213 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4010-2001 (O&M)
Date of decision: 27.10.2025

Asha Rani and others
..Appellants

Versus

Mukesh Kumar and others ..Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr.Divyam Suri, Advocate for the appellants

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for respondent No.3

MANDEEP PANNU, J.

CM-21411-CII-2001

1. For the reasons stated in the application, delay of one day in filing and 38 days in re-filing the appeal is hereby condoned.

2. CM stands allowed.

Main appeal

3. This is claimants' appeal against the award dated 09.11.1999 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'Tribunal') with a prayer to modify the amount of compensation. The Tribunal has awarded compensation of ₹3,00,000/- on account of death of Suresh Kumar Chowdhary in a vehicular accident, which took place on 28.06.1998. The claim petition has been filed on behalf of his widow and three minor children. There is no dispute with regard to the correctness of the findings recorded by the Tribunal regarding death of the deceased in

the aforesaid vehicular accident as well as the fact that the deceased died due to rash and negligent driving by Driver of the DCM Toyota bearing registration plate no. PB-11-K-7455. Hence, the only issue is with regard to quantum of compensation.

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

5. The compensation awarded by the Tribunal is tabulated as under:-

Sr. No.	**Heads**	**Compensation awarded**
1.	Monthly Income	3000/-
2.	Deduction for personal & Living expenses	1/3rd i.e 1000/- 3000-1000 = 2000
3.	Annual income 12x2000 = 24000/-	24000/-
4.	Multiplier 12 24000x12 = 2,88,000/-	2,88,000/-
5.	Loss of estate & consortium	12,000/-
	Total	**₹ 3,00,000/-**

6. Learned counsel for the claimants-appellants submits that the Tribunal has erred in assessing income of the deceased, applying deduction on account of personal expenses as well as multiplier. Furthermore, it has also failed to grant future prospects, any amount under Head ‘funeral expenses’ and appropriate amount under Heads ‘loss of consortium’ and ‘loss of estate’. He places reliance upon law laid down by the Hon’ble Supreme Court in **National Insurance Company Ltd. vs. Pranay Sethi & Ors [(2017) 16 SCC 680] and**

Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors [(2018) 18 SCC 130].

7. Per contra, learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount towards compensation has already been awarded by the Tribunal and there is no scope for enhancement.

8. This Court has considered the submissions made by the learned counsel for the parties.

9. Now let us assess the income of the deceased. The Tribunal has assessed his monthly income as ₹3000/-. It has been contended by the claimants that the deceased was an Octroi contractor and a partner in a timber contract valued at about ₹5,00,00,000/-, and that he had 8% share therein. The record, however, shows that the said contract had only recently been awarded and work thereunder had scarcely commenced at the time of the accident. The evidence of the clerk examined as RW1 reveals that the partners had not actually invested any capital in the project and had merely furnished bank guarantees, with a sum of ₹2,00,000/- deposited as security. It, therefore, emerges that the deceased had not started earning any regular or ascertainable income from the said contract and that the projected profit share was purely speculative and contingent upon the successful execution of the contract in future. In such a situation, the income of the deceased cannot be assessed on the basis of his anticipated share in the contract amount, as no tangible proof of profit or income has been produced. Having regard to the fact that he was an

active businessman engaged as a small contractor and possessed managerial skill and experience, his income can fairly be assessed on a notional and reasonable basis. Taking the overall circumstances into account, it would be just and proper to assess his monthly income at ₹8,000/- per month (₹96,000/- per annum), inclusive of his likely earnings from business and contract work.

10. While relying upon observations of Hon'ble Supreme Court in **Pranay Sethi's case (supra)**, the claimants are held entitled to future prospects at the rate of 25% considering the fact that deceased was 42 years old at the time of accident**.** They are also held entitled to ₹18,000/- each towards loss of estate and funeral expenses as well as ₹48,000/- each towards loss of consortium.

11. In view of **Sarla Verma vs. Delhi Transport Corporation and Another (2009) 6 SCC 121**, deceased being 42 years old, appropriate multiplier is assessed as 14 instead of 12 as applied by the Tribunal. Moreover, deceased is survived by his widow and three minor children, therefore, deduction towards personal expenses at rate of 1/3rd is on higher side and the same is reduced to 1/4th by this Court.

12. Accordingly, the compensation is re-assessed as under :

Sr.No	**Heads**	**Compensation awarded**
1.	Monthly Income	8000/-
2.	Future prospects @ 25% 8000x25% = 2000	8000+2000= 10,000/-
3	Deduction on account of personal expenses i.e 1/4th i.e 10000/4 = 2500	7500/- [10000-2500=7500]
4.	Annual income 12x7500 = 90,000/-	90,000/-

6.	Multiplier @ 14 14x 90,000 = 12,60,000/-	12,60,000/-
7.	Loss of estate	18,000/-
8.	Funeral expenses	18,000/-
9.	Loss of consortium @ ₹48,000/- each 48000x4 =1,92,000/-	1,92,000/-
	Total Compensation	**₹ 14,88,000/-**

13. The claimants-appellants shall be entitled to difference in amount of compensation alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realization. Rest of the award needs no modification.

14. Accordingly, the appeal stands partly allowed.

15. All the pending miscellaneous applications, if any, are also disposed of.

(MANDEEP PANNU)
JUDGE

27.10.2025
rekha

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