

2025:PHHC:175690



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

FAO-5308-2019 (O&M)
Reserved on: 04.12.2025
Pronounced on: 18.12.2025
Uploaded on:- 18.12.2025

SHRIRAM GENERAL INSURANCE CO. LTD.

....Appellant

Vs.

NIRAMALA DEVI AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Punit Jain, Advocate
for the appellant.

Mr. J.P. Sharma, Advocate
for respondents No. 1 to 3.

HARKESH MANUJA, J.

1. The present appeal has been filed by the Insurance Company against the Award dated 03.04.2019 passed by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as “the Tribunal”), in MACT Petition No. 131 of 2017 dated 27.11.2017 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as “the Act”), whereby the claim petition of the claimants/respondents No. 1 to 3 herein, was allowed and compensation of Rs. 29,47,366/- has been awarded to them. The 3 claimants are the widow and 2 minor children of deceased Braham Parkash.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings as well as oral and documentary evidence adduced before it concluded

that Braham Parkash died due to injuries suffered by him in a motor vehicular accident which took place on 23.08.2017 at about 11:15/11:30 a.m. due to rash and negligent driving of truck bearing registration No. HR-38R-6917 (hereinafter referred to as “the offending vehicle”) by respondent No. 4. The offending vehicle was owned by respondent No. 5 and insured by the appellant. Accordingly, learned Tribunal awarded compensation in the following manner:-

S.No.	Heads of Claim	Amount (in Rs.)
1.	Annual Income of Deceased	Rs. 3,31,704/-
2.	15% Future Prospects	Rs. 49,755/-
3.	Net Income (3,31,704 + 49,755)	Rs. 3,81,459/-
4.	Deduction (1/3 rd)	Rs. 1,27,153/-
5.	Total Income (3,81,459 – 1,27,153)	Rs. 2,54,306/-
6.	Multiplier (11) (2,54,306 x 11)	Rs. 27,97,366/-
7.	Funeral Expenses	Rs. 15,000/-
8.	Loss of Estate	Rs. 15,000/-
9.	Loss of consortium (40,000 x 3)	Rs. 1,20,000/-
10.	Total Compensation	Rs. 29,47,366/-

ARGUMENTS

ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANT

3. Learned counsel for the appellant/Insurance Company assailed the impugned Award by contending that while computing the income of the deceased, the learned Tribunal failed to take into consideration the fact that respondent No. 1/widow of the deceased was receiving family pension after the death of her husband. It was submitted that the amount of pension which the widow was getting, need to be deducted while assessing the loss of dependency to the claimants/respondents No. 1 to 3, thus the Award passed by the learned Tribunal be set aside.

ON BEHALF OF LEARNED COUNSEL FOR THE RESPONDENTS No. 1 TO 3.

4. Learned counsel for the respondents No. 1 to 3/claimants vehemently opposed the contentions advanced on behalf of the appellant/Insurance Company and submitted that the impugned Award does not suffer from any illegality or perversity warranting interference by this Hon'ble Court. It was contended that the family pension being received by respondent No.1–widow of the deceased was a statutory and independent benefit accruing to her on account of the service rendered by the deceased during his lifetime and by any stretch of imagination was not to be treated as a pecuniary advantage flowing from the accident so as to be deducted while computing loss of dependency. Learned counsel further submitted that it was well settled by a catena of judgments of the Hon'ble Supreme Court that amounts received by the dependents by way of family pension, provident fund, gratuity or other retiral benefits were not deductible from the compensation payable under the Motor Vehicles Act, as such benefits were having no co-relation with the wrongful act of the tortfeasor. It was, therefore, argued that the plea raised by the appellant/Insurance Company was misconceived and contrary to settled legal principles, and the learned Tribunal thus rightly ignored the family pension while assessing the loss of dependency. Consequently, it was prayed that the appeal being devoid of merit be dismissed and the impugned Award be affirmed.

DISCUSSION

5. I have heard learned counsel for the parties and perused the paper-book of the case.

6. A perusal of the material available on record and the testimony of PW-4 Vikrant Singh, Clerk, Punjab National Bank and RW-1 Vikram Singh, Deputy

Manager, Punjab National Bank, transpires that the pension of the deceased was

fixed as Rs. 27,642/- per month whereas, his family pension was fixed as Rs. 35,550/-. Even the claimant Nirmala Devi while making her statement confirmed this fact which stands unrebutted during her cross-examination. Thus, the learned Tribunal rightly assessed the pensionary income of the deceased as Rs. 27,642/-.

7. That takes us to the contention of the appellant/Insurance Company that the amount of family pension which respondent No.1, the widow of the deceased is drawing is eligible to be deducted while computing the loss of dependency of the claimants. The Hon'ble Supreme Court in "Helen C. Rebello (Mrs) and Ors. Vs. Maharashtra State Road Transport Corporation & Ors." reported as (1999) 1 SCC 90 has dealt with the issue as to whether the amounts received by the deceased by way of provident fund, pension, life insurance policies or pecuniary advantages received by the heirs on account of death of the deceased are laible to be deducted from the compensation. The Court held that these pecuniary advantages have no co-relation with the compensation receivable by the dependents under Motor Vehicles Act. The relevant observations of the Supreme Court are reproduced as under:-

"Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event, viz., accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co- relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which insured contributes in the form of premium. It is receivable even by the insured, if he lives till maturity after paying all the premiums, in the case of death insurer

indemnifies to pay the sum to the heirs, again in terms of the contracts for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on similar and same plane having nexus inter se between them and not to which, there is no semblance of any co-relation. The insured (deceased) contributes his own money for which he receives the amount has no co-relation to the compensation computed as against tortfeasor for his negligence on account of accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act, he receives without any contribution. As we have said the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."

8. Furthermore, in the case of **"Sebastiani Lakra & Ors. Vs. National Insurance Company Ltd. and anr."** reported as (2019) 17 SCC 465, the Hon'ble Apex Court, after taking note of its earlier precedents on this issue, observed as under:-

"12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to 'just compensation' under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his life time cannot be said to be the outcome or result of the death of the deceased even

though these amounts may go into the hands of the dependents only after his death.

13. As far as any amount paid under any insurance policy is concerned whatever is added to the estate of the deceased or his dependents is not because of the death of the deceased but because of the contract entered into between the deceased and the insurance company from where he took out the policy. The deceased paid premium on such life insurance and this amount would have accrued to the estate of the deceased either on maturity of the policy or on his death, whatever be the manner of his death. These amounts are paid because the deceased has wisely invested his savings. Similar would be the position in case of other investments like bank deposits, share, debentures etc.. The tortfeasor cannot take advantage of the foresight and wise financial investments made by the deceased.

14. As far as the amounts of pension and gratuity are concerned, these are paid on account of the service rendered by the deceased to his employer. It is now an established principle of service jurisprudence that pension and gratuity are the property of the deceased. They are more in the nature of deferred wages. The deceased employee works throughout his life expecting that on his retirement he will get substantial amount as pension and gratuity. These amounts are also payable on death, whatever be the cause of death. Therefore, applying the same principles, the said amount cannot be deducted.”

9. Recently, the Hon’ble Supreme Court in the case of **“Hanumantharaju B (dead) by L.R Vs. M. Akram Pasha & Ors.”**, reported as **AIR 2025 SC 3283**

has reiterated and re-affirmed the aforesaid view. In the said case, the Hon’ble Apex Court has held that while computing the loss of income, it would not be permissible to deduct the pensionary amount and that for the purpose of computing the loss of income, the monthly salary has to be accepted without deducting the pension amount.

10. In the face of aforesaid consistent legal position on the issue, the family pension drawn by the claimant- Nirmala Devi after the death of her deceased husband is not liable to be deducted while computing loss of dependency of the claimants due to the death of the deceased. The contention of the appellant/Insurance Company in this regard is without any merit and deserves to

11. For the foregoing reasons, I do not find any ground to interfere in the award passed by the learned Tribunal. The appeal lacks merit. The same is, accordingly, dismissed. The awarded amount be released in favour of the claimants in accordance with the terms and conditions mentioned in the impugned award passed by the learned Tribunal.

December 18, 2025
(Sonika)

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/ No