2025:PHHC:167433

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(202/1)

FAO-2706-2004(O&M)
Date of Decision:-29.11.2025

Sheobai and Others

……Appellants

Versus

Gopi Chand and Others

……Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

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Present: Mr. Mayank Gupta, Advocate,
for the appellants.

Mr. Paul S. Saini, Advocate,
for respondent No.2.

Ms. Madhu Sharma, Advocate,
for respondent No.5.

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AMARINDER SINGH GREWAL, J. (Oral)

1. The present appeal has been preferred by the appellants-claimants against the impugned award dated 05.02.2004, passed by learned Motor Accident Claims Tribunal, Gurgaon (hereinafter "*the Tribunal*"), whereby the Tribunal had granted a compensation of ₹3,25,000/- alongwith interest @ 9% per annum.

2. Brief facts of the case are that the deceased Kailash, aged 38 years, met with a fatal accident due to the rash and negligent driving of the offending vehicle. He was survived by his widow, four minor children, and his mother. The claimants pleaded that the deceased was employed as a Mechanic i.e. indulged in preparation of *lathe* and was earning a sum of ₹2,500/- per month (accepted for computation) and was contributing his entire earnings towards the welfare of his family. The Tribunal assessed

income and dependency on the lower side and awarded inadequate compensation, which has led to the filing of the present appeal.

3. Learned counsel for the appellants submits that the compensation awarded by the Tribunal is wholly inadequate and does not reflect a just, fair, or reasonable assessment of the loss suffered by the dependents. It is submitted that the Tribunal did not correctly apply the principles laid down by the Hon'ble Supreme Court in *National Insurance Company Limited vs. Pranay Sethi and others* (2017) 16 SCC 680 and *United India Insurance Co. Ltd. vs. Satinder Kaur @ Satwinder Kaur and Others*. A detailed calculation chart has also been placed on record to demonstrate the correct computation of compensation.

4. On the contrary, learned counsel for respondent No.2–Insurance Company, opposing the appeal, submit that the award passed by the learned Tribunal does not require any interference by this Court, as the same has been passed by correctly appreciating the evidence led before it.

5. Having considered the rival submissions and upon a meticulous perusal of the record, with the able assistance of learned counsel for the parties, this Court is of the considered view that the impugned award dated 05.02.2004 passed by the learned Tribunal does not fully conform to the settled principles of law governing just and equitable compensation to the appellants-claimants. The findings of the learned Tribunal, therefore, require reconsideration to the extent of assessment of income, deduction towards personal expenses, addition of future prospects, and the award under the conventional heads.

6. It is an admitted position that the income of the deceased was assessed at ₹2,500/- per month, which is found to be reasonable considering

the date of the accident. Hence, this Court proceeds to compute the compensation on the basis of ₹2,500/- per month. The deceased was aged 38 years at the time of the accident. As held by the Hon'ble Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680, where the deceased is below 40 years of age, an addition of 40% towards future prospects is mandatory. Accordingly, an amount of ₹1,000/- (40% of ₹2,500) is added. Thus, the monthly income of the deceased for the purpose of determining dependency stands enhanced to ₹3,500/- (₹2,500 + ₹1,000).

7. With regard to deduction towards personal and living expenses, the Tribunal deducted 1/3rd of the income. However, the record reveals that the deceased was survived by his wife, four children, and his mother, i.e., a total of six dependents. A perusal of the award further shows that Arti (appellant No. 4), one of the dependents of the deceased Kailash, has expired, and therefore the number of surviving dependents is five. As per the law laid down in *Sarla Verma v. DTC*, (2009) 6 SCC 121, where the number of dependents ranges from four to six, the correct deduction towards personal expenses is 1/4th. Therefore, the deduction of 1/3rd made by the Tribunal is erroneous and is liable to be substituted with a deduction of 1/4th.

8. Coming to the multiplier, the Tribunal has applied the multiplier of 16. The age of the deceased was 38 years at the time of the accident. As per the multiplier chart approved by the Hon'ble Supreme Court in *Sarla Verma* (supra) and affirmed in *Pranay Sethi* (supra), the appropriate multiplier for a person aged between 36 and 40 years is 15. Consequently, the Tribunal's application of multiplier 16 is legally

unsustainable and is hereby substituted with the correct multiplier of 15. The loss of dependency is thereby computed at ₹4,72,500/-.

9. Further, the Tribunal failed to award any amount towards loss of consortium, loss of estate, funeral expenses, or filial consortium, which is impermissible. The appellants-claimants are entitled to filial consortium/loss of love and affection at the rate of ₹40,000/- per dependent (₹40,000 × 5), loss of estate at ₹15,000/-, and funeral expenses at ₹15,000/-, along with an enhancement of 10% every three years as mandated in *Pranay Sethi* (supra). Thus, the appellants-claimants shall be entitled to a total compensation of ₹7,48,500/- (₹4,72,500/- + ₹2,40,000/- + ₹18,000/- + ₹18,000/-).

10. The enhanced compensation i.e. over and above the compensation awarded by the learned Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the petition till realization, payable by insurance company to the appellants-claimants in equal ratio.

11. In view of the aforesaid facts and circumstances, the award passed by learned Tribunal is modified and the present appeal is allowed to the above extent. All other terms and conditions of the award, shall remain unaltered.

12. Pending application(s), if any, shall also stand disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

29.11.2025
Shubham

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No