



FAO No.4822 of 2022 (O&M)

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

FAO No.4822 of 2022 (O&M)

Reserved on : 17.11.2025

Pronounced on: 16.12.2025

Uploaded on:17.12.2025

BANTI DEVI AND ORS.

.....Appellant(s)

Vs

SANDEEP AND OTHERS

....Respondent(s)

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

Present: Mr. Chanderhas Yadav, Advocate with
Mr. Amandeep Singh, Advocate
for the appellants.

Ms. Rajni Godara, Advocate for
Mr. P.H.S. Pannu, Advocate
for respondent No.3/Insurance Company.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 08.08.2022 passed by the learned Motor Accident Claims Tribunal, Jhajjar (for brevity, "the Tribunal"), whereby an amount of Rs.18,49,456/- was awarded as compensation to the appellants/claimants along with interest @ 6% per annum from the date of filing of claim petition till its realization on account of death of Sombir in a motor vehicular accident, occurred on 09.06.2019.

[2]. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not reproduced and is skipped herein for the sake of brevity.

**FAO No.4822 of 2022 (O&M)****ARGUMENTS****ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS**

[3]. Learned counsel for the appellants/claimants assailed the award by submitting that the deceased was earning Rs.25,000/- per month by driving the three-wheeler. It was further submitted that the above fact was duly proved from the deposition of appellant/claimant No.1 which was not even rebutted by the respondents having led any evidence and therefore, the learned Tribunal went wrong having assessed monthly income @ Rs. 8,827/-. He further argued that the application of multiplier of 16 was incorrect and the appropriate multiplier ought to have been 17 and even the deduction towards personal expenses was also on the higher side. Furthermore, it was submitted that the amount of compensation granted under conventional heads was not in consonance with the settled law, therefore, he prayed for enhancement of compensation as per latest decision on the subject.

ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No.3/INSURANCE COMPANY

[4]. Per contra, learned counsel representing respondent No. 3/Insurance Company neither refuted the factum of accident nor even the negligence of the offending vehicle, however submitted that in the facts of the present case, the compensation assessed by the learned Tribunal called for no interference.

DISCUSSION

[5]. I have heard learned counsels for the parties and perused the paperbook of the case. I find force in the arguments advanced by learned Counsel for the appellants.

**FAO No.4822 of 2022 (O&M)****QUESTION OF INCOME ASSESSED**

[6]. In the present case, in view of the statement of Banti Devi (wife of deceased) who appeared as PW-1, it was deposed that the deceased was earning Rs.25,000/- per month by driving three-wheeler. Although no documentary evidence to support the same was placed before the Tribunal in this regard and the learned Tribunal assessed the monthly income of deceased @ Rs.8,827/- per month while considering the deceased as an unskilled labour. In this situation, observations made by the Hon'ble Apex Court in **"Kubra Bibi vs. Oriental Insurance Co. Ltd."**, reported as **2023 (3) Apex Court Judgments (SC) 23**, to the effect that in the absence of definite proof of income, the social status of the deceased was to be kept in perspective where such persons are employed in unorganized sector need to be taken into account and the notional income is required to be taken into consideration to help the cause of the appellant. Relevant para from this judgment is reproduced hereunder:-

"7. In a matter of the present nature where the compensation is sought and even in absence of definite proof of the income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and the notional income in any event is required to be taken into consideration. The fact that the deceased had three dependents to be cared for and had claimed that he was working as a mechanic, the amount payable to an unskilled labour, cannot be the basis and in that circumstance when he was a skilled person, the daily income at Rs. 200 per day in any event could have been taken even if the income from jeep transport business was discarded for want of documents. More so in a circumstance, where the MACT had referred to the evidence available on record and then arrived at its conclusion, the re-appreciation of the evidence by the High Court is without being sensitive to nature of lis before it."

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[6.1]. Furthermore, the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in strict sense is not required. The Hon'ble Supreme Court in case of "Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors.", reported as (2022) 1 SCC 198, held that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

".....In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month....."

[6.2]. Considering the facts of the present case, wherein Banti Devi (wife of deceased), while deposing as PW-1, stated that her husband was driver of three-wheeler and earning Rs.25,000/- per month, it cannot be denied that the deceased was maintaining his family including his wife, minor children as well as aged mother and was the only bread winner of his family. In such circumstances, assessing the income of the deceased as Rs. 8,827/- per month would not be appropriate and rather it would be proper that the income of the deceased was assessed as Rs.11,000/- per month while considering him as semi-skilled labour.



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[7]. The Hon'ble Supreme Court in the case of **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another,"** reported as **2009(3) RCR (Civil) 77**, went on to hold that in case the number of dependent family members was 4 to 6, 1/4th would be deducted as personal expenses from the total income. Relevant para of the judgment is culled out as under:-

"30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra[(1996) 4 SCC 362], the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family member exceeds six."

Question of Compensation under Conventional Heads

[8]. Furthermore, in view of the judgment of the Hon'ble Apex Court in **Smt. Sarla Verma's case (supra), "National Insurance Co. Ltd. vs. Pranay Sethi and others"** reported as **(2017) 16 SCC 680** and **"United India Insurance Co.Ltd. vs. Satinder Kaur"**, reported as **(2021) 11 SCC 780**, compensation awarded under conventional heads are also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs. 18,000/- as compensation under funeral head and Rs.18,000/- towards loss of estate. Loss of consortium is assessed to the tune of Rs.1,92,000/- (Rs.48,000 x 4) as the appellants, being spouse, children and parents of deceased are also entitled for spousal, parental and filial consortium.

CONCLUSION



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[9]. In view of what has been discussed hereinabove, the appellants/claimants shall be entitled for the grant of compensation in the following manner:-

Sr.No.	Nature	Amount in Rupees
1.	Annual Income of Deceased	Rs. 1,32,000/-
2.	Deduction (1/4 th)	Rs. 33,000/-
3	Net Income (Rs. 1,32,000 – Rs. 33,000)	Rs. 99,000/-
4.	Future Prospects (40%)	Rs. 39,600/-
5.	Total Income (99,000 + 39,600)	Rs. 1,38,600/-
6.	Loss of Income after applying multiplier of 17 as per the age of 30 years (1,38,600 x 17)	Rs. 23,56,200/-
7.	Loss of estate	Rs. 18,000/-
8.	Funeral Expenses	Rs. 18,000/-
9.	Loss of Consortium (48,000 x 4)	Rs. 1,92,000/-
10.	Total compensation	Rs. 25,84,200/-
11.	Amount Awarded by the Tribunal	Rs. 18,49,456/-
12.	Enhanced Compensation	Rs. 7,34,744/-

[10]. The grant of interest @ 6% per annum is not equitable and just in view of the observations made by the Hon’ble Supreme Court in “Smt. Supe Dei and others vs. National Insurance Company Limited and other, reported as (2009) (4) SCC 513 approved in a subsequent judgment titled as “Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443, thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. In



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case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

[11]. In view of aforesaid modification of the award, the present appeal stands disposed of. Pending miscellaneous application(s) if any, shall also stand disposed of.

December 16, 2025

Atik

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(HARKESH MANUJA)
JUDGE