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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3089-2017 (O&M)
Date of Decision : 18.08.2025

United India Insurance Co Ltd ... Appellant

Versus

Raj Kumari and Others ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. V. Ramswaroop, Advocate for the appellant.

Mr. Munfaid Khan, Advocate for respondent Nos.1 to 6.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by the Insurance Company challenging the award dated 06.02.2017 passed by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as the 'Tribunal'). The parties are being referred to as the claimants and the Insurance Company for the sake of clarity.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of clarity.

3. In the present case, the Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹9,000/-
2	Deduction 1/4th	[₹9,000 – 2,250] = ₹6,750/-
3	Compensation after multiplier of 17 is applied	[₹6,750 x 12 x 17] = ₹13,77,000/-
4	Loss of consortium	₹1,00,000/-

5	Expenses incurred on last rites of the deceased	₹50,000/-
6	Love and affection	₹5,00,000/-
	Total Compensation	**₹20,27,000/-**
	Interest	**9% per annum**

4. Learned counsel for the Insurance Company would contend that the income of the deceased has been excessively assessed as ₹9,000/- per month while the minimum wages for an unskilled worker prevalent at the relevant point of time were ₹6,750/- per month. It is further the contention that the amounts awarded under the conventional heads as well as under the head 'loss of consortium' are also not in consonance with the law laid down by Hon'ble Supreme Court in case 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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra* learned counsel for respondent Nos.1 to 6 i.e. claimants, who are the only contesting respondents in the present case, would contend that there are six dependents of the deceased and his income has rightly been assessed by the Tribunal as ₹9,000/- per month. Learned counsel for the claimants would further contend that the award in the present case is not in consonance with the judgments passed by the Hon'ble Supreme Court and hence the amount of compensation deserves to be enhanced. Learned counsel for claimants has relied upon an order passed by the Hon'ble Supreme Court in the case of **Surekha & Ors. vs. Santosh & Ors. [2021 (16) SCC 467]** to contend that even though no cross appeal was filed, the claimants would be entitled to enhanced compensation in terms of

the law laid down by the Hon'ble Supreme Court. It is further the contention that the Tribunal has not made any addition towards loss of future prospects, which ought to have been 40% keeping in view the age of the deceased, who was 30 years of age at the time of his death.

6. Heard.

7. In the present case, the income of the deceased has been assessed as ₹9,000/- per month. The argument of the learned counsel for the Insurance Company that the income ought to have been assessed as per the Minimum Wages Act, 1948 deserves to be rejected. In the present case the deceased has left behind his widow, three minor children and old aged parents. The minor children have their entire life ahead of them. Their education has to be taken care of as well as the living expenses of all the claimants. The compensation cannot in any manner compensate for the loss suffered by the family of the deceased, but it should at least be sufficient to mitigate the financial difficulties the family is likely to face. Keeping in view the rising prices as well as the fact that the education of the minor children is still at the threshold, I do not deem it appropriate to interfere in the income of the deceased as assessed by the Tribunal. Hon'ble Supreme Court in the case of **Chandra @ Chanda @ Chandraram and Anr. vs. Mukesh Kumar Yadav and Ors. [2021 (4) RCR (Civil) 492]** has observed as under :

> *"10. It is the specific case of the claimants that the deceased was possessing heavy vehicle driving licence and was earning Rs.15000/- per month. Possessing such licence and driving of heavy vehicle on the date of accident is proved from the evidence on record. Though the wife of the deceased has categorically deposed as*

AW¬1 that her husband Shivpal was earning Rs.15000/¬ per month, same was not considered only on the ground that salary certificate was not filed. The Tribunal has fixed the monthly income of the deceased by adopting minimum wage notified for the skilled labour in the year 2016. In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs.15000/¬ per month. In the case of Minu Rout & Anr. v. Satya Pradyumna Mohapatra & Ors.2 this Court while dealing with the claim relating to an accident which occurred on 08.11.2004 has taken the salary of the driver of light motor vehicle at Rs.6000/¬ per month. In this case the accident was on 27.02.2016 and it is clearly proved that the deceased was in possession of heavy vehicle driving licence and was driving such vehicle on the day of accident. Keeping in mind the enormous growth of vehicle population and demand for good drivers and by considering oral evidence on record we may take the income of the deceased at Rs.8000/¬ per month for the purpose of loss of dependency. Deceased was aged about 32 years on the date of the accident and as he was on fixed salary, 40% enhancement is to be made towards *loss of future prospects. At the same time deduction of 1/3rd is to be made from the income of the deceased towards his personal expenses. Accordingly the income of the deceased can be arrived at Rs.7467/¬ per month. By applying the multiplier of '16' the claimants are entitled for compensation of Rs.14,33,664/¬. As an amount of Rs.10,99,700/¬ is already paid towards the loss of dependency the appellant¬parents are entitled for differential compensation of Rs.3,33,964/¬. Further in view of the judgment of this Court in the case of Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram & Ors.3 the appellants are also entitled for parental consortium of Rs.40,000/¬ each. The finding of the Tribunal that parents cannot be treated as dependents runs contrary to the judgment of this Court in the case of Sarla Verma (Smt). & Ors. v. Delhi Transport Corporation & Anr.4 . The judgment in the case of Kirti & Anr. v. Oriental Insurance Company Limited1 relied on by the counsel for the respondent would not render any assistance in support of his case having regard to facts of the case and the evidence on record."*

8. Accordingly, the argument of the learned counsel for the Insurance Company that the income ought to have been assessed as per the Minimum Wages Act, 1948 stands rejected.

9. Hon'ble Supreme Court in the case of **Surekha** *(supra)* has held as under :

"3. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants."

10. As per Order XLI Rule 33 of the Code of Civil Procedure, 1908, reproduced hereunder, even in the absence of a cross appeal an order can be passed in favour of the respondents.

> *"33. Power of Court of Appeal - The appellate court shall have power to pass any decree and make any order which ought to have been passed or made and to pass or make such further or other decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection and may, where there have been decrees in cross-suits or where two or more decrees are passed in one suit, be exercised in respect of all or any of the decrees, although an appeal may not have been filed against such decrees."*

11. In view of the order in the case of **Surekha** *(supra)*, the argument of the claimants is accepted. In the present case the Tribunal has rightly applied the deduction and the multiplier and accordingly the same are maintained. However, no addition has been made towards loss of future prospects. The deceased in the present case was 30 years of age and as per the law laid down by Hon'ble Supreme Court in case of **Pranay Sethi** (supra) an addition of 40% ought to have been made towards loss of future prospects.

12. Further, the argument of learned counsel for the Insurance Company that the amounts awarded under the conventional heads as well as 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) is accepted. Accordingly, the claimants would be entitled to (₹18,000/- (₹15,000+20% increase) towards loss of estate and (₹18,000/- (Rs.15,000+20% increase) towards funeral expenses as also to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the re-worked out compensation is as under :

Sr. No.	Heads	Compensation Awarded	
1	Monthly Income	₹9,000/-	
2	Annual Income	₹1,08,000/-	[₹9,000 x 12]
3	Deduction - 1/4th	₹81,000/-	[₹1,08,000 – 27,000]
4	Future Prospects - 40%	₹1,13,400/-	[₹81,000 + 32,400]
5	Multiplier - 17	₹19,27,800/-	[₹1,13,400 x 17]
6	Loss of estate	₹18,000/-	
7	Funeral expenses	₹18,000/-	
8	Loss of consortium		
	(i) Parental [₹48,000/- x 3] (ii) Filial [₹48,000/- x 2] (iii) Spousal's	₹1,44,000/- ₹96,000/- ₹48,000/- (Total ₹2,88,000/-)	
	Total Compensation	**₹22,51,800/-**	

13. 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.

14. In view of the decision by the Hon’ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 AIR (SC) 1713]**, 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 and the share of the minor claimants (respondent Nos.2 to 4

herein) shall be kept in fixed deposits by the Bank concerned. 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. Vide order dated 08.05.2017 since recovery of compensation amount beyond ₹15,50,000/- was stayed and as per the learned counsel for the Insurance Company the remaining amount already stands disbursed to the claimants, the entire amount of compensation be released to the claimants.

15. In view of the above discussion, the impugned award passed by the Tribunal is modified in the above terms and the appeal filed by the Insurance Company stands disposed off accordingly. Pending applications, if any, also stand disposed off.

18.08.2025 **(ALKA SARIN)**
jk **JUDGE**

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