2025:PHHC:125388

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-5900-2016 (O&M)
Reserved on : 27.08.2025
Date of Pronouncement : 12.09.2025

The Oriental Insurance Company Limited ......Appellant

Vs.

Smt. Suman Kanwar and others ......Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Sehaj Mahajan, Advocate, for
Mr. Raj Kumar Bashamboo, Advocate,
for the appellant.

Mr. Aman Arora, Advocate, for
Mr. Mukesh Yadav, Advocate,
for respondents No.5 & 6.

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SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 23.10.2015 passed in the claim petition filed under Sections 166/140 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal'), wherein the appellant-Insurance company was held liable to pay the compensation to claimants/respondents No.1 to 4 to the tune of Rs.47,04,640/- along with interest @ 9% per annum on the ground of quantum of compensation to be on the higher side.

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 required to be reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. Learned counsel for the appellant/Insurance company contends that the learned Tribunal erred in assessing the income of the deceased and has awarded excessive amount under the conventional heads, while calculating compensation. Therefore, he prays that the present appeal be allowed and award be modified/reduced.

4. *Per contra*, learned counsel for respondents No.5 and 6 argues on the lines of the award passed by the learned Tribunal.

5. I have heard learned counsel for the parties and perused the whole record of this case.

6. The relevant portion of the award dated 23.10.2015 passed by the learned Tribunal is reproduced as under:-

> *"24. To prove this issue, learned counsel for the petitioners took me to the testimony of PW3 Smt. Suman Kanwar and PW5 Nihal Singh Nirban. Learned counsel for the petitioners contended that it is clear from the statement of PW5 that deceased Bahadur Singh was earning Rs.20,484/- per month as salary.*
> *25. On the other hand, learned counsel for the respondents have submitted that income of the deceased has not been proved.*
> *26. Although, PW3 Smt.Suman Kanwar has deposed that deceased Bahadur Singh was getting Rs.30,000/- per month as salary as he was posted in Electricity Department. PWV5 Nihal Singh Nirban, Aimer Vidut Vitran Nigam Limited, Khetri, District Jhunjhunu has deposed that he has brought the summoned record of Bahadur Sing, who was working as Assistant in their office. He proved the copy of joining letter Ex. PW5/A, attested copy of salary statement Ex. PW5/B, attested copy of application regarding joining Ex.PW5/C. He further deposed that at the time of his death he was getting salary of Rs.20,484/- per month. From the statement of PW5 it is clear that the deceased was getting Rs.20,484/-per month as salary. Keeping in view the*

settled law in the case of Rajesh and others Versus Rajbir Singh & another 2013 (4) Law Herald (SC) 3006, 50% of the income assessed is added and so his monthly income comes to Rs.30,726/-(Rs.20,484+Rs.10,242/-). The petitioner while appearing as PW3 has deposed that they were dependent upon the income of the deceased. There are four dependents upon the income of the deceased as shown in the petition, thus it is expected that deceased Bahadur Singh was spending 1/4th of his income for his personal expenses. Accordingly, 1/4 of the monthly income assessed by this tribunal is deducted towards personal expenses and so after deducting 1/4 of his income, his monthly dependency comes to Rs.23,045/- and annual dependency comes to Rs.2,76,540/- (Rs.23,045 x 12). As per PMR Ex. P8, the age of deceased was 35 years at the time of his death. As per the settled law, multiplier of 16 is to be applied in the present case while assessing the amount of compensation under the head of loss of earning capacity. Accordingly, after applying multiplicand of 16, the total amount comes to Rs.44,24,640/-.

27. The petitioner No.1 Smt. Suman Kanwar would also be entitled to additional sum of Rs.1,00,000/- for loss of consortium and all the petitioners would further be entitled to Rs.25,000/- towards performance of last rites. In view of settled law laid down in the case Vimal Kanwar Vs. Kishore Dan and others 2013 (2) RCR (Civil) 945 this Tribunal also considers it appropriate to grant petitioners No.2 to 4 Rs.Rs.50,000/- each for loss of love and affection. All the petitioners would also be entitled to sum of Rs.5,000/- towards loss of estate. Hence, total compensation of Rs.47,04,640/- is awarded in favour of the petitioners in this claim petition.

28. Now the question arises who is liable to pay the compensation. Ex.R1 is copy of driving licence of respondent no. 1 which was issued on 31.12.2003 and valid upto 13.1.2016 and thereby the respondent no.1 has been authorized to drive LMV-NT-Car, LMV-Transport, TRV Rigidchasi, TRV-PSV-Bus only and Ex.R4 is copy of insurance policy vide which the vehicle is insured for the period from 3.9.2014 to 2.9.2015. The accident took place on 21.11.2014. As such on the date of accident the respondent no. 1 was having valid driving licence and the vehicle was insured with the respondent no.3. Accordingly, issue no.3 is decided against the respondent no.3."

7. A perusal of the award reveals that while the claimants/respondents No.1 to 4 asserted the monthly income of the deceased have to be Rs.30,000/-, the salary certificate marked as Ex.PW5/B reflects the actual monthly salary as Rs.20,484/-. The learned Tribunal rightly relied upon the salary certificate (Ex.PW5/B) for the purpose of computing compensation. Hence, there is no error in the assessment of income of the deceased, which does not call for any interference.

8. Furthermore, with respect to the other heads under which compensation has been awarded, the learned Tribunal has correctly applied the multiplier, made appropriate deductions towards personal expenses, awarded just amount under the heads of loss of consortium, funeral expenses, loss of estate and loss of consortium.

9. It is well settled by the Hon'ble Supreme Court in ***K. Ramya v. National Insurance Co. Ltd., 2022 (4) RCR (Civil) 435*** that the Motor Accident Claims Tribunals are vested with latitude to determine "just compensation" and are not shackled by rigid arithmetical rules or strict standards of evidence as in civil suits for damages. Interference by the Appellate Court is warranted only when the award of compensation is manifestly excessive, arbitrary, or contrary to settled principles.

10. The findings of the learned Tribunal are based on sound appreciation of evidence and established principles of law, particularly in determining income for computation of compensation under the Motor Vehicles Act, 1988. No perversity, illegality, or error is found that would justify interference under appellate jurisdiction.

11. Accordingly, this Court finds no merit in the present appeal and the same is hereby dismissed. Thus, the award dated 23.10.2015 passed by the learned Tribunal is upheld.

12. The statutory amount of Rs.25,000/- deposited by the appellant-Insurance Company at the time of admission of the appeal is ordered to be refunded to it.

13. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

12.09.2025
Virender

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No