**

3. The learned counsel for the appellants assailed the award by submitting that the learned Tribunal misdirected itself while assessing the income of the deceased by arbitrarily fixing it at Rs. 5,000/- per month, despite uncontroverted statements of the appellants/claimants stating that the deceased was engaged in the repair of scooters and motorcycles and earning Rs. 15,000/- per month. He further submitted that the learned Tribunal erred in not awarding any amount under the head of filial consortium, though as per the settled law laid down by the Hon'ble Supreme Court, the appellants were entitled to compensation of Rs. 40,000/- under the said head. Furthermore, it was submitted that the rate of interest awarded by the learned Tribunal @ 7.5% per annum was on the lower side, therefore, he prayed for enhancement of compensation as per latest decisions on the subject.

**ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT
No.3/INSURANCE COMPANY.**

4. Per contra, learned counsel representing No.2/ Insurance Company submitted that there was no basis to assess the income of the deceased as Rs. 15,000/- per month as no documentary evidence were available before the learned Tribunal in support. He thus submitted that the learned Tribunal, therefore, rightly assessed the income of deceased. Learned counsel further submitted that in the facts and circumstances of the case, the appellants/claimants were rightly compensated and, thus the present appeal was liable to be dismissed.

DISCUSSION

5. I have heard learned counsels for the parties and perused the paper-book of the case. I find force in the arguments advanced by learned Counsel for the appellants.

QUESTION OF INCOME ASSESSED

6. In the present case, in view of the statement of Anita Devi (son of deceased) who appeared as PW-1, it was deposed that the deceased was earning Rs. 15,000 per month by working as a motor mechanic, however, no documentary evidence to support the same was placed before the Tribunal in this regard thus, the learned Tribunal assessed the income of deceased @ Rs. 5,000/- per month. In this situation observations made by the Hon'ble Apex Court in **"Kubra Bibi vs. Oriental Insurance Co. Ltd."**, reported as **2023 (3) Apex Court Judgments (SC) 23**, to the effect that in the absence of definite proof of income, the social status of the deceased was to be kept in perspective where such persons were employed in an unorganized sector and the notional income was required to be taken into consideration to help the cause of the appellant. Relevant para from this judgment is reproduced hereunder:-

"7. In a matter of the present nature where the compensation is sought and even in absence of definite proof of the income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and the notional income in any event is required to be taken into consideration. The fact that the deceased had three dependents to be cared for and had claimed that he was working as a mechanic, the amount payable to an unskilled labour, cannot be the basis and in that circumstance when he was a skilled person, the daily income at Rs. 200 per day in any event could have been taken even if the income from jeep transport business was discarded for want of documents. More so in a circumstance, where the MACT had referred to the evidence available on record and then arrived at its conclusion, the re-appreciation of the evidence by the High Court is without being sensitive to nature of lis before it."

6.1 Furthermore, the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in strict sense is not required. The Hon'ble Supreme Court in case of "Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors.", reported as (2022) 1 SCC 198, held that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

".....In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month....."

6.2 Considering the facts of the present case, wherein Anita Devi (mother of deceased), while deposing as PW-1, stated that her son was working as a mechanic since the age of 15 years and earning Rs. 15,000/- per month, it is evident that the deceased was engaged in skilled work and not an unskilled avocation. Though no documentary evidence was produced to substantiate the exact income, the said oral testimony remained unshaken and unrebutted. In view of the law laid down by the Hon'ble Supreme Court in Kubra Bibi (supra) and Chandra @ Chanda @ Chandraram (supra), the learned Tribunal was not

justified in mechanically assessing the income of deceased @ Rs. 5,000/- per month by adopting the lowest notional income. The social status, nature of occupation and long experience of the deceased as a motor mechanic clearly warranted a higher notional income based on reasonable guesswork, grounded in reality. Accordingly, the assessment of income made by the learned Tribunal calls for upward revision to render just and fair compensation to the claimants. Thus, in the humble opinion of this Court, the income of deceased is assessed as Rs. 9,500/- per month while considering him as a skilled labour.

7. The Hon'ble Supreme Court in the case of **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another,"** reported as **2009(3) RCR (Civil) 77**, held that in case the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle and with regard to bachelors, 50% needs to be deducted as personal and living expenses. Relevant para of the judgment is culled out as under:-

"31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In this regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependent and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependent on the father."

“32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be dependent, and 50% would be treated as the personal and living expenses of the bachelor 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

8. Furthermore, in view of the judgment of the Hon’ble Apex Court in Smt. Sarla Verma’s case (supra), “National Insurance Co. Ltd. vs. Pranay Sethi and others” reported as (2017) 16 SCC 680 and “United India Insurance Co.Ltd. vs. Satinder Kaur”, reported as (2021) 11 SCC 780, compensation awarded under conventional heads are also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs. 18,000/- as compensation under funeral head and Rs. 18,000/- towards loss of estate. Loss of consortium is assessed to the tune of Rs. 96,000/- (Rs. 48,000 x 2) as the appellants, being parents of deceased are also entitled for filial consortium.

CONCLUSION

9. In view of the discussion made herein above, the appellants/claimants are held entitled for the grant of compensation in the following manner:-

S.No.	Nature	Amount (in Rs.)
1.	Annual Income of Deceased	Rs. 1,14,000/-
2.	Add 50% Future Prospects	Rs. 57,000/-
3.	Total Income (Rs. 1,14,000 + Rs. 57,000)	Rs. 1,71,000/-

4.	Deduction (1/2 nd)	Rs. 85,500/-
5.	Net Income (Rs. 1,71,000 – Rs. 85,500)	Rs. 85,500/-
6.	Loss of Income after applying multiplier of 18 as per age of 17 years (85,500 x 18)	Rs. 15,39,000/-
7.	Funeral Expenses	Rs. 18,000/-
8.	Loss of Estate	Rs. 18,000/-
9.	Loss of Consortium (48,000 x 2)	Rs. 96,000/-
	Total Compensation	Rs. 16,71,000/-
	Amount Awarded by the Tribunal	Rs. 7,89,000/-
	Enhanced Compensation	Rs. 8,82,000/-

10. In the view of the observations made by the Hon’ble Supreme Court in “Smt. Supe Dei and others vs. National Insurance Company Limited and other, reported as (2009) (4) SCC 513 approved in a subsequent judgment titled as “Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443, the grant of interest @ 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization is justified. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

11. In view of the aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

December 24, 2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/ No

(HARKESH MANUJA)
JUDGE