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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5569-2017 (O&M)
Date of Decision : 18.11.2025

Ram Lali & Ors ... Appellant(s)

Versus

Vijay Kumar & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Bhumika Khatri, Advocate for
Mr. H.S. Saini, Advocate for the appellants.

None for respondent Nos.1 and 2.

Mr. Punit Jain, Advocate for respondent No.3.

Mr. Nitin Thatai, Advocate for respondent No.4
(through hybrid mode).

ALKA SARIN, J. **(Oral)**

CM-18142-CII-2017

1. For the reasons mentioned therein, the application seeking condonation of delay of 92 days in filing the appeal is allowed and the delay of 92 days in filing the appeal is condoned.

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2. The present appeal has been preferred by the claimant-appellants aggrieved by the impugned award dated 21.02.2017 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'Tribunal') in a motor vehicle accident which occurred on 24.09.2015.

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

4. The Tribunal vide the impugned award, while exonerating the Insurance Company of its liability to pay the compensation, held respondent Nos.1 and 2 liable jointly and severally. The following compensation had been awarded:

Sr. No.	Heads	Compensation Awarded	
1	Monthly Income	₹7,500/-	
2	Annual Income	₹90,000/-	[₹7,500 x 12]
3	Deduction - 1/3rd	₹60,000/-	[₹90,000 - ₹30,000]
4	Multiplier - 16	₹9,60,000/-	[₹60,000 x 16]
5	Funeral expenses	₹25,000/-	
6	Loss of love and affection	₹1,00,000/-	
	Total Compensation	**₹10,85,000/-**	
	Interest	**6%**	

5. Learned counsel for the claimant-appellants states that in the present case, since respondent No.1 did not have a valid and effective driving licence at the time of the accident, the Tribunal had exonerated the Insurance Company of its liability by holding respondent Nos.1 and 2 jointly and severally liable. Learned counsel would further contend that the primary liability to pay compensation ought to have been fastened upon respondent No.3-Insurance Company. Learned counsel has relied upon the judgments of the Hon'ble Supreme Court in the cases of **National Insurance Co. Ltd. Vs. Swaran Singh and Ors. [2004 (3) SCC 297]** and **K. Nagendra Vs. The New India Insurance Co. Ltd. & Ors. [2025 INSC 1270 : Civil Appeal Nos.013066-013067 of 2025 decided on 29.10.2025]** wherein it was held that at the first instance, it would be the liability of the Insurance to pay the compensation with a right to recover the amount.

6. Qua quantum of compensation, learned counsel for the claimant-appellants states that she does not challenge the income, deduction and

multiplier as applied by the Tribunal. She, however, states that that no addition has been made towards future prospects which ought to have been 40% keeping in view the age of the deceased as 33 years at the time of the accident. It is further the contention of the learned counsel that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law laid down by 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]**.

7. On 04.03.2025 none had put in appearance on behalf of respondent Nos.1 and 2 despite service. Even today, none has put in appearance on their behalf. No appeal has been filed by the owner and driver challenging the award passed by the Tribunal.

8. *Per contra,* the learned counsel for respondent No.3-Insurance Company would contend that since respondent No.1 was not holding a valid and effective driving licence, hence, the Tribunal has rightly exonerated the Insurance Company of its liability. It is further the contention of the learned counsel that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

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

10. In the present case, the Insurance has not been held liable to pay the compensation on the ground that respondent No.1 was not holding a valid driving licence at the time of the accident. Hon'ble Supreme Court in the case of **Swaran Singh** (supra) has held as under :

> " 83. Sub-*section (5) of Section 149 which imposes a liability on the insurer must also be given its full effect. The insurance company may not be liable to satisfy the decree and, therefore, its liability may be zero but it does not mean that it did not have initial liability at all. Thus, if the insurance company is made liable to pay any amount, it can recover the entire amount paid to the third party on behalf of the assured. If this interpretation is not given to the beneficent provisions of the Act having regard to its purport and object, we fail to see a situation where beneficent provisions can be given effect to. Sub-section (7) of Section 149 of the Act, to which pointed attention of the Court has been drawn by the learned counsel for the petitioner, which is in negative language may now be noticed. The said provision must be read with sub-section (1) thereof. The right to avoid liability in terms of sub-section (2) of Section 149 is restricted as has been discussed hereinbefore. It is one thing to say that the insurance companies are entitled to raise a defence but it is another thing to say that despite the fact that its defence has been accepted having regard to the facts and circumstances of the case, the Tribunal has power to direct them to satisfy the decree at the first instance and then direct recovery of the same from the owner. These two* matters stand apart and require contextual reading."

11. Further, the above proposition of law in **Swaran Singh's** case

has been followed by the Hon'ble Supreme Court in a recent judgment dated 29.10.2025 passed in **K. Nagendra's** case (supra), wherein 'pay and recover' principle stands upheld.

12. In view of the law laid down by the Hon'ble Supreme Court in the cases of **Swaran Singh** (supra) and **K. Nagendra** (supra), the Insurance Company would be liable to pay the compensation at the first instance, however, they would have a right to recover the amount paid to the third party on behalf of the insured. In view thereof, the finding of the Tribunal exonerating the insurance company is not sustainable in law and the same is set aside. Accordingly, the Insurance Company is held liable to pay the amount of compensation at the first instance with a right to recover the same from the owner and driver of the offending vehicle.

13. Qua the quantum of compensation, in the present case since no challenge has been laid by the learned counsel for the claimant-appellants to the income, deduction and multiplier as applied by the Tribunal, the same are maintained accordingly.

14. The argument of the learned counsel for the claimant-appellants that no addition has been made towards future prospects deserves to be accepted keeping in view law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra). The deceased was admittedly 33 years of age at the time of the accident and was not in a permanent job, hence, an addition of 40% is made towards future prospects.

15. Further, the compensation awarded under the conventional heads and under the head 'loss of consortium' is 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 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 (father and two children of the deceased) 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	Monthly Income	₹7,500/-	
2	Annual Income	₹90,000/-	[₹7,500 x 12]
3	Deduction - 1/3rd	₹60,000/-	[₹90,000 - ₹30,000]
4	Future Prospects - 40%	₹84,000/-	[₹60,000 + ₹24,000]
5	Multiplier - 16	₹13,44,000/-	[₹84,000 x 16]
6	Loss of estate	₹18,000/-	
7	Funeral expenses	₹18,000/-	
8	Loss of consortium (i) Parental [₹48,000/- x 2] (ii) Filial [₹48,000/- x 1]	 ₹96,000/- ₹48,000/- (Total ₹1,44,000/-)	
	Total Compensation	**₹15,24,000/-**	

16. 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.

17. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh Vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567]**, 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 direction of the Tribunal. 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.

18. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

18.11.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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