2025:PHHC:107056

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**FAO-2713-2015 (O&M) and**
**XOBJC-235-CII-2015 (O&M)**
**Date of Decision : 18.08.2025**

Reliance General Insurance Co. Ltd. ... Appellant

Versus

Neeru Sharma and Others ... Respondents

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

Present : Mr. Sanjeev Kodan, Advocate for the appellant.

Ms. Manvi Arora, Advocate for
Mr. Rakshit Gupta, Advocate
for respondent Nos.1 and 2/cross-objectors.

Respondent No.3 proceeded against *ex parte*
vide order dated 03.09.2015.

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

**CM-22485-CII-2015 in XOBJC-235-CII-2015**

1. For the reasons stated in the application, the same is allowed. The delay of 26 days in filing the cross-objections is condoned.

**FAO-2713-2015 (O&M) & XOBJC-235-CII-2015**

2. Present appeal has been filed by the Insurance Company aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as 'Tribunal') vide the impugned award dated 10.02.2015 while the cross-objections being XOBJC-235-CII-2015 have been filed by the claimants i.e. respondent Nos.1 and 2 herein seeking enhancement of the compensation. The parties are being referred to as the claimants, driver and owner of the offending vehicle and the Insurance Company for the sake of clarity.

3. The brief facts relevant to the present *lis* are that on 10.05.2013, Ashok Kumar and Parvesh alias Rakesh (hereinafter referred to as the 'deceased') were going to their village on their respective motorcycles and one Ramesh was the pillion rider on the motorcycle of Ashok Kumar. The deceased was ahead on his motorcycle bearing No.HR-081-9683. At about 02.00 pm when they reached on the boundary of village Franshwala, a car bearing registration No.HR-08N-0604 (hereinafter referred to as the 'offending vehicle'), which was being driven by respondent No.3 herein in a very rash and negligent manner without blowing any horn, hit the motorcycle of the deceased due to which the deceased fell on the bonnet of the car and then fell on the road and hit against a *Kikar* tree. The deceased was taken to the Government Hospital, Kaithal from where he was referred to PGI, Chandigarh. The driver of the offending vehicle ran away after leaving the vehicle at the spot. FIR No.38 dated 10.05.2013 under Sections 279, 337, 427 and 304-B of the Indian Penal Code, 1860 was registered at Police Station Sadar Kaithal.

4. In the present case the Tribunal had awarded the following compensation :

| Sr. No. | Heads | Compensation Awarded |
|---|---|---|
| 1 | Annual income | ₹1,20,000/- |
| 2 | 1/3rd deduction | ₹40,000/- |
| 3 | Net income | ₹80,000/- |
| 4 | 30% future prospects | ₹24,000/- |
| 5 | Total income | ₹1,04,000/- |
| 6 | After applying multiplier of 18 | ₹18,72,000/- |
| 7 | Loss of consortium to claimant no.1-wife | ₹50,000/- |

| | | |
|---|---|---|
| 8 | Loss of love and affection and loss of estate to claimant no.2-mother | ₹50,000/- |
| 9 | Funeral expenses | ₹25,000/- |
| | **Total Compensation** | **₹19,97,000/-** |
| | **Interest** | **8% per annum** |

5. Learned counsel for the Insurance Company would contend that it was a case of contributory negligence as it was a case of a head on collision. It is further the contention that the salary of the deceased has been assessed as ₹10,000/- though there was no evidence qua the income of the deceased.

6. *Per contra* learned counsel for the claimants would contend that the deceased was running a business of dairy farming and was selling milk qua which receipt-books were also produced. Learned counsel for the claimants would further contend that in the present case the driver of the offending vehicle had come on to the wrong side of the road hence this cannot be treated a case of contributory negligence. Learned counsel for the claimants has contended that the deceased in the present case was 24 years of age at the time of accident and the Tribunal has made only an addition of 30% towards loss of future prospects which ought to have been 40% as per the law laid down by Hon'ble Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**.

7. Heard.

8. In the present case the argument of learned counsel for the Insurance Company that it was a case of contributory negligence is noticed only to be rejected inasmuch as there was no evidence led by the Insurance

Company to even remotely suggest that it was a case of contributory negligence. Further still, no issue was framed by the Tribunal qua the contributory negligence. Even otherwise, the driver of the offending vehicle had come on to the wrong side of the road and the accident had taken place on the unmetalled portion of the road. The argument of leaned counsel for the Insurance Company that the salary of the deceased has been wrongly assessed as ₹10,000/- deserves to be rejected. PW3 Bittu Ram, Proprietor of the firm Bala Ji Steel and Cement Store had stepped into the witness-box and had brought the photocopy of the salary account of the deceased which was exhibited as Ex.PB. The original of the salary account was also seen and returned. Copy of the ledger account for the year 01.04.2012 to 31.03.2013 was exhibited as Ex.PC. In view of the evidence led by the claimants and no evidence to the contrary by the Insurance Company or the driver and owner of the offending vehicle, the salary of the deceased has correctly been assessed as ₹10,000/- per month. The argument of the learned counsel for the claimants that the deceased was also earning from dairy farming cannot be accepted in view of the fact that there was no evidence which was produced on the record regarding any income being generated from dairy farming. The receipts which have been produced on the record cannot be co-related to the deceased in any manner. In view thereof, the income of the deceased is maintained as ₹10,000/- per month.

9. The argument of learned counsel for the claimants that an addition of 40% ought to have been made towards loss of future prospects as per the law laid down by Hon'ble Supreme Court in case of **Pranay Sethi** (supra) deserves to be accepted. The deceased in the present case was 24

years of age and therefore an addition of 40% would have to be made towards loss of future prospects.

10. Further, the amounts awarded under the conventional heads as well as under the head 'loss of consortium' are not as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **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].** The claimants would be entitled to (₹18,000/- (₹15,000+20% increase) towards loss of estate and (₹18,000/- (Rs.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. Since there is no challenge to the deduction and the multiplier as applied by the Tribunal the same are maintained. Accordingly, the re-worked out compensation is as under :

| **Sr. No.** | **Heads** | **Compensation Awarded** | |
|---|---|---|---|
| 1 | Monthly Income | ₹10,000/- | |
| 2 | Annual Income | ₹1,20,000/- | [₹10,000 x 12] |
| 3 | Deduction - 1/3rd | ₹80,000/- | [₹1,20,000 – 40,000] |
| 4 | Future Prospects - 40% | ₹1,12,000/- | [₹80,000 + 32,000] |
| 5 | Multiplier - 18 | ₹20,16,000/- | [₹1,12,000 x 18] |
| 6 | Loss of estate | ₹18,000/- | |
| 7 | Funeral expenses | ₹18,000/- | |
| 8 | Loss of consortium<br>(i) Filial<br>(ii) Spousal's | <br>₹48,000/-<br>₹48,000/-<br><br>(Total ₹96,000/-) | |
| | **Total Compensation** | **₹21,48,000/-** | |

11. 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.

12. 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 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 percentage directed by 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.

13. In view of the above, the impugned award passed by the Tribunal is modified and the appeal filed by the Insurance Company and the cross-objections filed by the claimants stand disposed off accordingly. Pending applications, if any, also stand disposed off.

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

18.08.2025
jk

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