



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

**CM-16164-CII-2017 &
FAO-5222-2017
Reserved On : 30.09.2025
Decided On: 31.10.2025**

IFFCO TOKIO General Insurance Compancy LimitedAppellant

Vs.

Jaskirat and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ajay Singla, Advocate
for the applicant/appellant.

Mr. Maneet Kaushik, Advocate
for respondent Nos.1 to 3.

SUDEEPTI SHARMA J. (ORAL)

CM-16164-CII-2017

1. The present application has been filed under Section 5 of the Limitation Act, 1963, for condonation of delay of 72 days in filing the present appeal.

2. For the reasons mentioned in the application, the same is allowed and the delay of 72 days in filing the present appeal is condoned.

FAO-5222-2017

1. The present appeal has been preferred by the appellant-Insurance company against the Award dated 31.01.2017 passed in the claim petition under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Karnal (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.36,48,752/- along with interest @ 9% 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 learned Tribunal has wrongly assessed the age of the deceased as 31 years instead of 30 years.

4. He further contends that the learned Tribunal has wrongly determined the parents of the deceased as dependents on his income.

5. He further contends that learned Tribunal has wrongly added 50% future prospects to the income of the deceased instead of 40% as per settled law.

Therefore, he prays that the present appeal be allowed and award dated 31.01.2017 be set aside.

6. *Per contra* learned counsel for respondent Nos.1 to 3 contends that the learned Tribunal has rightly awarded the amount of compensation to the claimants, therefore, he prays for dismissal of the appeal.

7. Learned counsel for the claimant/respondent fairly conceded before this Court that the claimant has already received the compensation amount as awarded by the learned Tribunal. He, however, contended that even if this Court were to come to the conclusion that the compensation awarded by the Tribunal is on the higher side, the amount already disbursed to the claimant cannot be directed to be recovered. In support of this submission, learned counsel placed



reliance on the judgment of the ***Hon'ble Supreme Court in Usha Devi v. National Insurance Company Ltd; Law Finder Doc ID: 1673911.***

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

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

“14. The claimants have claimed compensation on account of the death of late Sh. Harvinder Singh son of Sh. Gurbax Singh, who had died in the accident as discussed above on 19/07/2013, The said accident has been proved by the testimony of the eye-witness Harjeet Singh who was travelling behind the deceased on his own motorcycle. In order to prove the death of late Sh. Harvinder Singh in the said accident, the claimants have placed on record a copy of the post-mortem report of the deceased as Ex.PY, copy of the FIR as Ex.P1, and copy of the challan as Ex.P-2. It has been submitted that late Sh. Harvinder Singh was 30 years of age and all the claimants were dependent upon him. It has been alleged by the claimants that the deceased was a transporter by profession and was self-employed. It has been submitted that the deceased was earning Rs. 25,000/- per month. In order to prove the income of the deceased Harvinder Singh, the claimants have produced a copy of his income tax return furnished for the assessment year 2012-13 as Ex. PX which shows his gross total income for the whole year to be Rs. 1,96,500/-. After subtracting the deductions under Chapter VI-A, the total income of the deceased was shown to be Rs 1,76,500/- i.e. Rs. 14,700/- per month. The said income tax return had been furnished on 30th of March 2013 i.e. before the date of the said accident. Therefore, there is no reason to disbelieve the same.

15. Therefore, the monthly income of the deceased Harvinder Singh is taken to be Rs. 14,700/-. 50 percent of the



said amount is added as future prospects. Thus, an amount of Rs. 22,050/- is taken to be the monthly income of the deceased after adding the future prospects. As the dependent family members of the deceased were four in number, 1/4th of the said amount is to be deducted for the personal living expenses of the deceased. In other words, an amount of Rs. 5,512/- is to be deducted towards the personal living expenses of the deceased out of the said amount of Rs. 22,050/- Thus, the multiplicand, i.e. (income + future prospects) - deductions comes to Rs. 16,538/-. The claimants have claimed in the petition that the deceased was 30 years of age and even in his post mortem report the deceased was shown to be 30 years of age as on the date of his death. As per the authority of Sarla Verma & Ors. Versus Delhi Transport Corporation & Anr. (2009) 6 SCC 121 multiplier of 17 is applicable in the present case. Therefore, the total loss of dependency comes to Rs.16,538/- multiplied by 12 multiplied by 17 which comes to Rs.33,73,752/-.

16. Besides this, in legal parlance, 'consortium' is the right of the spouse to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. The loss of companionship, love, care and protection, etc., the spouse is entitled to get, has to be compensated appropriately. Thus, claimant no.2, being the widow of late Sh. Harvinder Singh, is entitled to the loss of consortium and loss of estate amounting to Rs.1 lakh as prescribed in the case titled as Rajesh & Ors. Versus Rajbir Singh & Ors. (2013) 9 SCC 54. Even the claimant no.1, who is the minor son of late Sh. Harvinder Singh and claimant no.2, is also entitled to the loss of love and affection and care and guidance amounting to Rs. 1 lakh. Claimants no.3 and 4, who are the parents of the deceased, are also entitled to the loss of love and affection amounting to Rs. Father of dependent



25,000/- each. ID proofs of the claimants have been placed on file.

17. Coming to the funeral expenses of the deceased, there is no cogent evidence to prove the actual expenses incurred for this purpose. Claimant No. 2 Jasneet Kaur had stepped into the witness-box as PWI and has submitted that her family had spent an amount of Rs. 60,000/- on the treatment, transportation and last rites of the deceased. However, the claimants have failed to produce any documentary evidence regarding the alleged expenses. However, the head "Funeral Expenses" does not mean the fee paid in the crematorium or fee paid for the use of space in the cemetery. There are many other expenses in connection with funeral and, if the deceased is follower of any particular religion, there are several religious practices and conventions pursuant to death in a family. All those are quite expensive. Reference in this regard may be made to the observations in Rajesh Singh & Ors. Versus Rajbir Singh & Ors., 2013 (4) Law Herald (Supreme Court) 3006 in which an amount of at least Rs.25,000/- was held to be just, fair and equitable, under the head of "Funeral Expenses", in the absence of evidence to the contrary for higher expenses.

18. Moreover, as held in the case titled as Syed Sadiq etc. Versus Divisional Manager United India Insurance Company (2014) 2 SCC 735, the claimants would be entitled to receive the said amount along-with interest at the rate of 9 percent per annum.

19. In view of the aforesaid discussion, it is held to be fair, just and reasonable to award compensation to the claimants under the following heads:-

Sr. No.	Heads of Compensation	Amount
1	Income per month	Rs.14,700-00/-
2	50% of (I) above to be added as	Rs.14,700 + 7,350 = 22,050-00



	future prospects	
3	1/4th of (ii) deducted as personal expenses of the deceased	Rs.5,512-00
4.	Multiplicand (Income + Future prospects) - Deductions	Rs.22,050 – Rs.5,512 = Rs.16,538-00
4	Multiplier as per Sarla Verma’s case	17
5	Loss of Dependency (Multiplicand x Multiplier) Rs.16,538 x 12 x 17	Rs.33,73,752-00
6	Loss of consortium and Loss of estate to claimant no.2 being widow.	Rs.1,00,000-00
7	Loss of love and affection to claimant no.1 being minor son of the deceased	Rs.1,00,000-00
8	Loss of love and affection to claimant no.3 being mother of the deceased	Rs.25,000-00
	Loss of love and affection to claimant no.4 being father of the deceased	Rs.25,000-00
	Funeral expenses	Rs.25,000-00
	Total	Rs.36,48,752-00

10. A perusal of the award reveals that the deceased-Harvinder Singh was stated to be 30 years of age at the time of the accident. However, the learned counsel for the appellant contends that as per the ration card of the deceased his age is mentioned as 31 years. On the contrary, post mortem report (Ex.PY) indicates that the age of the deceased was 30 years.

11. It is settled proposition of law as held by Hon’ble the Supreme Court in *Sunita Vs. Vinod Singh 2025 INSC 366* wherein the Hon’ble Apex Court held that in absence of material indicating to the contrary, there is no inhibition to accept the age of deceased as per post mortem report. The relevant extract of the same is reproduced as under:-

“11. The amount arrived at by the High Court of the monthly income being Rs.5,819/- (Rupees Five Thousand Eight



*Hundred and Nineteen) as against the claim of Rs.10,000/- (Rupees Ten Thousand) appears to be on the lower side as the total earning of the deceased from family pension itself ought to have been considered which itself would come to Rs.5,137/- (Rupees Five Thousand One Hundred and Thirty-Seven) to which the notional wages as a home maker had to be added, which we find is reasonable as has been taken by the High Court at Rs.2,500/- (Rupees Two Thousand Five Hundred). Thus, the monthly income would come to Rs.7,637/- (Rupees Seven Thousand Six Hundred and Thirty-Seven), which we are inclined to round off at Rs.7,000/- (Rupees Seven Thousand) Coming to the multiplier factor which is dependent on the age, there is sufficient indication that the deceased was aged about 45 years as per the Post-Mortem Report which is a scientific assessment of the age of the deceased. The purported discrepancy in the age with regard to that of the claimant and the deceased is erroneous for the reason that when the claim was filed, appellant no.1 was aged about 30 years and a difference of 15 years between the daughter-in-law and the mother-in-law cannot be said to be totally devoid of reality given the contextual and prevalent societal norms in vogue at the time of marriage of the deceased which could have been at least 25 to 30 years prior to her death i.e., in or about the 1970s. **Moreover, in the absence of material indicating to the contrary, there is no inhibition to accept the age of the deceased as per the Post-Mortem Report.** Thus, we are inclined to grant her the benefit of multiplier of 14 taking her age as 45 years. With regard to the loss of love and affection, Pranay Sethi (supra) grants Rs.40,000/- (Rupees Forty Thousand) per head with escalation of 10% every three years for loss of consortium which has been interpreted in Magma General Insurance Co. Ltd. v Nanu Ram, (2018) 18 SCC 130 to include spousal, parental, and filial consortium. Thus, there*



being five claimants the amount shall be [Rs.48,000/- x 5] which comes to Rs.2,40,000/- (Rupees Two Lakhs and Forty Thousand) payable under the head of loss of love and affection.”

12. In view of the above, referred to judgment, the learned Tribunal has rightly ascertained the age of the deceased as **30 years**. Therefore, this contention of the appellant does not require any interference of this Court.

13. A further perusal of the award reveals that the learned Tribunal has rightly appreciated and considered the parents of the deceased as dependants upon his income. It is a well-recognized principle, particularly within the context of Indian socio-economic and familial structures, that a son bears the responsibility of financially supporting his elderly parents. The learned Tribunal has judiciously taken into account the prevailing societal norms and the factual matrix of the case to rightly conclude that the parents of the deceased were indeed financially dependent on him. This finding is both legally sound and socially just, warranting no interference.

14. Adverting to the next contention raised on behalf of the appellant-Insurance Company, it has been argued that the learned Tribunal erred in awarding 50% addition towards future prospects, as only 40% could have been granted since the deceased was self-employed and below 40 years of age at the time of the accident. This Court finds substance in this argument. Therefore, keeping in view the law laid down by The Hon'ble Supreme Court in *Pranay Sethi's case (supra)* addition of future prospects @40% would be applicable.

15. However, learned counsel for claimants/respondents contends that the claimants had already received the compensation awarded by the learned



Tribunal, therefore, the amount so received cannot be recovered from the claimants. This Court finds merit in this contention. This issue has already been dealt with by the Hon'ble Supreme Court in the case titled as ***Usha Devi v. National Insurance Company Ltd***; ***Law Finder Doc ID: 1673911***, wherein, the Apex Court categorically held that the sum which has already been made over to the claimants shall not be recovered from them.

16. The relevant portion of case titled as ***Usha Devi v. National Insurance Company Ltd*** is reproduced as under:-

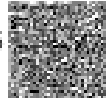
“8. However, considering the facts and circumstances of the case, where 50% of the awarded sum has already been made over to the claimants, we do not deem it appropriate to direct refund of said sum.

9. Therefore, while affirming the view taken by the High Court, we direct that 50% of the sum which has been made over to the claimants shall not be recovered from them and the Insurance Company will be entitled only to the refund of balance 50% sum which stands deposited with the Registry of the Tribunal along with any interest accrued thereon.

10. The appeal is disposed of in aforesaid terms.”

17. The Co-ordinate Bench of this Court has also dealt with the similar matter in **FAO-1307-2014**, titled as ***New India Assurance Company Limited Vs. Neelam and Others*** vide which this Court held that the amount so disbursed to the claimants shall not be thereafter recovered. The relevant portion of the same is reproduced as under:-

“13. The difference in the amount awarded by the Tribunal and the amount as reworked out above is ₹52,350/-. As noticed in the order dated 11.04.2014, compensation of ₹15,00,000/- alongwith interest was ordered to be released to



the claimants without security and the remaining award amount was ordered to be released subject to furnishing of security by the claimants to the satisfaction of the Tribunal. To a query of this Court, learned counsel for the parties have fairly admitted that the compensation awarded by the Tribunal was already deposited and disbursed pursuant to the interim order passed this Court. Accordingly, it is directed that the amount so disbursed shall not be recovered from the claimants as per the law laid down by the Hon'ble Supreme Court in Usha Devi & Ors. Vs. The New India Insurance Company Limited & Ors. [2020 (1) Civil LJ 854].”

18. As a sequel to above discussion, and relying on the judgments rendered by the Hon'ble Supreme Court and the Co-ordinate Bench of this Court, the amount of compensation already disbursed to the claimants/respondents is not liable to be recovered. Accordingly, the present appeal is dismissed.

19. 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