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

**1.** **FAO-352-2021 (O&M)**
**Date of Decision : 29.10.2025**

Oriental Insurance Co. Ltd. ... Appellant(s)

Versus

Ira Chaudhary (deceased) through LRs & Ors ... Respondent(s)

**2.** **FAO-2368-2022 (O&M)**

Ira Chowdhary (deceased) through LRs & Anr ... Appellant(s)

Versus

Manoj Kumar Sehgal & Ors ... Respondent(s)

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

Present : Mr. Harsh Aggarwal, Advocate
for the appellant in FAO-352-2021 and
for respondent No.3 in FAO-2368-2022.

Mr. Rajeev Dev Sharma, Advocate
for the appellants in FAO-2368-2022 and
for respondent Nos.1 and 2 in FAO-352-2021.

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

1. This order shall dispose off the above-captioned appeals. **FAO-352-2021** has been filed by the Oriental Insurance Company Ltd. while **FAO-2368-2022** has been filed by the claimants aggrieved by the quantum of compensation awarded vide the impugned award dated 14.02.2020 passed by the Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as 'Tribunal'). The parties are being referred to as Insurance Company and the claimants for the sake of clarity.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

3. It is to be noted that initially the Tribunal had awarded a compensation of ₹4,68,500/- while assessing the income of the deceased as ₹4,500/- per month. The claimants preferred an appeal being FAO-1873-2013 which was allowed vide order dated 16.12.2019 after taking into consideration the additional evidence and the matter was remanded to the Tribunal for a decision afresh.

4. The Tribunal vide the impugned award dated 14.02.2020 had assessed the income of the deceased as ₹60,060/- per month and awarded the following compensation :

| Sr.No. | Heads | Compensation Awarded |
|---|---|---|
| 1 | Monthly Income | ₹60,060/- |
| 2 | Annual Income | ₹7,20,720/- [₹60,060 x 12] |
| 3 | Income Tax deducted | ₹6,27,200/- [₹7,20,720 - ₹93,530/-] |
| 4 | Future Prospects - 40% | ₹8,78,108/- [₹6,27,200 + ₹2,50,888] |
| 5 | Deduction - 50% | ₹4,39,054/- [₹8,78,108 - ₹4,39,054] |
| 6 | Multiplier - 17 | ₹74,63,918/- [₹4,39,054 x 17] |
| 7 | Funeral expenses | ₹15,000/- |
| 8 | Love and affection | ₹15,000/- |
| 9 | Loss of consortium | ₹40,000/- |
| | **Total Compensation** | **₹75,33,918/-** |
| | **Interest** | **6%** |

5. The only argument raised by the learned counsel for the Insurance Company is that the income of the deceased could not have been assessed as ₹60,060/- per month inasmuch as the amount of ₹43,010/- per month was a Special Allowance and ₹3,000/- per month was a Leave Travel Reimbursement and that the said amounts ought to have been deducted from the gross salary.

6. Learned counsel for the claimants would contend that the Tribunal has assessed the income of the deceased as ₹60,060/- per month whereas his gross monthly income was ₹66,500/- per month as per Ex.C13. Learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. v. Nalini & Ors. [2024 (2) PLR 671]** to contend that the gross income of the deceased is to be taken into consideration and not the net salary hence the income of the deceased ought to have been assessed as ₹66,500/- per month. Learned counsel would further contend that the Income Tax deducted by the Tribunal is on the higher side inasmuch as an amount of ₹93,500/- has already been deducted towards Income Tax. Learned counsel further states that he does not challenge the deduction, future prospects and multiplier as applied by the Tribunal. He, however, states that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is 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. I have heard the learned counsel for the parties.

8. In the present case, the only argument raised by the learned counsel for the Insurance Company is that the gross monthly salary of the deceased has erroneously been assessed as ₹60,060/- and that Special Allowance of ₹43,010/- per month and Leave Travel Reimbursement of ₹3,000/- per month ought to have been deducted.

9. Hon’ble Supreme Court in the case of **Nalini** (supra) has held that the allowances under the heads of transport allowance, house rent allowance, provident fund loan, provident fund and special allowance ought to be added while considering the basic salary of the victim/deceased to arrive at the dependency factor. In view thereof, the gross salary of the deceased has to be considered and not the net salary and hence the argument of the learned counsel for the Insurance Company stands rejected. In the present case, the gross salary of the deceased is ₹66,500/- per month as per Ex.C13 and accordingly, his income is assessed as ₹7,98,000/- per annum minus tax deductible as per the Income Tax Slab applicable at the relevant point of time. The Income Tax Slab for the Financial Year 2010-11 reads as under:

| **INCOME SLABS** | **INCOME TAX RATES** |
|---|---|
| Upto ₹1,60,000 | NIL |
| ₹1,60,000 to 5,00,000 | 10% of the amount exceeding ₹1,60,000 |
| ₹5,00,000 to 8,00,000 | ₹34,000 + 20% of the amount exceeding ₹5,00,000 |

Accordingly, the Income Tax payable by the deceased was ₹93,600/- per annum [₹34,000 (10% of ₹3,40,000/-) + ₹59,600 (20% of ₹2,98,000/-)]. Thus, the annual income of the deceased comes out to be ₹7,04,400/-. [₹7,98,000 – ₹93,600 (income tax)].

10. Since there is no challenge to the deduction, the addition made towards future prospects and the multiplier as applied by the Tribunal, the same are maintained.

11. The argument of the learned counsel for the claimants that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law deserves to be accepted in view of 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), hence, the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

| **Sr.No.** | **Heads** | **Compensation Awarded** | |
|---|---|---|---|
| 1 | Annual Income | ₹7,04,400/- | |
| 2 | Deduction - 50% | ₹3,52,200/- | [₹7,04,400 - ₹3,52,200] |
| 3 | Future Prospects - 40% | ₹4,93,080/- | [₹3,52,200 + ₹1,40,880] |
| 4 | Multiplier - 17 | ₹83,82,360/- | [₹4,93,080 x 17] |
| 5 | Loss of estate | ₹18,000/- | |
| 6 | Funeral expenses | ₹18,000/- | |
| 7 | Loss of consortium<br>(i) Filial [₹48,000/- x 2] | ₹96,000/- | |
| | **Total Compensation** | **₹85,14,360/-** | |

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.

13. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh Vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the

direction of the Tribunal. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

14. In view of the above discussion, the appeal being **FAO-352-2021** filed by the Insurance Company is dismissed while the appeal being **FAO-2368-2022** filed by the claimants is allowed. The impugned award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

29.10.2025
Yogesh Sharma

**( ALKA SARIN )**
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO