



**150/1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.4630 of 2025 (O&M)
Date of decision : 20.11.2025**

Magma General Insurance Company Limited

...Petitioners

Versus

Amanjot and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Dinesh Maurya, Advocate
for respondents No.1 and 2.

PANKAJ JAIN, J. (ORAL)

CM-14678-CII-2025

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 28 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 28 days in filing the instant appeal is hereby condoned.

FAO No.4630 of 2025 (O&M)

Insurance Company is in appeal aggrieved of the Award dated 06.03.2025, passed by MACT, Panchkula.



2. Counsel for the appellant has assailed the award raising two-fold submissions. It has been contended that the Tribunal erred in assessing the compensation payable to the claimants without discounting the income tax deducted by the employer. He submits that the deduction of Rs.3,000/- has been wrongly applied as the income tax was required to be deducted as per the slab prevalent at the time of death of the deceased. He further submits that the Tribunal should have followed the principal of law laid down by Supreme Court in the case of **‘Reliance General Insurance Company Limited vs. Shashi Sharma and others, (2016) 9 SCC 627.**

3. Having heard counsel for the appellant and after carefully perusing the records of the case, this Court finds that both the pleas raised by counsel for the appellant, san merit and deserve to be rejected.

4. Both the issues have been elaborately dealt by the Tribunal. Regarding deduction of income tax, Tribunal observed as under:

“21. To prove the income of the deceased, the petitioners have examined HC Rakesh Kumar as **PW-3** who brought the salary record of the deceased and placed on file salary slip of the deceased for the month of May, 2023 as Ex.PW3/A and salary slips of the previous months of financial year 2020-21 as Ex.PW3/B. The salary slip Ex.PW3/A for the month of May, 2023 reveals that deceased was getting gross salary of ₹ 69,388/- whereas sum of ₹ 3,000/- was being deducted towards his income tax. Thus, income of the deceased is assessed at ₹ **66,388/-** p.m. ($₹\ 69,388 - 3,000 = ₹\ 66,388/-$) i.e. **Rs.7,96,656/- per annum** ($₹\ 66,388 \times 12 = 7,96,656/-$)”



5. From the salary slip, Ex.PW3/A, it is evident that the deceased was getting gross salary of Rs.69,388/- out of which Rs.3,000/- was being deducted towards income tax. Tribunal rightly discounted the same and assessed the income of the deceased @ Rs.66,388/- per month and computed the compensation payable accordingly.

6. While considering the issue of financial assistance payable to the dependents of the deceased working under State of Haryana, Supreme Court in *Shashi Sharma's* case (supra) observed as under:

“12. The principle expounded in this decision that the application of general principles under the common law to estimate damages cannot be invoked for computing compensation under the Motor Vehicles Act. Further, the "pecuniary advantage" from whatever source must correlate to the injury or death caused on account of motor accident. The view so taken, is the correct analysis and interpretation of the relevant provisions of the Motor Vehicles Act of 1939, and must apply proprio vigore to the corresponding provisions of the Motor Vehicles Act, 1988. This principle has been restated in the subsequent decision of two Judges' Bench in Patricia S.Mahajan's case (supra), to reject the argument of the Insurance Company to deduct the amount receivable by the dependents of the deceased by way of "social security compensation" and "Life Insurance Policy".

16. The principle discernable from the exposition in Helen C. Rebello's case (supra) is that if the amount "would be due to the dependants of the deceased even otherwise", the same shall not be deductible from the compensation amount payable under the Act of 1988. At the same time, it must be borne in mind that loss of income is a significant head under which compensation is claimed in terms of the Act of 1988. The component of quantum of "loss of



income", inter alia, can be "pay and wages" which otherwise would have been earned by the deceased employee if he had survived the injury caused to him due to motor accident. If the dependents of the deceased employee, however, were to be compensated by the employer in that behalf, as is predicated by the Rules of 2006 - to grant compassionate assistance by way of ex-gratia financial assistance on compassionate grounds to the dependents of the deceased Government employee who dies in harness, it is unfathomable that the dependents can still be permitted to claim the same amount as a possible or likely loss of income to be suffered by them to maintain a claim for compensation under the Act of 1988.

17. A perusal of the scheme of Rules of 2006 would reinforce the position that the dependents of the deceased Government employee are suitably compensated for a specified period by way of financial assistance in the form of ex-gratia payment on compassionate grounds equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Here, we may advert to the recital of the Rules of 2006, which reads thus:

"No. G.S.R. 19/Const./Art. 309/2006.-In exercise of the powers conferred by the proviso to Article [309](#) of the Constitution of India, The Governor of Haryana hereby makes the following rules *to grant the compassionate assistance by way of ex-gratia financial assistance on compassionate grounds* to members of the family of a deceased Government employee *who dies while in service/missing Government employee*, namely:-

(emphasis supplied)

Rule 2 stipulates the objects of the Rules, namely, to assist the family of a deceased/missing Government employee of Group C and D category, in tiding over the emergent situation, resulting



from the loss of the bread-earner while in regular service by giving financial assistance. Rule 3 of the said Rules provides for eligibility to receive financial assistance under the Rules. As per Rule 4, the eligible family members are required to submit an application in Form A for compassionate financial assistance. Rule 5, is of some significance which provides for the extent of financial assistance. The same reads thus:

"5.(1) On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim.,-

(a) for a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty- five years;

(b) for a period of twelve years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee at the time of his death had attained the age of thirty-five years but had not attained the age of forty-eight years;

(c) for a period of seven years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty-eight years.

(2) The family shall be eligible to receive family pension as per the normal rules only after the period during which he receives the financial assistance as above is completed.

(3) The family of a deceased Government employee who was in occupation of a Government residence would continue to retain the residence on payment of normal rent/license fee for a period of one year from the date of death of the employee.

(4) Within fifteen days from the date of death of a Government employee, an ex-gratia assistance of twenty



five thousand rupees shall be provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner.

(5) House Rent Allowance shall not be a part of allowance for the purposes of calculation of assistance."

18. Rule 6 pertains to pending cases of ex-gratia assistance, with which we are not concerned in the present appeals. But to complete the narrative, we may refer to the said provision. It postulates that all pending cases of ex-gratia assistance shall be covered under the new Rules (i.e. Rules of 2006). Further, the calculation of the period and payment shall be made to such cases from the date of notification of the new Rules. It further provides that the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the new Rules.

19. Reverting back to Rule 5, sub-clause (1) provides for the period during which the dependents of the deceased employee may receive financial assistance equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Sub-rule (2) provides that the family shall be eligible to receive family pension as per the normal Rules only after the period during which they would receive the financial assistance in terms of sub-rule (1). Sub- rule (3) guarantees the family of a deceased Government employee of a Government residence in occupation for a period of one year from the date of death of the employee, upon payment of normal rent/license fee. By virtue of sub-rule (4), an ex-gratia assistance of 25,000/- is provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner. Sub-rule (5) clarifies that house rent allowance shall not be a part of allowance for the purposes of calculation of assistance.

20. Rule 5 broadly deals with two aspects. Firstly, to compensate the dependents of the deceased Government employee by granting



ex-gratia financial assistance on compassionate grounds for the loss of pay and other allowances for a specified period. The second part of Rule 5 is to compensate the dependents of the deceased Government employee by way of allowances and concessions - of retaining occupation of the Government residence on specified terms, of family pension and other allowance. As regards the second part, it deals with income from other source which any way is receivable by the dependants of the deceased Government employee. That cannot be deducted from the claim amount, for determination of a just compensation under the Act of 1988.

21. The claimants are legitimately entitled to claim for the loss of "pay and wages" of the deceased Government employee against the tortfeasor or Insurance Company, as the case may be, covered by the first part of Rule 5 under the Act of 1988. The claimants or dependents of the deceased Government employee (employed by State of Haryana), however, cannot set up a claim for the same subject falling under the first part of Rule 5 - "pay and allowances", which are receivable by them from employer (State) under Rule 5 (1) of the Rules of 2006. In that, if the deceased employee was to survive the motor accident injury, would have remained in employment and earned his regular pay and allowances. Any other interpretation of the said Rules would inevitably result in double payment towards the same head of loss of "pay and wages" of the deceased Government employee entailing in grant of bonanza, largesse or source of profit to the dependants/claimants. Somewhat similar situation has been spelt out in Section [167](#) of the Motor Vehicles Act, 1988, which reads thus:

"167. Option regarding claims for compensation in certain cases.--- Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to



compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both."

(emphasis supplied)

22. Indeed, similar statutory exclusion of claim receivable under the Rules of 2006 is absent. That, however, does not mean that the Claims Tribunal should remain oblivious to the fact that the claim towards loss of Pay and wages of the deceased has already been or will be compensated by the employer in the form of ex-gratia financial assistance on compassionate grounds under Rule 5 (1). The Claims Tribunal has to adjudicate the claim and determine the amount of compensation which appears to it to be just. The amount receivable by the dependants/claimants towards the head of pay and allowances in the form of ex-gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, that the Rules of 2006 would come into play if the Government employee dies in harness even due to natural death. At the same time, the Rules of 2006 do not expressly enable the dependents of the deceased Government employee to claim similar amount from the tortfeasor or Insurance Company because of the accidental death of the deceased Government employee. The harmonious approach for determining a just compensation payable under the Act of 1988, therefore, is to exclude the amount received or receivable by the dependents of the deceased Government employee under the Rules of 2006 towards the head financial assistance equivalent to "pay and other allowances" that was last drawn by the deceased Government employee in the normal course. This is not to say that the amount or payment receivable by the dependents of the deceased Government employee under Rule 5 (1) of the Rules, is the total entitlement under the head of "loss of income". So far as the claim towards loss of future escalation of income and other benefits, if the deceased Government employee had survived the accident can still be pursued by them in their



claim under the Act of 1988. For, it is not covered by the Rules of 2006. Similarly, other benefits extended to the dependents of the deceased Government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, Life Insurance, Provident Fund etc., that must remain unaffected and cannot be allowed to be deducted, which, any way would be paid to the dependents of the deceased Government employee, applying the principle expounded in Helen C.Rebello and Patricia Jean Mahajan's cases (supra).

23. A Priori, appellants must succeed only to the extent of amount receivable by the dependents of the deceased Government employee in terms of Rule 5(1) of the Rules 2006, towards financial assistance equivalent to the loss of pay and wages of the deceased employee for the period specified.”

7. The aforesaid ratio was re-considered and clarified subsequently by Supreme Court in the case of **‘National Insurance Company Ltd. vs. Birender and others 2020(1) RCR Civil 694**, wherein Supreme Court observed as under:

“18. As a matter of fact, in the present case, the High Court committed manifest error in assuming that the respondent Nos. 1 and 2 would be eligible to receive financial assistance under the 2006 Rules. The eligibility to receive such financial assistance has been spelt out in Rule 3 of the 2006 Rules read with the provision of Pension/Family Pension Scheme, 1964. It appears that major sons and married daughters are not included in the definition. However, we need not dilate on that aspect in the present proceedings any further. It has come in the evidence of Gobind Singh, Clerk in SDM Office (PW-1) that the legal representatives of the deceased have not submitted any request for getting financial assistance till he had deposed. Indeed, respondent No. 1,



who had entered the witness box, did depose that they had applied for getting salary of their deceased mother. The fact remains that there is no clear evidence on record that respondent Nos. 1 and 2 are held to be eligible to get financial assistance or in fact, they are getting such financial assistance under the 2006 Rules. The High Court, therefore, instead of providing for deduction of the amount receivable by the legal representatives of the deceased on this count (under the 2006 Rules), from the compensation amount, should have independently determined the compensation amount and ordered payment thereof subject to legal representatives of the deceased filing affidavit/declaration before the executing Court that they have not received nor would they claim any amount towards financial assistance under the 2006 Rules, so as to become entitled to withdraw the entire compensation amount.

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22. xxxxxxxx The respondent Nos. 1 and 2, therefore, can be permitted to withdraw the compensation amount only upon filing of an affidavit-cum-declaration before the executing Court that they have not received nor would claim any amount towards financial assistance under the 2006 Rules and if already received or to be received in future on that account, the amount so received will be disclosed to the executing Court, which will have to be deducted from the compensation amount determined in terms of this order. The compensation amount, therefore, be paid to the respondent Nos. 1 and 2 subject to the above and upon giving an undertaking before the executing Court to indemnify the insurance company (appellant) to that extent.”

8. RW2 Head Constable Amardeep Singh, was examined. He testified that though the family of the deceased, is covered by Financial



Assistance Scheme Policy of Haryana Government but no affidavit has been filed by the victim family till date before the Department.

9. As per ratio of law laid down by Supreme Court in *Birender's case* (supra), the issue has to be dealt at the time of release of payment.
10. The appellant shall be at liberty to raise the issue at the time of release of the payment before the Executing Court.
11. The same has also been clarified by the Tribunal in the ultimate paragraph, observing as under:

“xxx It is made clear that if any amount is received by the petitioners and proforma respondent No.3 in future under Haryana Compassionate Assistance Scheme and under HDFC accidental claims to Haryana Police officials referred to above, same shall be deduced from the total amount of compensation awarded by this Tribunal in this claim petition at the time of execution of this award.”

12. In view of above, finding no merit in the present appeal, the same is ordered to be dismissed.
13. Pending application, if any, shall also stands disposed off.

November 20, 2025
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No