



228

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

FAO-963-2015 (O&M)
XOBJC-177-CII-2015 (O&M)
Date of Decision : 19.02.2025

TATA AIG General Insurance Company Limited ... Appellant(s)

Versus

Narinder Kaur & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanjeev Kodan, Advocate for the appellant.

Mr. Ashwani Arora, Advocate and
 Mr. Vipul Sharma, Advocate
 for respondent Nos.1 & 2/cross-objectors.

ALKA SARIN, J. (Oral)

CM-17613-CII-2015 IN XOBJC-177-CII-2015

1. This is an application for condonation of delay of 122 days in filing the cross-objections.

2. For the reasons stated in the application, delay of 122 days in filing the cross-objections is condoned. CM stands disposed off.

FAO-963-2015

3. The present order shall dispose of the appeal (FAO-963-2015) filed by the appellant-Insurance Company and the cross-objections (XOBJC-177-CII-2015) filed by respondent Nos.1 and 2/claimants aggrieved by the quantum of compensation awarded vide the impugned award dated 23.09.2014 passed by the Motor Accident Claims Tribunal, SAS Nagar (Mohali), in a motor vehicle accident which occurred on 27.05.2013. The parties are being referred to as Insurance Company and claimants for the sake of clarity.

4. Since the factum of the accident is not in dispute, the facts are not being adverted to 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	₹6,000/-
2.	Annual Income	[₹6,000 x 12] = ₹72,000/-
3.	Multiplier of 18	[₹72,000 x 18] = ₹12,96,000/-
4	Funeral expenses	₹25,000/-
5	Love and affection	₹1,00,000/-
	Total	₹14,21,000/-
	Interest	7.5%

6. Learned counsel for the Insurance Company has contended that the income of the deceased as well as the amounts awarded towards last rites expenses and loss of love and affection are on the higher side. He has submitted that in any case there is no scope of any enhancement.

7. Learned counsel for the claimants has contended that the deceased in the present case was a young girl of 16 years who was studying in 11th standard and had a very bright future ahead and the Tribunal has erred in assessing her notional income as only ₹6,000/- per month. The learned counsel for the claimants has relied upon a judgment of the Hon’ble Supreme Court in the case of **Bishnupriya Panda V/s Basanti Manjari Mohanty and Anr. [2023 (4) TAC 44]** to contend that the deceased in that case was a 4th year student of MBBS and Hon’ble Supreme Court had assessed his notional income as ₹50,000/- per month for an accident that took place on 27.07.2013. Further, reliance has been placed upon the judgment passed by the Hon’ble

Supreme Court in the case of **Arjun Kumar Aggarwal V/s The New India Assurance Co. Ltd. And Ors. [2023(3) TAC 23]** wherein the notional income of the deceased was taken as ₹29,166/- on the basis of an appointment letter. Further, reliance has been placed on the case of an engineering student in the case of **Kandasami & Ors. vs. Lindabriyal & Anr. [2023 ACJ 1653]** where the accident took place on 28.09.2008 and the notional income was assessed as ₹25,000/- per month. The learned counsel for the claimants would further contend that the Tribunal has not made any addition towards 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 contentions, he has relied upon the judgments of the Hon'ble Supreme Court in the cases of **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]**.

8. I have heard the learned counsel for the parties.

9. In the present case the deceased was 16 years of age and was studying in 11th standard at the time of the accident. The Tribunal has assessed the income of the deceased as ₹6,000/- only per month. Hon'ble Supreme Court in the case of **Bishnupriya Panda** (supra) had taken the notional income of the deceased as ₹50,000/- per month for the accident which took place in the year 2013. In a similar case of **Arjun Kumar Aggarwal** (supra) the notional income of the deceased was taken as ₹29,166/- per month and in

the case of **Kandasami** (supra) notional income as ₹25,000/- per month was taken for an accident which took place in the year 2008. Thus, taking a conservative estimate, as the date of the accident in the present case was 27.05.2013, the notional income of the deceased is assessed as ₹15,000/- per month. Further, the Tribunal has erred in not making any addition towards loss of future prospects which ought to have been 40% in view of the law laid down by Hon’ble Supreme Court in case of **Pranay Sethi** (supra). Further, since the deceased was unmarried, 50% deduction would be applicable as held by the Hon’ble Supreme Court in the cases of **Bishnupriya Panda** (supra) and **Kandasami** (supra). Further, the amounts awarded under the conventional heads as well as under the head loss of consortium are also not in accordance with the law laid down by the Hon’ble Supreme Court and hence 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), the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Notional income	₹15,000/- per month
2.	Annual income	[₹15,000/- x 12] = ₹1,80,000/-
3.	Deduction 50%	[₹1,80,000 – 90,000] = ₹90,000/-
4.	Future prospects @ 40%	[₹90,000+ ₹36,000/-] = ₹1,26,000/-
5.	Multiplier 18	[₹1,26,000 x 18] = ₹22,68,000/-

6.	Loss of estate	₹18,000/-
7.	Funeral expenses	₹18,000/-
8.	Loss of Consortium : (i) Filial	[₹48000 x 2] = ₹96,000/-
	Total Compensation	₹24,00,000/-

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. The amount shall be apportioned between the claimants as directed by the Tribunal.

11. In view of the above discussion, the appeal (FAO-963-2015) filed by the Insurance Company is dismissed and the cross-objections (XOBJC-177-CII-2015) filed by the claimants are allowed and accordingly the impugned award passed by the Tribunal stands modified to the above extent. Pending applications, if any, also stand disposed off.

19.02.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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