261/1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

2025:PHHC:109294

Reserved on: 07.08.2025
Date of pronouncement: 20.08.2025

FAO-2700-2017 (O&M)
& XOBJC-192-CII-2017

NATIONAL INSURANCE COMPANY LTD ... APPELLANTS

VERSUS

JASWINDER KAUR AND OTHERS ... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE PARMOD GOYAL

Present:- Mr. R.C.Kapoor, Advocate for the appellant.
Mr. Sandeep Kotla, Advocate for the cross-objectors/ respondents No.1 to 6.

PARMOD GOYAL, J.

Appellant-Insurance Company has preferred the present appeal being aggrieved by the award of compensation passed by learned Motor Accident Claims Tribunal, Fatehabad (for short, 'the Tribunal') amounting to Rs.14,40,000/- in favour of the claimants-respondents Jaswinder Kaur and others. The claimants have preferred cross-objections for enhancement of compensation.

2. It is the case of Insurance Company that learned Tribunal has erred in determining the income of the deceased by applying dependency, future prospects and amount on account of loss of consortium wrongly. It is the claim of Insurance Company that the amount awarded to claimants is highly excessive.

3. Claimants Jaswinder Kaur and others had claimed that deceased Satnam Singh, who had died on 11.09.2015 was aged 35 years as he was born on 20.03.1980. It was asserted that deceased was working as Mason and earning Rs. 30,000/- p.m. and he was also running a milk dairy and earning additional amount of Rs.10,000/- to Rs.15,000/- p.m. from the said dairy. It was claimed that the entire amount earned by deceased was being handed over to the claimants.

4. Learned Tribunal, however, after considering respective contentions concluded the income of the deceased to be Rs.6000/- p.m, and added 50% to the said income as future prospects and after deducting personal expenses to the extent of 25%, calculated monthly dependency to be Rs.6750/-. The deceased was held to be in the age group of 36 to 40 years as he was 35 years, 05 months and 21 days on the date of accident and after applying multiplier of 15, compensation calculated on account of dependency was Rs.12,15,000/-. The Tribunal has further awarded Rs. 1 Lakh towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs. 1 Lakh towards care and guidance of minor children i.e. respondent Nos. 2 to 5. The total compensation of Rs.14,40,000/- was awarded to the claimant.

5. Learned counsel for the appellant-Insurance Company has challenged above awarded amount and claimed that learned Tribunal has erred in taking salary of deceased to be Rs.6000/-. Appellant has also challenged award of 50% towards future prospects, lumpsum amount towards consortium, funeral expenses and loss of care and guidance. It is the case of Insurance Company that once consortium has been awarded the compensation under separate head of care and guidance is not permissible.

6. Cross-objectors/claimants are also dissatisfied with the award and claimed that learned Tribunal has wrongly taken the salary of Mason as Rs.6000/- whereas an unskilled labour was getting minimum wages of Rs.7800/- in the year 2015 whereas the deceased was Mason, a skilled labour and, therefore, entitled to salary as claimed by the claimants. It is asserted that multiplier of 16 is applicable as deceased was yet to complete 36 years of age. He also defended compensation awarded towards consortium to the wife and also claimed compensation on account of consortium for minor children. He accordingly, prayed for enhancement of compensation.

7. Admittedly, except for oral evidence that the deceased was earning Rs. 30,000/- while working as Mason and Rs.10,000/- to Rs.15,000/- p.m. from the dairy, no documentary evidence or material has been placed on record to prove the pleaded income of the deceased. There is no material except for oral assertion made by the claimants. There is no material to conclude that the deceased was working as Mason and was a skilled labour. However, it is not being disputed that deceased was able-bodied person, aged about 35 years. This fact goes to show that deceased was gainfully employed and was an earning hand. Accordingly, deceased was required to be taken as unskilled labour and his salary has to be taken equivalent to minimum wages payable to an unskilled labour as minimum wages are the minimum standards fixed and shows that an able-bodied person will be earning this much amount even if he may not have any specific skills.

8. In the present case the learned Tribunal has erred in taking minimum income of deceased to be Rs.6000/- instead of minimum wages

payable to an unskilled worker. In State of Haryana, as per Notification of Labour Department, the minimum wages for unskilled workers were Rs.7800/- p.m. in the year 2015 when the deceased had died. Accordingly, the monthly income of the deceased needs to be taken as Rs.7800/- p.m. I also find merit in the contentions of learned counsel for the claimants that learned Tribunal has wrongly taken multiplier of 15 instead of 16. As per driving licence of deceased, he was born on 20.03.1980 and was 35 years, 05 months and 21 days of age. Therefore, he had not completed 36 years and he has to be considered in the age group of 31 to 35 years and multiplier of 16 shall be applicable.

9. I find merit in the contention raised on behalf of learned counsel for the Insurance Company that funeral expenses needs to be awarded as per directions of Hon'ble Supreme Court of India in **National Insurance Company Ltd vs. Pranay Sethi and others, Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017** wherein the issue with regard to awarding of amount under the conventional heads has been authoritatively decided, while observing as under :-

> "54. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh. It has granted Rs. 25,000/- towards funeral expenses, Rs. 1,00,000/-loss of consortium and Rs. 1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme

> difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”.

10. Therefore, Rs. 15,000/- is awarded towards funeral expenses instead of Rs. 25,000/- awarded by the learned Tribunal. The Tribunal has not awarded any amount towards loss of estate. Claimants are, therefore, entitled to Rs. 15,000/- towards loss of estate also. The Tribunal has awarded Rs. 1 Lakh towards loss of consortium to respondent No.1 which is on higher side as per the the judgement of ***Pranay Sethi*** (supra). Rs. 40,000/- needs to be paid to respondent No.1 as spousal consortium. No compensation towards consortium has been awarded to the minors i.e. claimant Nos. 2 to 5. Rather they have been awarded compensation of Rs. 1 Lakh towards loss of care and guidance. Minors are entitled to compensation under the head of parental consortium and once compensation under parental consortium is awarded, then no compensation under separate head of loss of care and guidance/love and affection is payable. Compensation under these heads shall be covered by head ‘consortium’. Each of the minor claimants i.e. respondent Nos. 2 to 5, therefore, shall be entitled to consortium of Rs. 40,000/- each. Claimants no. 2 to 5 are,

accordingly, entitled to consortium of Rs. 1,60,000/-. Therefore, it is held that deceased was earning minimum Rs. 7800/- p.m. which is taken as his income. Claimants are further entitled to 40% increase on account of future prospects over the monthly income and after deducting personal expenses to the extent of 1/4th and after applying multiplier of 16, claimants shall be entitled to following compensation:-

Income of deceased	Rs. 7,800/- per month (minimum wages for unskilled worker)	Rs. 7,800/- per month
Addition towards future prospects	40%	Rs. 10,920/- per month (7,800+3,120)
Deduction on account of personal expenses of deceased	1/4	Rs. 8190/-per month (10,920-2,730)
Selection of multiplier	16	16
Loss of dependency		Rs.15,72,480/- (8190/- per month income of claimant with future prospects x 12 months x 16 multiplier)
Funeral expenses		Rs. 15,000/-
Loss of estate		Rs. 15,000/-
Loss of filial consortium Loss of parental consortium Loss of spousal consortium	Rs. 40,000/- claimant no.6 mother Rs. 40,000/- x 4 – Claimants no. 2 to 5 children Rs. 40,000/- Claimant no.1 wife	Rs. 2,40,000/- (Rs.40,000/- x 6)
Total Compensation		Rs.18,42,480/-

awarded to claimants in appeal		
Compensation awarded by Tribunal		Rs. 14,40,000
Enhanced amount of compensation		**Rs.4,02,480/- (18,42,480/- (Awarded in appeal) – 14,40,000 (Awarded by Tribunal) (rounded off to Rs.4,02,000/-)**

Arguments raised on behalf of the Insurance Company that deceased was a casual labour and therefore, claimants are not entitled for future prospects is also without any merit. The Courts are bound to take judicial notice of the fact that with the passage of time even an unskilled labour becomes a skilled labour as practice and experience makes him acquire skills. Therefore, even in case of an unskilled labour he has got future prospects in life and bound to earn more in future. Similarly, the minimum wages taken are the wages which an able-bodied person would earn even if he has got no regular or permanent job. Minimum wages is not notional income, it is income which deceased is otherwise earning and therefore, future prospects on such income is to be calculated. The Courts are bound to take notice of the fact that in India majority of the population is working in unorganised sector and has got no proof of their actual income. Therefore, to conclude that such persons have no future prospects would be totally injustice to such persons. With the passage of time, we all grow and earn more due to experience by acquiring the skills. Therefore, future prospects are payable in all cases where income is determined on the basis of minimum wages.

11. The argument raised on behalf of the Insurance Company that no interest is payable on future prospects is also devoid of merit. The argument that future prospects have not arisen and therefore, no interest is payable is fallacious. The dependency of a person is calculated at the time of disposal of claim petition though his right has accrued on the date of his death. If arguments raised on behalf of Insurance Company is accepted, then it would mean that even on dependency calculated after applying the multiplier, the interest would not be payable as income would accrue in future. It is worth noticing that the payment of interest from the date of filing of claim petition till date of realisation is not interest over amount which has accrued or which shall accrue in future. In fact, right to seek compensation arises in favour of dependants of deceased immediately after accident. Interest is being paid for delay in actual payment of compensation due to adjudicatory process before the Court as Insurance Company had denied claim of petitioner, for this claimants can not be faulted. Interest is payable on the compensation, which is determined for the adjudicatory period till actual payment and therefore, has got no nexus with the amount accrued or accruable as being argued by learned counsel for Insurance Company. Therefore, interest on future prospects is also payable to the claimants.

12. In view of the above discussion, both the appeals preferred by Insurance Company and cross-objections preferred by the claimants are disposed of. The claimants are entitled to enhanced compensation of Rs.4,02,000/- along with interest @ 7.5% per annum over and above the

amount awarded by learned Tribunal. Enhanced compensation be paid as per award to the claimants in accordance with apportionment stated in the award. Pending miscellaneous application(s), if any, shall also stand disposed of.

(PARMOD GOYAL)
JUDGE

20.08.2025
Janki

Whether speaking/reasoned	**:**	Yes/No
Whether reportable	:	Yes/No