

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****111****FAO-9703-2014 (O&M)****Date of Decision : 25.03.2025**

Pushpa and Others

....Appellants

VERSUS

Ajay Kumar and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rakesh Kumar Sharma, Advocate for the appellants.

Mr. V.K. Garg, Advocate for respondent No.3.
(through hybrid mode).**ALKA SARIN, J. (Oral)****CM-26817-CII-2014**

1. This is an application for condonation of delay of 3119 days in filing the appeal.

2. For the reasons stated in the application, delay of 3119 days in filing the appeal is condoned. CM stands disposed off. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

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3. Present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as the 'Tribunal') vide award dated 22.11.2005 on account of death of Bijender (hereinafter referred to as the 'deceased').

4. 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.

5. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.2,100/-
2	Deduction – 1/3 rd	[Rs.2,100 – 700] = Rs.1,400/-
3	Annual loss of dependency	[Rs.1,400 x 12] = Rs.16,800/-
4	Multiplier – 15	[Rs.16,800 x 15] = Rs.2,52,000/-
5	Loss of consortium	Rs.5,000/-
6	Funeral expenses	Rs.2000/-
	Total compensation	Rs.2,59,000/-
	Interest	7.5% per annum

6. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been assessed by the Tribunal as Rs.2,100/- per month inasmuch as even the minimum wages for an unskilled worker at the relevant point of time were Rs.3,510/- per month. Learned counsel for the appellants would further contend that the deduction of 1/3rd has wrongly been applied by the Tribunal whereas it ought to have been 1/4th as there were 05 dependents upon the deceased. Learned counsel for the appellants would further contend that the multiplier of ‘15’ has wrongly been applied by the Tribunal whereas it ought to have been ‘16’ keeping in view the age of the deceased being 35 years at the time of the accident. It is further the contention that no addition has been made towards loss of future prospects and that the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are not in accordance with the

law laid down by the Hon'ble Supreme Court. In support of his contention, he has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

7. *Per contra*, learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

8. Heard.

9. In the present case no appeal has been filed by respondent No.3-Insurance Company. The income of the deceased as assessed by the Tribunal, in the opinion of this Court, is on the lower side inasmuch as the minimum wages for an unskilled worker at the relevant point of time were Rs.3,510/- per month and hence the income of the deceased is assessed as Rs.3,510/- per month. Further, the Tribunal has not made any addition towards loss of future prospects and the deduction of 1/3rd and the multiplier of '15' as applied by the Tribunal are also incorrect. The deceased in the present case was 35 years of age at the time of accident. Keeping in view of the law laid down by Hon'ble Supreme Court in case of **Sarla Verma** (supra) and **Pranay Sethi** (supra), a multiplier of '16' would be applicable and an addition of 40% would be made towards loss of future prospects.

There were five dependents. A deduction of 1/3rd has wrongly been applied which ought to have been 1/4th keeping in view the fact that there were 05 dependents upon the deceased. Further, the amounts awarded under the conventional heads and 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** (supra) and **N. Jayasree** (supra) and hence the claimant-appellants would be entitled to Rs.18,000/- (Rs.15,000+20% increase) towards loss of estate and Rs.18,000/- (Rs.15,000+20% increase) towards funeral expenses and the claimant-appellants would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

10. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,510/-
2	Annual income	[Rs. 3,510 x 12] = Rs.42,120/-
3	Deduction 1/4 th	[Rs. 42,120 – 10,530] = Rs.31,590/-
4	Future prospects @ 40%	[Rs. 31,590 + 12,636] = Rs.44,226/-
5	Multiplier of 16	[Rs. 44,226 x 16] = Rs.7,07,616/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Spousal (ii) Parental	Rs.48,000/- [Rs.48,000 x 3] = Rs.1,44,000/- Rs.1,92,000/-
	Total	Rs.9,35,616/-

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.

However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

12. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 : Civil Appeal No.4299 of 2025 arising out of SLP (C) No.4484 of 2020 decided on 18.03.2025]**, 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 discussion, the award passed by the Tribunal is modified and the present appeal stands allowed accordingly. Pending applications, if any, also stand disposed off.

25.03.2025
jk

(ALKA SARIN)
JUDGE

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