



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

FAO-1658-2017 (O&M)
Reserved on : 14.10.2025
Date of Pronouncement : 29.10.2025

Oriental Insurance Co. Ltd.Appellant

Vs.

Kusum Lata and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Lalit Garg, Advocate
for the applicant/appellant.

Mr. Vipul Sharma, Advocate
for respondent No.1.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 28.10.2016 passed in the claim petition filed under Sections 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal'), wherein the appellant-Insurance company was held liable to pay the compensation to the claimant/respondent No.1 to the tune of Rs.2,29,374/- along with interest @ 6% 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 claimant/respondent No.1 submits that the compensation awarded by learned Tribunal is on the lower side and, therefore, warrants enhancement. He fairly concedes that no independent appeal has been preferred by the respondent-claimant for seeking such enhancement. Nonetheless, placing reliance on the judgment of this Court passed in **FAO-5834-2016** titled as '**The Oriental Insurance Company Limited Vs. Smt. Mathri Devi and others**', decided on 12.09.2025, he contends that this Court, in exercise of its appellate jurisdiction, possesses ample power to enhance the quantum of compensation even in the absence of a cross-appeal or cross-objections filed by the claimant.

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

6. The relevant portion of the award dated 28.10.2016 passed by the learned Tribunal is reproduced as under:-

“Onus of proof of this issue is again on claimant. Claimant while stepping into witness box as PW.1 has proved her affidavit Exhibit PW 1/A in which she has stated categorically regarding compensation that she received fracturae D-6, D-7 vertebral bodies and other



multiple injuries. She was taken to General Hospital, Sector 16, Chandigarh and thereafter she was treated by Dr. Bhatia's Bone and Joint Care Clinic. She remained under follow up treatment for long time and still she is under treatment. She has stated that she spent 40,000/- on her medical treatment, however, she has maintained bills for 18,320/- and she could not maintain rest of the bills. She has also stated that she remained bed ridden for a period of one month and her working capacity has gone down. Besides that she has claimed compensation for special diet, transportation charges and for pain and suffering. Again in cross- examination all the suggestions put to her have been denied by her. In cross-examination by counsel for respondent No.3, she has admitted that she remained on medical leave from 22.7.2015 to 10.8.2015. Although she has stated that she has taken leave immediately after the accident and stated that at that time she has taken casual leaves. During the course of arguments, main stress of counsel for respondent remained that after the accident she has joined the duty by taking few leaves and this leave was later on taken as medical leave when she has earlier visited Himachal Pradesh by taking earned leave. The contention of learned counsel for respondent is that she has suffered some other injury and she is now claiming for other injury. No such evidence has been brought on record. Positive evidence has been brought on record by claimant while she has examined Dr. Ravi Kumar Preenja PW.3 who brought the record regarding injuries of claimant as she appeared before Medical Board and he has examined her record being member of the Medical Board. He has stated that she was diagnosed as a treated case of compression D-6, D-7 vertebral bodies with persistent



pain. He has also stated that earlier patient was treated by GMSH Sector 16 and thereafter by Dr. Bhatia's Bone & Joint Care Clinic. She is permanently physically disabled by 20% in relation to spine. Disability certificate has been proved by him as Exhibit P35. He has categorically stated that she would have problem in forward bending, lifting weight, back pain and this disability is functional disability and she would have problem in activities involving bending work. Although in cross-examination he has admitted that she was not treated in their hospital in GMCH Sector 32 and disability is only relating to spine and not qua whole body. However, he has added voluntarily that disability will effect functionally her whole body. PW.2 Bhupesh, Bill Clerk, Accounts Branch, District Courts, Sector 43, Chandigarh has been examined who produced record regarding salary of claimant Kusum Lata for the month of April, 2015 Exhibit P30 and salary certificate is produced as Exhibit P31. He has also brought leave record of claimant who is working as Translator in Courts. He has stated that on 8.5.2015 she has given application for leave by stating that she met with accident on 7.5.2015. Its copy is proved on record Exhibit P32 which also corroborates this fact that on 7.5.2015 she has received injury due to accident. This casual leave was sanctioned to her. Again she filed application for leave on 11.5.2015 due to accidental injury and it was also sanctioned from 11.5.2015 to 13.5.2015. Thereafter she remained on leave from 30.5.2015 to 6.6.2015 and again on medical leave from 22.7.2015 to 10.8.2015 and 11.8.2015 to 31.8.2015. Such application dated 11.5.2015 is proved on record Exhibit P33 regarding leave on medical grounds. Exhibit P34 is copy of order and



medical record for sanction of leave. Although in cross-examination he has admitted that Mrs. Kusum Lata claimant got full salary during the period she remained on leave and he has added that she did not get two months mobile allowance at the rate of 300/- per month. Although argument has been advanced by counsel for respondents that the injury for which allegedly claimant has taken treatment in the month of July and August, 2015 from Bhatia's Bone and Joint Care Clinic is not in consequence of alleged accident. As per version of claimant, earlier she was suffering pain continuously, however, when she got MRI of the portion D-6 and D-7 of vertebral region, it was found fracture was there which was in consequence of the accident. Medical record of dated 7.5.2015 is Exhibit P1 where in detail of injuries pain in the back, is also mentioned and even x-ray D-6 spine has been recommended. So, from this document it is very D much clear that at the very initial point on 7.5.2015 there is pain at the without region D-6 spine area. Earlier it has been treated that proper diagnose of MRI but when pain remained there then claimant has undergone MRI test wherein it is found that fracture was there in D-6 and D-7 vertebral bodies. Moreover, as alleged by respondents no evidence has been brought that she has ever suffered any other injury lateron during her visit to Himachal Pradesh. It is not necessary that one person has to remain on bed throughout if minor fracture is there in the spinal area. So, it is concluded that this injury fracture of D-6 and D-7 vertebral bodies is in consequence of accident suffered by claimant on 7.5.2015. There is no ground or evidence to believe the story put by the respondents that she has received injuries due to some other reason. So, claimant is certainly



entitled for claim. It is not proved on record by her original receipts Exhibit P8 to Exhibit P14 nor any record has been produced from the office of the District & Sessions Judge, Chandigarh if this amount vide receipts Exhibit P8 to Exhibit P14 have not been reimbursed. As these are photo copies, natural inference goes that she has got reimbursed this amount. Had there been no such reimbursement then it is upto the claimant to prove the record by calling official from the office of the District & Sessions Judge, Chandigarh that there is no such reimbursement. As regards medical expenses, receipts Exhibit P15 to Exhibit P29, these are original, so this amount is hereby granted. In the evidence it has come that she remained on medical leave. She has been granted 20 days commuted leave equal to 40 days half pay leave from 22.7.2015 to 30.8.2015 on medical grounds. The law is settled on this point that if claimant remained on medical leave and she can claim salary for that period. Salary certificate is proved on record as Exhibit P30 showing total salary as 47,308/- per month. So, proportionately for medical leave from 11.8.2015 to 31.8.2015 for 21 days and commuted leave of 20 days is there which comes to total 41 days leave and leave qua 41 days is hereby granted as compensation which comes to ₹64,654/-.

9. Claimant has also suffered permanent disability, although stated to be function but nothing has come on record that this injury has any way effected her promotional prospects. So, there is no future loss of income. However, she will remain in pain throughout her life due to this permanent disability, hence for pain and suffering I hereby grant one time compensation of ₹1,00,000/-. For better diet for recovery I grant 25,000/-,



for loss of amenities due to this injury I grant 25,000/-. No evidence has been brought on record for spending any transport charges for her treatment. No evidence has been brought on record that claimant ever engaged any attendant during this period she remained on medical leave and remained in hospital. So, total compensation as detatiled above comes to be as under:-

Sr.No.	Heads of claims	Amount awarded
1	Medical expenses	₹14,720/-
2	Amount for leave period	₹64,654/-
3	Pain and suffering	₹1,00,000/-
4	Better diet	₹25,000/-
5	Loss of amenities	₹25,000/-
	Total	₹2,29,374/-

10. Respondents have placed on record copy of RC of the offending vehicle Exhibit R1, driving licence of respondent No.1 Exhibit R2, insurance policy Exhibit R3 and Exhibit R4. So, it is liability of respondent No.3 insurance company to make payment of this compensation. In this view, this issue is decided in favour of claimant and against the respondents.”

7. A perusal of the impugned award reveals that the injured-respondent No.1 was 48 years old and was earning Rs.50,000/- per month by working in District Courts, Sector-43, Chandigarh. After having due consideration of the medical bills, disability certificate (Ex.P-35) and statement of the Dr. Ravi Kumar Preenja (PW-3), the learned Tribunal has rightly awarded compensation under the heads of medical expenses, amount for leave period and amount under the conventional head of pain and



suffering. Therefore, in this regard, no interference by this Court is warranted.

8. So far as the contention raised by learned counsel for the respondent-claimant regarding inadequacy of compensation is concerned, this Court finds merit therein. In exercise of its appellate jurisdiction and in the larger interest of justice, it is deemed appropriate to enhance the amount of compensation notwithstanding the fact that the claimant-respondent has not preferred a separate appeal for such enhancement.

9. This Court, in **Smt. Mathri Devi's case (supra)**, has already adjudicated a similar issue and categorically held that, while exercising appellate powers, the Court cannot lose sight of the beneficial nature of the Motor Vehicles Act, 1988. The Act has been consistently construed as a piece of social welfare legislation aimed at providing just compensation to the victims of motor accidents and their dependents. The statutory duty of the Court is to ensure that claimants are not deprived of their legitimate entitlement merely on account of procedural technicalities such as the absence of a cross-appeal or cross-objections. The relevant observations made therein in paras 13 and 14 are reproduced below:-

“13. It is manifest from the above discussion that although respondents/claimants No.1 and 2 have not preferred any appeal seeking enhancement of compensation, and the present appeal has been instituted solely by the appellant-Insurance Company challenging the quantum of compensation, the settled principle of law is that an appeal is a continuation of the original proceedings. Consequently, the appellate court is vested with ample jurisdiction to mould relief and to



award just and proper compensation, even in the absence of a cross-appeal by the claimants.

14. In exercise of such appellate powers, this Court cannot overlook the beneficial nature of the Motor Vehicles Act, 1988, which has been consistently interpreted as a piece of social welfare legislation intended to provide just compensation to victims of motor accidents and their dependents. The statutory duty of the Court is to ensure that the claimants are not deprived of legitimate entitlement merely due to procedural technicalities such as the absence of a cross-appeal.”

10. A perusal of the award reveals that the injured/ respondent No.1 have suffered substantial injuries as proved by the receipt of medical expenses (Ex.P-15 to Ex.P-29). However, the learned Tribunal has awarded meager amount under the heads of Special Diet and loss of amenities.

11. Accordingly, in order to advance the cause of justice and to secure fair adjudication in consonance with the object of the Act, this Court deems it appropriate to enhance the compensation under the aforesaid heads.

12. Therefore, to secure the ends of a fair adjudication, this Court deems it appropriate considering the nature of the injuries of the respondent/claimant No.1, this Court deems it fit to award **Rs.60,000/-** in lump-sum over and above, in addition to the amount awarded by the learned Tribunal.

13. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** **2019 ACJ 3176** and **R.Valli and Others VS. Tamil Nandu State Transport**



Corporation (2022) 5 Supreme Court Cases 107, the appellants-claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

14. The appellant-Insurance Company is directed to deposit the enhanced amount of compensation alongwith interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the enhanced amount of compensation alongwith interest in the account of the claimant/respondent No.1 as per settled in the award dated 28.10.2016. The claimant/respondent No.1 are directed to furnish her bank account details to the Tribunal.

15. Consequently, the present appeal, being devoid of merits, stands **dismissed**.

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

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

(SUDEEPTI SHARMA)
JUDGE

29.10.2025

Sahil

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