IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

130 **FAO-4478-2023**
Date of decision :06.11.2025

NATHU RAM AND OTHERS ... APPELLANTS

VERSUS

SOMBIR AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. V.P. Sangwan, Advocate
for the appellants.

Mr. R.C. Gupta, Advocate
for the respondent-Insurance Company.

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PARMOD GOYAL, J. (ORAL)

1. The present appeal has been preferred by the claimants–appellants, who are aggrieved by the award of compensation of ₹19,67,000/-, granted vide the impugned award dated 15.05.2023 passed by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as ‘the Tribunal’).

2. Learned counsel for the appellants-claimants has challenged the quantification of the compensation amount on the ground that the learned Tribunal has erred in taking the age of the deceased as 41 years on the basis of the death certificate marked as R-4. It is contended that as per the post-mortem report, Exhibit P-3, the age of the deceased was mentioned as 35 years. Therefore, learned Tribunal erred in relying upon the age recorded in the death certificate and ought to have considered the age of the deceased as 35 years, as reflected in the post-mortem report.

3. On consideration, I do not find any merit in the contention raised by

the claimants–appellants. It was the duty of the appellants–claimants to prove the exact age of the deceased. The best evidence regarding the age of the deceased would have been documents such as the date of birth certificate, Aadhaar Card, Voter Identity Card, Ration Card, Educational Certificates, or School Leaving Certificate, etc. It was for the claimants-appellants to produce such documents to establish the exact date of birth and consequently, the precise age of the deceased. Both the post-mortem report and the death certificate merely mention the age of the deceased on the basis of hearsay statements or assumptions. The death certificate was not prepared by the respondents; rather, it was a document procured on the basis of information supplied by someone from the claimants' side. Therefore, in a claim petition where the Tribunal is required to conduct an inquiry, in the absence of any authentic document proving the correct age of the deceased, the learned Tribunal cannot be said to have erred in taking the age of the deceased to be 41 years. Strict principles of Evidence Act are not applicable,

4. Similarly, I do not find any error in the approach of the learned Tribunal in assessing the monthly income of the deceased as ₹12,000/-. The contention of the learned counsel for appellants-claimants that the income from dairy farming has not been considered is devoid of merit, as there is no material on record to establish that the deceased was engaged in dairy farming, except for the oral assertions made by the appellants-claimants.

5. The learned Tribunal has rightly held the deceased to be self-employed and accordingly granted an addition of 25% towards future prospects, assessing the loss of dependency before deduction to be ₹15,000/-. However, I find merit in the contention raised on behalf of the learned counsel for the claimants–appellants that the learned Tribunal has erred in applying a deduction of 1/4th towards personal expenses. The deduction ought to have been 1/5th, as six

claimants have sought compensation.

6. In view of the mandate laid down by the Hon'ble Supreme Court in ***Smt. Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr***., (2009) 6 SCC 121, the appropriate deduction towards personal expenses in the present case should be 1/5th. Accordingly, after deducting 1/5th towards personal expenses from the monthly income of ₹15,000/- and keeping in view the age of deceased as per the death certificate of the deceased multiplier of 14, appellants–claimants shall be entitled to a sum of (Rs. 15,000-3,000 (1/3rd) = Rs.12,000 x 12 x 14) ₹20,16,000/- towards total loss of dependency.

7. I find no error in the approach of the learned Tribunal in awarding ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate. In the present case, the accident occurred in 2019, and therefore, the 10% increase as provided in ***National Insurance Company Ltd. vs. Pranay Sethi & Ors***., (2017) 16 SCC 680 : 2017 (4) RCR (Civil) 1009, shall not be applicable. However, since the learned Tribunal has already granted a minor enhancement of ₹7,000/-, this Court does not find it necessary to interfere with the same.

8. On perusal of the impugned award, it is evident that no compensation under the heads filial or parental consortium has been granted to Claimants Nos. 1 and 2, and Claimants Nos. 4 to 6. In view of ***Pranay Sethi*** (Supra) and **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhu Ram & Ors,** 2018 (18) SCC 130 accordance with established principles, they are entitled to compensation for parental/filial consortium at the rate of ₹40,000/- each.

9. Accordingly, the appellants–claimants are entitled to the following compensation:

Income of deceased	Rs.12,000/- per month	Rs. 12,000
Future prospects	25% (Rs. 12,000 + 3,000)	Rs. 15,000/-
Deduction on account of personal expenses	1/5 (Rs.15,000-3,000)	Rs. 12,000/-
Multiplier	14	14
Loss of dependency	Rs. 12,000 x 14x 12	Rs. 20,16,000/-
Funeral expenses	Rs. 15,000 (awarded by Tribunal)	Rs. 15,000/-
Loss of estate	Rs. 15,000/- (awarded by Tribunal)	Rs. 15,000/-
Minor enhancement of 10% by Tribunal		Rs. 7,000/-
Filial consortium to claimant Nos. 1 and 2	Rs. 40,000 x 2	Rs. 80,000/-
Spousal consortium to claimant No. 3.		Rs. 40,000/-
Parental consortium to claimant Nos. 4 to 6	Rs. 40,000 x 3	Rs. 1,20,000
Compensation awarded by Tribunal	Rs. 19,67,000/-	
Compensation awarded in appeal		Rs. 22,93,000/-
Enhanced amount of compensation	Rs. 22,93,000/- (awarded in appeal) – Rs. 19,67,000/- (awarded by Tribunal)	Rs. 3,26,000/-

10. The claim petition is accordingly allowed in the above terms. The claimants-appellants shall also be entitled to interest at the rate of 7.5% per annum on enhanced compensation so awarded from date of filing of claim petition till realization**.** The apportionment and liability of respondents shall be as per the award. The awarded amount shall be deposited within six weeks from the date of this order.

11. 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 claimants-appellants within a period of six weeks from today. The particulars of the bank account(s) along with requisite documents in support thereof shall be furnished by the claimants-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.

06.11.2025
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned Yes
Whether reportable Yes/No