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

**FAO-2531-2021 (O&M)**
**Date of Decision : 24.09.2025**

ASHOK AND ORS .... Appellants

VERSUS

KARTAR SINGH AND ORS .... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Sumit Sharma, Advocate for the appellants.

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

**ALKA SARIN, J. (ORAL)**

**CM-11326-CII-2021**

1. This is an application for condonation of delay of 20 days in filing the appeal.

2. For the reasons stated in the application, the same is allowed and the delay of 20 days in filing the appeal is condoned.

**FAO-2531-2021**

3. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as the 'Tribunal') vide award dated 06.04.2021.

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 | ₹10,000 |
| 2. | Annual income | [₹10,000 x 12] = ₹1,20,000 |
| 3. | Deduction @50% | [₹1,20,000 - ₹60,000] = ₹60,000 |
| 4. | Multiplier of 5 | [₹60,000 x 5] = ₹3,00,000 |
| 5. | Miscellaneous expenses (including transportation, cremation etc.) | ₹70,000 |
| 6. | Loss of consortium | ₹1,20,000 [₹40,000 x 3] |
| | **Total Compensation** | **₹4,90,000** |
| | **Interest** | **@ 7% per annum** |

6. Learned counsel for the claimant-appellants would contend that though the claimant-appellants do not challenge the income as assessed and the multiplier as applied by the Tribunal however, deduction of 50% has wrongly been made by the Tribunal inasmuch as the claimant-appellants in the present case were four including one married daughter. Learned counsel has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Seema Rani & Ors. vs. The Oriental Insurance Company Limited & Ors. [2025 (2) RCR (Civil) 48]** and **National Insurance Company Limited vs. Birender & Ors. [AIR 2020 SC 434]** to contend that a major son and a married daughter are also to be included and treated as legal representatives for the purposes of a claim under the Motor Vehicles Act, 1988 and keeping in view the number of dependents/claimants, a deduction of 1/4$^{th}$ would be applicable in the present case. It is further the contention of the learned counsel 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 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*, learned counsel for respondent No.3-Insurance Company has vehemently contended that the Tribunal has rightly made the deduction @ 50% as the claimant-appellants were the major sons and the married daughter and they cannot be held to be dependent on the deceased. It is further the contention of the learned counsel that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

8. Heard.

9. In the present case since there is no challenge to the income as assessed and the multiplier as applied by the Tribunal, the same are maintained. The argument of the learned counsel for the claimant-appellants qua inclusion of a major son and a married daughter as dependents and the deduction of $1/4^{th}$ deserves to be accepted. The Hon'ble Supreme Court in the case of **Seema Rani** (supra) has held as under :

> "*9. We have heard the learned counsel for the Appellants. We are unable to agree with the view taken by the Tribunal on the dependents of the deceased. This Court in National Insurance Company Limited v. Birender & Ors., (2020) 11*

*SCC 356 had expounded that major married and earning sons of the deceased, being legal representatives, have a right to apply for compensation, and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent on the deceased or not. The Court went on to conclude that since the sons, in that case, were earning merely Rs. 1,50,000/- per annum, they were largely dependent on the earnings of the deceased and were staying with her."*

In view of the law laid down by the Hon'ble Supreme Court in the case of **Seema Rani** (supra), the major son and the married daughter would also be held to be dependents and thus the number of claimants would be four in the present case. As such, a deduction of 1/4$^{th}$ would be applicable.

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

11. Accordingly, the reworked compensation to which the claimant-

appellants are entitled to is as under :

| Sr. No. | Heads | Compensation Awarded |
|---|---|---|
| 1. | Monthly income | ₹10,000 |
| 2. | Annual income | [₹10,000 x 12] = ₹1,20,000 |
| 3. | Deduction 1/4th | [₹1,20,000 - ₹30,000] = ₹90,000 |
| 4. | Multiplier of 5 | [₹90,000 x 5] = ₹4,50,000 |
| 5. | Loss of estate | ₹18,000 |
| 6. | Funeral expenses | ₹18,000 |
| 7. | Loss of consortium:<br>(i) Parental | <br>[₹48,000 x 4] = ₹1,92,000 |
| | **Total Compensation** | **₹6,78,000** |

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.

13. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713]**, 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.

**24.09.2025** **(ALKA SARIN)**
*Aman Jain* **JUDGE**

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