2025:PHHC:112597

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-9184-2014 (O&M)
Date of Decision : 25.08.2025

Omwati and Another ... Appellants

Versus

Ramphal and Others ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gulshan Nandwani, Advocate for the appellants.

Mr. D.K. Dogra, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal') vide award dated 30.04.2014 on account of death of Ram Swaroop (hereinafter referred to as the 'deceased').

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. The Tribunal in the present case has awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹11,879/-
2	Loss of pension @ 30%	₹3,563/-
3	Annual loss	[₹3,563 x 12] = ₹42,756/-

4	Multiplier of 7	[₹42,756 x 7] = ₹2,99,292/-
5	Loss of consortium	₹1,00,000/-
6	Funeral expenses	₹25,000/-
	Total Compensation	**₹4,24,292**
	Interest	**6% per annum**

4. Learned counsel for the claimant-appellants states that though he does not challenge the multiplier as applied by the Tribunal however, he has contended that the family pension has wrongly been deducted by the Tribunal assessing the loss of dependency @ ₹3,563/- per month only. It has further been contended that the compensation awarded under the conventional heads is not in accordance with the law as laid down by Hon'ble Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680], N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642] and Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130].**

5. *Per contra*, learned counsel for the Insurance Company has contended that a sufficient amount of compensation has already been granted and there is no scope for any further enhancement.

6. Heard.

7. Admittedly, the Insurance Company has not filed any appeal in the present case. In the present case, the Tribunal has made deduction @ 30% from the pension of the deceased which, in the opinion of this Court, is erroneous inasmuch as the amount receivable under the family pension is not to be deducted from the amount of dependency payable to the claimants. Hon'ble Supreme Court in the case of **Sebastiani Lakra & Ors. vs. National Insurance Company Ltd. & Anr. [AIR 2018 SC 5034]** has culled out the

ratio decidendi while deciding a matter concerning adjustment of pecuniary advantages received by heirs in compensation and it was held as under :

> *"12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to `just compensation' under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his life time cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death."*

8. In view of the above law, in the present case, the loss of dependency is assessed as ₹11,879/- per month.

9. Further, the Tribunal has also not applied any deduction in the present case. The deceased was survived by his widow and son hence, a deduction of 1/3rd would be applicable in view of the law laid down by

Hon'ble Supreme Court in case of **Pranay Sethi** (supra). Further, the compensation awarded by the Tribunal under the conventional heads is not in accordance with the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra) hence, the claimant-appellants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses. The compensation of ₹1,00,000/- awarded by the Tribunal towards 'loss of consortium' is maintained. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded	
1	Monthly loss of dependency	₹11,879/-	
2	Annual loss of dependency	₹1,42,548/-	[₹11,879 x 12]
3	Deduction - 1/3rd	₹95,032/-	[₹1,42,548 – 47,516]
4	Multiplier - 7	₹6,65,224/-	[₹95,032 x 7]
5	Loss of estate	₹18,000/-	
6	Funeral expenses	₹18,000/-	
7	Loss of consortium as awarded by the Tribunal	Rs.1,00,000/-	
	Total Compensation	**₹8,01,224/-**	

10. 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.

11. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 AIR (SC) 1713]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimant-appellants 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 claimant-appellants 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.

12. In view of the above discussion, the impugned award passed by the Tribunal is modified in the above terms and the present appeal filed by the claimants stands disposed off accordingly. Pending applications, if any, also stand disposed off.

25.08.2025 **(ALKA SARIN)**
jk **JUDGE**

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