



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

FAO-8656-2015 (O&M)
Reserved On : 14.10.2025
Decided On: 31.10.2025

Magma HDI General Insurance Co. Ltd.

.....Appellant

Vs.

Neelam Rani and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. D. K. Tuteja, Advocate
for the appellant in FAO-2129-2016.
and for respondent Nos.1 & 2 in FAO-8656-2015,

Mr. G. S. Sarao, Advocate
Mr. Vishal Aggarwal, Advocate
for appellant in FAO-8656-2015.

Mr. Kamal Kumar Mor, Advocate
for respondent Nos.3 & 4 in FAO-8656-2015.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred by the appellant-Insurance company against the Award dated 04.11.2015 passed in the claim petition under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal'), wherein the appellant-Insurance company was held liable with the liability to pay the compensation to the claimant to the tune of Rs.57,70,000/- along with interest @ 7.5% per annum.

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 amount awarded by the learned Tribunal is on the higher side and deserves to be modified. Therefore, he prays that the present appeal be allowed.

5. The learned counsel for the appellant also contends that the compensation awarded to the claimants includes the amount which they are receiving under the Haryana Government Compassionate Assistance Policy, 2006 as salary, therefore, the said amount is deserved to be deducted from the compensation as per the settled law.

Therefore, he prays that the present appeal be dismissed.

6. *Per contra*, learned counsel for claimants/respondents, however, vehemently argues that the compensation awarded is on lower side and claimants/respondents have preferred FAO-2129-2016, titled as ***Neelam Devi and another Vs. Kuldeep Singh and others*** seeking enhancement of compensation awarded to claimants/respondents. Therefore, he prays for dismissal of the present appeal.

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

8. The relevant portion of the award is reproduced as under:-

“12. To prove the monthly income of deceased Kuldeep Singh, Neelam petitioner herself appeared in the witness box as PW1 and also examined PW4 Naresh Kumar, who deposed the monthly salary of deceased Kuldeep Singh as Rs.35,554/- per month. He has also placed on record F-16 form and service book of deceased Kuldeep as Exhibit P17 to Exhibit P25. No doubt, the deceased Kuldeep was receiving House Rent Allowance to the tune of Rs.1574/- and after his death, the petitioner Neelam who is also a government employee is also



receiving House Rent Allowance the same should be deducted in assessing the total salary, Reliance can be placed on the case titled Bhakra Beas Management Board Versus Kanta Aggarwal 2008(4) ACC 764.

13. It has been urged by the learned counsel for the respondent No.3 that since the petitioners are getting last drawn pay of deceased Kuldeep under Haryana Government Compassionate Assistance Policy, so, as per the judgment of Oriental Insurance Company Limited Versus Saroj Devi and others 2013 ACC 122 and Reliance General Insurance Company Versus Maya Devi and others 2014(1) Law Herald (P&H) 859, the formula adopted by the Hon'ble Punjab and Haryana High Court should be applied. However, this contention of the learned counsel for the respondent No.3 does not hold much force for a simple reason that in the case titled Nirmala Devi Versus Narender Pal 2014(3) RCR (Civil) 21, the Hon'ble Punjab and Haryana High Court has held as under :-

"However, we find that the MACT has gone wrong in depriving the appellants of the use of multiplier of 11 in view of latest pronouncement of Hon'ble Punjab and Haryana High Court in FAO No. 1322 of 2010 and others dated 21.12.2012. The Hon'ble Division Bench in the judgment after giving details whether the benefits accruing to the dependents of the deceased Government employee who dies while in service can be a ground to deprive the dependents of the deceased employee of the benefits which would accrue to them in a case of his death in a vehicular accident. Relevant observation of the Hon'ble Division Bench are contained in para 12 of the judgment which reads as under:

"12. Once we take note of the character and nature of the financial assistance scheme in the form of aforesaid rules, as above, other things follow flawlessly and automatically. In its discourse by the learned single Judge in Smt. Santosh



(supra), though the principles of law based on tort are discussed with lot of erudition, the error is committed in applying those principles to the scheme of the things at hand. In the first place, it needs to be understood that the scheme of financial assistance contained in statutory rules of 2006, is a service benefit which accrues to the dependents of the deceased in the domain of service matter/benefit and is given as a result of the services rendered by the deceased employee. Consequently, it is in the nature of pension given as per the provisions of the Pension/Family Pension Scheme, recognizing the fact that pension is normally given for meritorious, long and faithful service by the employee. There cannot be an ex facie adjustment of such a service benefit in the nature of family pension, which accrues to an employee or his dependent(s), in case of his death. If this is accepted, then in every case where family pension is given or other terminal benefits in the nature of provident fund, gratuity, etc. are given to the dependents of the deceased employee will have to be adjusted. That would lead to preposterous results. It appears that the object behind formulating the scheme was not only to assist the family of the deceased to tide over the emergent situation, but was for the reason to give benefit in those cases as well where service rendered is not sufficient (which is normally 20 years), which could entitle to grant family pension to the dependents of the deceased. Position would have been different if the compensation/financial assistance was admissible only in case of death of the employee as a result of motor accident. Then, perhaps, the principles laid down by the learned single Judge in Smt. Santosh (supra) would have got attracted. However, in the instant case, grant or financial assistance has no relation or relevance with the case of death. The only governing factor is that the employee dies in harness,



irrespective of the cause of death, after rendering certain amount of service, leaving his dependants in financial lurch."

In view of the aforesaid dictum, it is not necessary to apply the Devi and Maya formula to assess the just compensation as given in Saroj Devi's cases (supra).

14. In this case, as per the service record of Kuldeep Singh, the date of birth of Kuldeep is 25.10.1975 and on the day of accident.e 28.6.2014, he was 39 years old, so, the multiplier for determining the loss of dependency would be 15 and since the number of the petitioners are two, the deduction towards the personal expenses shall be 1/3rd. In this case, the monthly salary of the deceased Kuldeep was Rs.35,554/- and after deducting House Rent Allowance to the tune of Rs.1574/-, the monthly income comes to Rs.33,980/- and annual salary comes to Rs.4,07,760/-. Since, the age of the deceased was below forty years, there should be addition of 50% towards future prospectus and the annual salary of the deceased would come to Rs.6,11,640/-. On this amount, the income tax to the tune of Rs.47,000/- shall be deducted and after deduction, the amount comes to Rs.5,64,640/-. Since, the number of petitioners are two, so, there should be 1/3rd deduction towards personal expenses and after deduction, the total dependency comes to Rs.3,76,427/- per annum. In these circumstances, the petitioners are entitled to just compensation as per following table :-

Amount of compensation per annum Income and 15 as multiplier	3,76,427x15 = 56,46,405/-
Compensation to the family members for loss of love and affection, deprivation of protection, loss of consortium to widow and social security etc.	1.00 lac
Funeral and other expenses	24,000/-
Total	Rs.57,70,405/-

As such, in total, the petitioners are entitled to the amount of Rs.57,70,405/- say Rs.57,70,000/-”



9. A perusal of the impugned award reveals that the learned Tribunal has granted compensation of Rs.57,70,000/-, which purportedly includes the amount presently being received by the claimants under the Haryana Compassionate Assistance Policy. It is trite that the amount so received is liable to be deducted from the total compensation awarded, as the same constitutes financial assistance already extended to the dependents of the deceased by the employer.

10. In this regard, reliance can be placed upon the judgment of the Hon'ble Supreme Court in ***Reliance General Insurance Co. Ltd. v. Shashi Sharma and Ors., Law Finder Doc ID #792568***, wherein the Apex Court has categorically held that when the dependents of a deceased employee are compensated by the employer through ex gratia payment or any other compassionate assistance, it would be inequitable and legally impermissible to permit them to claim the same benefit again under the provisions of the Motor Vehicles Act, 1988. The Apex Court observed that such duplication of benefits would amount to double compensation, which is contrary to the settled principles of law.

11. The relevant portion of judgment of Hon'ble Supreme Court in ***Shashi Sharma's case (supra)***, is reproduced as under:-

“17. A perusal of the scheme of Rules of 2006 would reinforce the position that the dependents of the deceased Government employee are suitably compensated for a specified period by way of financial assistance in the form of ex-gratia payment on compassionate grounds equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Here, we may advert to the recital of the Rules of 2006, which reads thus:



"No. G.S.R. 19/Const./Art. 309/2006.-In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, The Governor of Haryana hereby makes the following rules to grant the compassionate assistance by way of ex-gratia financial assistance on compassionate grounds to members of the family of a deceased Government employee who dies while in service/missing Government employee, namely:-

(emphasis supplied)

Rule 2 stipulates the objects of the Rules, namely, to assist the family of a deceased/missing Government employee of Group C and D category, in tiding over the emergent situation, resulting from the loss of the bread-earner while in regular service by giving financial assistance. Rule 3 of the said Rules provides for eligibility to receive financial assistance under the Rules. As per Rule 4, the eligible family members are required to submit an application in Form A for compassionate financial assistance. Rule 5, is of some significance which provides for the extent of financial assistance. The same reads thus:

"5.(1) On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim.,-

(a) for a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty- five years;

(b) for a period of twelve years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee at the time of his death had attained



the age of thirty-five years but had not attained the age of forty-eight years;

(c) for a period of seven years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty-eight years.

(2) The family shall be eligible to receive family pension as per the normal rules only after the period during which he receives the financial assistance as above is completed.

(3) The family of a deceased Government employee who was in occupation of a Government residence would continue to retain the residence on payment of normal rent/license fee for a period of one year from the date of death of the employee.

(4) Within fifteen days from the date of death of a Government employee, an ex-gratia assistance of twenty five thousand rupees shall be provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner.

(5) House Rent Allowance shall not be a part of allowance for the purposes of calculation of assistance."

18. Rule 6 pertains to pending cases of ex-gratia assistance, with which we are not concerned in the present appeals. But to complete the narrative, we may refer to the said provision. It postulates that all pending cases of ex-gratia assistance shall be covered under the new Rules (i.e. Rules of 2006). Further, the calculation of the period and payment shall be made to such cases from the date of notification of the new Rules. It further provides that the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or



2005, as the case may be, in lieu of the monthly financial assistance provided under the new Rules.

19. Reverting back to Rule 5, sub-clause (1) provides for the period during which the dependents of the deceased employee may receive financial assistance equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Sub-rule (2) provides that the family shall be eligible to receive family pension as per the normal Rules only after the period during which they would receive the financial assistance in terms of sub-rule (1). Sub- rule (3) guarantees the family of a deceased Government employee of a Government residence in occupation for a period of one year from the date of death of the employee, upon payment of normal rent/license fee. By virtue of sub-rule (4), an ex-gratia assistance of 25,000/- is provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner. Sub-rule (5) clarifies that house rent allowance shall not be a part of allowance for the purposes of calculation of assistance.

20. Rule 5 broadly deals with two aspects. Firstly, to compensate the dependents of the deceased Government employee by granting ex-gratia financial assistance on compassionate grounds for the loss of pay and other allowances for a specified period. The second part of Rule 5 is to compensate the dependents of the deceased Government employee by way of allowances and concessions - of retaining occupation of the Government residence on specified terms, of family pension and other allowance. As regards the second part, it deals with income from other source which any way is receivable by the dependants of the deceased Government employee. That cannot be deducted from the claim amount, for determination of a just compensation under the Act of 1988.



21. *The claimants are legitimately entitled to claim for the loss of "pay and wages" of the deceased Government employee against the tortfeasor or Insurance Company, as the case may be, covered by the first part of Rule 5 under the Act of 1988. The claimants or dependents of the deceased Government employee (employed by State of Haryana), however, cannot set up a claim for the same subject falling under the first part of Rule 5 - "pay and allowances", which are receivable by them from employer (State) under Rule 5 (1) of the Rules of 2006. In that, if the deceased employee was to survive the motor accident injury, would have remained in employment and earned his regular pay and allowances. Any other interpretation of the said Rules would inevitably result in double payment towards the same head of loss of "pay and wages" of the deceased Government employee entailing in grant of bonanza, largesse or source of profit to the dependants/claimants. Somewhat similar situation has been spelt out in Section 167 of the Motor Vehicles Act, 1988, which reads thus:*

"167. Option regarding claims for compensation in certain cases.--- *Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both."*

(emphasis supplied)

22. *Indeed, similar statutory exclusion of claim receivable under the Rules of 2006 is absent. That, however, does not mean that the Claims Tribunal should remain oblivious to the fact that the claim towards loss of Pay and wages of the*



deceased has already been or will be compensated by the employer in the form of ex-gratia financial assistance on compassionate grounds under Rule 5 (1). The Claims Tribunal has to adjudicate the claim and determine the amount of compensation which appears to it to be just. The amount receivable by the dependants/claimants towards the head of pay and allowances in the form of ex-gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, that the Rules of 2006 would come into play if the Government employee dies in harness even due to natural death. At the same time, the Rules of 2006 do not expressly enable the dependents of the deceased Government employee to claim similar amount from the tortfeasor or Insurance Company because of the accidental death of the deceased Government employee. The harmonious approach for determining a just compensation payable under the Act of 1988, therefore, is to exclude the amount received or receivable by the dependents of the deceased Government employee under the Rules of 2006 towards the head financial assistance equivalent to "pay and other allowances" that was last drawn by the deceased Government employee in the normal course. This is not to say that the amount or payment receivable by the dependents of the deceased Government employee under Rule 5 (1) of the Rules, is the total entitlement under the head of "loss of income". So far as the claim towards loss of future escalation of income and other benefits, if the deceased Government employee had survived the accident can still be pursued by them in their claim under the Act of 1988. For, it is not covered by the Rules of 2006. Similarly, other benefits extended to the dependents of the deceased Government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, Life Insurance, Provident Fund etc., that must remain unaffected and cannot be allowed to be



deducted, which, any way would be paid to the dependents of the deceased Government employee, applying the principle expounded in Helen C.Rebello and Patricia Jean Mahajan's cases (supra)."

12. The aforesaid view has been further reiterated by the Hon'ble Supreme Court in **Krishan Chand v. State of Haryana, Law Finder Doc ID #2531576**, wherein the Court reaffirmed that any amount received by the claimants on compassionate grounds is required to be deducted from the total compensation awarded under the Motor Vehicles Act, to prevent double enrichment.

13. The relevant portion of judgment of Hon'ble Supreme Court in **Krishan Chand's case (supra)**, is reproduced as under:-

*"2. Petitioners' counsel placed reliance on the judgment of this Court in the case of **Helen C. Rebello (Mrs.) & Ors. v. Maharashtra State Road Transport Corporation and Anr. [(1999) 1 SCC 90]** to contend that the monetary benefit received by the family of the deceased-employee under the provisions of the Motor Vehicles Act, 1988, cannot be reduced in terms of the amount received under Haryana Compassionate Assistance to Dependents of Deceased Government Employees, Rules, 2006 ("the Rules, 2006", for short) in terms of the judgment in **Reliance General Insurance Company Limited v. Shashi Sharma [(2016) 9 SCC 627]**, since the payment made by the Employer-Department to the family of the deceased who died in harness is owing to death of the deceased during service and has no nexus to his death in a road traffic accident. Further, under the provisions of the Motor Vehicles Act, 1988, the compensation awarded is on proving negligence on the part of the offending driver. Therefore, the High Court fell in error in deducting the amount of Rs. 31,37,665/- (Rupees Thirty One Lakhs, Thirty Seven Thousand, Six Hundred and Sixty Five only) from Rs. 34,40,480/-(Rupees Thirty*



Four Lakhs, Forty Thousand and Four Hundred and Eighty only) and thereby awarding a paltry sum of Rs. 3,02,815/- (Rupees Three Lakhs, two Thousand and Eight hundred and Fifteen Only) to the petitioners herein.

3. Per contra, learned counsel for the respondent-Insurance Company placed strong reliance on the judgment of this Court in the case of Shashi Sharma (supra) to contend that the very same provision which was considered by the High Court namely Rule 5 of the Rules, 2006 was interpreted in the context of awarding of compensation to the dependents of the deceased in a road traffic accident to hold that the said amount awarded by the Haryana Government to the family of the dependents of the deceased has to be deducted.

4. By way of response, learned counsel for the petitioners also brought to our notice another three Judge Bench judgment of this Court in Sebastiani Lakra and Ors. v. National Insurance Company Limited [(2019) 17 SCC 465] and particularly paragraph '12' therein to contend that the 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 and contended that having regard to the latter decision of this Court, the earlier decision in Shashi Sharma (supra) may not be relied upon.

5. We have perused closely the judgment of this Court in Sebastiani Lakra (supra) and we find that the three-judge Bench of this Court in the said case has clearly distinguished the reasoning of this Court in Shashi Sharma (supra) and in paragraphs 18 and 20 thereof has observed in that case it was a employers' family benefit scheme which was totally different from the Rules under consideration in Shashi Sharma (Supra).

6. We find that the observations of this Court in Sebastiani Lakra (supra) distinguishing the case of Shashi Sharma (supra) clearly applies to the case in hand. It is observed that the amount of Rs.



31,37,665/- (*Rupees Thirty One Lakhs, Thirty Seven Thousand and Six Hundred and Sixty Five only*) was paid to the dependents of the deceased-employee who are the petitioners herein under the aforesaid Rules since the said Rule was by way of compassionate assistance owing to the sudden death of the employee in harness for any reason whatsoever including as a result of a road traffic accident. This is in order to compensate the loss of the bread earner of the family who dies in harness.”

14. In light of the above authoritative pronouncements, this Court held that the amount received by the claimants under the Haryana Compassionate Assistance Policy is liable to be duly deducted from the compensation awarded, as no person can be permitted to derive double benefit under law.

15. A further perusal of the award reveals that no amount under the head of loss of estate has been awarded by the learned Tribunal, therefore, the Court deems it appropriate to award the same to the claimants.

16. In view of the above, the present appeal is allowed and the compensation is reassessed as under:-

Sr. No.	Heads of Compensation	Amount
1	Annual Income – House rent X 12	Rs.4,07,760/-
2	Future prospects 50%	Rs. 4,07,760 + 2,03,880 = 6,11,640/-
3	Personal Expenditure 1/3rd	Rs.2,03,880/-
4.	Multiplicand (Income + Future prospects) – Deductions – Income Tax	Rs. 6,11,640 – Rs. 2,03,880 = Rs.4,07,760. Rs.4,07,760 – Rs.47,000 = Rs.3,60,760/-
4	Multiplier	15
5	Loss of Dependency	Rs. 3,60,760 X 15 = Rs.54,11,400/-
6	Loss of consortium	Rs.1,00,000/-
7	Funeral expenses	Rs.24,000/-
8	Loss of Estate	Rs.18,150/-



9	Deduction as per Rule 5(1) 2006 towards Financial assistance to the loss of pay and wages of the deceased employee	Rs.4,07,760 X 12 = Rs.48,93,120/-
	Revised amount of compensation	Rs.6,60,430/-

17. So far as the interest part is concerned, as held by Hon’ble Supreme Court in Dara Singh @ Dara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176 and R.Valli and Others VS. Tamil Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107, the claimant-respondent is granted the interest @ 9% per annum on the revised amount from the date of filing of claim petition till the date of its realization.
18. The appellant-Insurance Company is directed to deposit the revised amount of compensation alongwith interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the revised amount of compensation alongwith interest in the account of the claimants/respondents. The claimants/respondents is directed to furnish her bank account details to the Tribunal.
19. The statutory amount of Rs.25,000/- deposited by the appellants at the time of admission of the appeal, is ordered to be refunded to them.
20. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

31.10.2025
Sahil

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