IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

272-A **FAO-1409-2018 (O&M)**
XOBJC-194-CII-2018
Date of Decision : 28.01.2025

SBI GENERAL INSURANCE CO. LTD. .... Appellant

VERSUS

MANOJ KUMAR AND ORS .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Manvi Verma, Advocate for
Mr. Rajneesh Malhotra, Advocate for the appellant.

Mr. Sumit Gupta, Advocate
for respondents No.1 and 2/cross-objectors.

Mr. Amit Singla, Advocate for respondent No.3.

Mr. Dharamvir Singh, Advocate for
Mr. Deepender Singh, Advocate for respondent No.4.

ALKA SARIN, J. (ORAL)

CM-19448-CII-2018

1. This is an application for condonation of delay of 2 days in refiling the cross-objections.

2. For the reasons stated in the application, the same is allowed and the delay of 2 days in refiling the cross-objections is condoned.

CM-19449-CII-2018

3. This is an application for condonation of delay of 60 days in filing the cross-objections.

4. For the reasons stated in the application, the same is allowed and the delay of 60 days in filing the cross-objections is condoned.

FAO-1409-2018

5. The present appeal has been preferred by the appellant-Insurance Company aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal') vide the impugned award dated 16.12.2017. During the pendency of the appeal, cross-objections being XOBJC-194-CII-2018 were filed by claimant-respondents No.1 and 2. The present order shall dispose off both the appeal preferred by the appellant-Insurance Company and the cross-objections preferred by claimant-respondents No.1 and 2.

6. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not adverted to herein for the sake of brevity.

7. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹8,000
2.	Annual income	[₹8,000 x 12] = ₹96,000
3.	Multiplier of '18'	[₹96,000 x 18] = ₹17,28,000
4.	Funeral expenses	₹15,000
5.	Loss of estate	₹15,000
6.	Loss of consortium	₹40,000
	Total Compensation	₹17,98,000
	Interest	**@ 9% per annum**

8. Learned counsel for the appellant-Insurance Company would contend that though notional income had been assessed, however, no deduction was made towards the personal expenses of the deceased.

9. Per contra, learned counsel for the claimant-respondents No.1 and 2 cross-objectors would contend that as per the judgment of the Hon'ble

Supreme Court in the case of **Kirti & Anr. V/s Oriental Insurance Company Ltd. [2021 (1) RCR (Civil) 478]** the claimant-respondents No.1 and 2 cross-objectors would be entitled to addition of future prospects and thereafter only the deduction can be made. Learned counsel would further contend that though the income of the deceased has rightly been assessed by the Tribunal, however, no amount has been awarded towards loss of consortium to the minor child and that the amount awarded under the conventional heads is also on the lower side. In support of his contentions the learned counsel for the claimant-respondents No.1 and 2 cross-objectors 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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

10. Heard.

11. In the present case the deceased was 20 years of age. At the time of her death, she was a student as is apparent from her roll number slip (Ex.P-9) and no evidence was led by the appellant-Insurance Company to the contrary. Her income had been assessed as ₹8,000 notionally by the Tribunal which has not been challenged by either of the parties. Hence, the income of the deceased as ₹8,000 per month is maintained. The argument of the learned counsel for the appellant-Insurance Company that deduction ought to have been made is accepted however in conjunction with the argument raised by the learned counsel for the claimant-respondents No.1

and 2 cross-objectors that an addition of 40% ought to have been made towards future prospectus. The Hon'ble Supreme Court in the case of **Kirti** (supra) has held as under :

> *'42. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarized as follows:*
>
> *a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.*
>
> *b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.*
>
> *c. Various methods can be employed by the Court to fix the notional income of a homemaker,*

depending on the facts and circumstances of the case.

d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation'.

12. In view of the above, since the addition of 40% towards future prospects is made, therefore, deduction would also have to be applied. In the present case there are two claimants and hence deduction of 1/3rd would be applicable. Further, the amounts awarded under the conventional heads and 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). Hence, the claimant-respondents No.1 and 2 cross-objectors would be entitled to ₹18,000 (₹15,000 + 20% increase) towards loss of estate and ₹18,000 (₹15,000 + 20% increase) towards funeral expenses. The claimant-respondents No.1 and 2 cross-objectors, being husband and minor daughter of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium.

13. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹8,000
2.	Annual income	[₹8,000 x 12] = ₹96,000
3.	Future prospects @40%	[₹96,000 + ₹38,400] = ₹1,34,400
4.	Deduction 1/3rd	[₹1,34,400 - ₹44,800] = ₹89,600
5.	Multiplier of '18'	[₹89,600 x 18] = ₹16,12,800
6.	Funeral expenses	₹18,000
7.	Loss of estate	₹18,000
8.	Loss of consortium (i) Parental (children) (ii) Spousal's	 ₹48,000 ₹48,000 Total = ₹96,000
	Total Compensation	**₹17,44,800**
	Amount already awarded by the Tribunal	**₹17,98,000**
	Difference	**(₹53,200)**

14. The difference in the amount of compensation awarded by the Tribunal and the amount of compensation as reworked out by this Court is **₹53,200**. Learned counsel for the claimant-respondents No.1 and 2 cross-objectors has relied upon the judgment of the Hon'ble Supreme Court in the case of **Usha Devi & Ors. V/s The New India Insurance Company Limited & Ors. [2020 (1) CivilLJ 854]** to contend that once the amount of compensation awarded by the Tribunal had been disbursed, the same should not be recovered from the claimants.

15. Since the amount of compensation awarded by the Tribunal already stands disbursed to the claimants-respondents No.1 and 2 cross-objectors, it is directed that the amount so disbursed shall not be recovered from them as per the law laid down by the Hon'ble Supreme Court in **Usha Devi's** case (supra).

16. In view of the above discussion, the present appeal preferred by

the appellant-Insurance Company and the cross-objections being XOBJC-194-CII-2018 filed by claimant-respondents No.1 and 2 stand disposed off and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

28.01.2025 **(ALKA SARIN)**
Aman Jain **JUDGE**

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