IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5597-2017 (O&M) along with
XOBJ-243-CII-2017
Reserved on :- **06.08.2025**
Date of Pronouncement:-**04.09.2025**

National Insurance Company Limited

… Appellant

Versus

Tarun Kumar and Others

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. S.S. Sidhu, Advocate
for the appellant.

Mr. Jarnail Singh Saneta, Advocate
for respondents/cross-objectors No.1 and 2.

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VIRINDER AGGARWAL, J.

1. The claimants have preferred the petition under the relevant provisions of the Motor Vehicles Act, 1988, seeking just and adequate compensation for the death of Arun Kumar, which is attributed to a motor accident allegedly resulting from the rash and negligent driving of respondent No.1, operating a Canter vehicle bearing registration No. HR-56-A-3281, owned by respondent No.2 and insured by respondent No.3.

2. On 15.01.2015, respondent No.1 is alleged to have driven the Canter bearing registration No. HR-56-A-3281 in a rash and negligent manner, thereby colliding with a motorcycle from behind and causing a fatal accident. Pursuant thereto, FIR No. 07 dated 16.01.2015 was registered

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under Sections 279 and 304-A IPC at Police Station Bapoli, District Panipat. The name and identity of the offending driver were subsequently ascertained during investigation.

3. Respondents No.1 and 2 entered appearance and filed a joint written statement, wherein they categorically denied the occurrence of the alleged accident. It was averred that the claim was fictitious and had been engineered, in collusion with the local police, with the ulterior motive of extracting undue compensation. They further stated that the offending vehicle was duly insured with respondent No.3.

4. Respondent No.3, in its written statement, denied the claim in toto, specifically disputing the age, income, and occupation of the deceased. It was further alleged that the insured vehicle was not involved in any such accident and that the FIR had been procured through false and fabricated allegations. Respondent No.3 also contended that respondent No.1 was not in possession of a valid and effective driving licence on the date of the alleged occurrence.

5. From the pleadings of the parties, following issues were framed:-

1. Whether Arun and Sandeep died in a road side accident taken place on 15.01.2015 on account of rash and negligent driving of vehicle bearing registration No.HR-56A-3281 driven by respondent no.1 as alleged in the petition? OPP.

2. If issue no.1 is proved, whether the claimants of both the petitions are entitled to compensation, if so, to what effect and from whom? OPP.

3. Whether respondent No.1 was not holding a valid and effective driving license on the date of accident? OPR-3.

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4. Relief.

6. The Tribunal adjudicated both claim petitions jointly by passing a common Award. After hearing the parties, the claim petitions were allowed, and a total compensation of ₹8,20,000/- was awarded to the claimants of this claim petition filed by respondent for death of Arun Kumar. The respondent-insurance company has filed an appeal on the grounds that the disposal of two separate claim petitions through a common Award is legally impermissible. It is further contended that the respondents-claimants were neither dependents of the deceased nor minors, and the award of 50% enhancement on account of future prospects is also challenged.

7. Notice of the appeal was served upon respondents-claimants. Respondents-claimants filed cross-objections on the grounds that income of the deceased has been taken at lower end as it should have been taken as ₹8,000/- per month; multiplier of '**18**' should have been applied and less compensation has been awarded under conventional heads.

8. Upon careful consideration of the submissions advanced by the learned counsel for both sides and meticulously scrutinizing the file, the matter now stands ripe for adjudication and I proceed to render my findings as under.

9. The respondent-insurance company has assailed the Award on the ground that the consolidation and adjudication of two separate claim petitions by a single common Award is legally untenable and contrary to established jurisprudence. He relied upon law laid down by Co-ordinate Bench of this Court in '**Vinay Luthra vs. Verma Transport Company and Others, 2014(4) PLR 674**', where *'there is an observation that filing a*

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single petition for death of two persons and an injury to claimant, who claimed as a legal representative is a wrong procedure'. It is not disputed that the Award noted the requirement of filing separate petitions for each claimant. The present matter involved two separate petitions filed by the claimants with respect to the death of two persons. However, the Tribunal, in a discretionary exercise of its power, consolidated both petitions and disposed of them by a common Award. This approach is justifiable in the present facts where both deaths arose out of the same accident and the liability was necessarily interlinked.

9.1 It is well-settled that proceedings under the Motor Vehicles Act are not adversarial but are aimed at expeditious and equitable relief to the victims or their dependents. The legislative intent of the Act is to facilitate compensation rather than to promote procedural technicalities. Accordingly, the appellant's contention that the common Award is impermissible is devoid of substance and cannot be sustained.

10. Appellant further assailed the Award on the ground that claimants are not entitled to any compensation on account of loss of dependency when respondents/claimants are major and married siblings and were not dependent upon deceased-Arun Kumar, so only the compensation, amounting to ₹50,000/- under 'no fault liability' should have been awarded. He relied upon law laid down by Hon'ble Apex Court in '**Deep Shikha and Another vs. National Insurance Company Ltd. & Ors. AIR 2025 SC 2929**' where it was held as under:-

> "13. Once a daughter is married, logical presumption is that she now has rights on her matrimonial household and is also financially

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supported by her husband or his family, unless proven otherwise. It is more than likely that her dependence on her natal family, including her mother has now ceased. Sections 166 and 168 of the Motor Vehicles Act, 1988 focus on the financial relationship between the deceased and the Claimant. A married daughter may be considered a legal representative, as per Manjuri Bera, but she will not be eligible for loss of dependency compensation unless it is proven by the daughter that she was financially dependent on the deceased. Thus, it is clear from the record that Appellant No. 1 has failed to prove that she was being financially supported by her mother post marriage and hence cannot be said to be a dependent of her mother, the deceased."

11. Learned counsel for the respondents/claimants contended that, that the legal representatives of the deceased are entitled to proper compensation, irrespective of the fact of dependency of claimants upon deceased and relied upon law laid down by the '**National Insurance Company Limited vs. Birender and Ors. 2020(11) SCC 356**', '**Seema Rani & Ors vs. The Oriental Insurance Company Limited & Ors. 2025 INSC 192**', '**Jitender Kumar & Anr. Vs. Sanjay Prasad & Ors. Civil Appeal No.7199 of 2025** decided on **22.05.2025**'. Considering the law laid down by Hon'ble Apex Court in these judgments, it is to the effect that, that legal representatives are entitled to compensation for their loss irrespective of the fact that claimants were not dependent upon the deceased, in its latest judgment titled as **Jitender Kumar & Anr. Vs. Sanjay Prasad & Ors. (surpa)**, Hon'ble Apex Court after relying upon the judgment of **National Insurance Company Limited vs. Birender and Ors. (supra)** and **Seema**

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Rani & Ors vs. The Oriental Insurance Company Limited & Ors. (supra) has came to the conclusion as under:-

13. In our considered opinion, the view on this issue cannot be faulted. The exposition of law in Birender (Supra) is clear, wherein it was observed as under:

"14. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only."

14. Such exposition came to be followed by this Court in **Seema Rani and Ors. v. Oriental Insurance Co. Ltd. and Ors. 2025 SCC Online SC 283**, wherein it was observed that the application for compensation, even by married sons and daughters, must be considered, irrespective of whether they are fully dependant or not. In the present case, it cannot be disputed that the claimant-appellant(s) became partner in the consultancy firm run by the deceased. Moreover, it is not in dispute that that the Flour Mill being run by the deceased, is still being run by the claimant-appellant(s). In such a factual circumstance, it cannot be said that the claimant-appellant(s) were financially dependent upon the deceased.

15. Therefore, in view of the above, while the claimant-appellant(s) were not dependent upon the deceased, they are entitled to receive compensation as his legal representatives, in accordance with law. Thus, the deduction towards the loss of personal and living expenses

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is to be ½ (50 % of the income of the deceased) in accordance with law

12. Considering that proceedings before the Motor Accident Claims Tribunal are beneficial in nature, the primary endeavour of the Tribunal should be to grant adequate and just compensation. In this context, the principles laid down in ***Jitender Kumar & Anr. v. Sanjay Prasad & Ors.*** (supra) must be preferred, as that judgment comprehensively analyzed two prior decisions and interpreted the provisions of the Motor Vehicles Act with due regard to the legislative intent. Accordingly, compensation for loss of dependency is to be awarded to the claimants; however, while assessing the quantum of compensation, if all claimants are not dependent on the deceased, only 50% of the deceased's income should be taken into account as loss of dependency, treating the remainder as the deceased's self-consumption.

12.1 In the present case, deceased-Arun Kumar, was shown to be 20 years old at the time of the accident. The claimants failed to adduce any evidence regarding the deceased's qualification as an electrician or his employment at the relevant establishment. Consequently, the Tribunal rightly categorized him as a labourer but assessed his monthly income at ₹5,000/-. Given that a manual labourer's wage in 2015 was more reasonably estimated as ₹6,000/-, it is my considered opinion that the Tribunal ought to have adopted ₹6,000/- as the deceased's monthly income.

12.2 Since the deceased was 20 years old, a 40% addition on account of future prospects should have been made, in line with the law laid down by the Constitutional Bench of the Hon'ble Supreme Court in ***National***

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Insurance Company Ltd. v. Pranay Sethi, 2017 (4) RCR (Civil) 1009. This amounts to ₹2,400/- (40% of ₹6,000/-), bringing the total monthly income to ₹8,400/-, whereas the Tribunal computed it as ₹7,500/-.

12.3 The Tribunal was correct in deducting 50% of the income as the deceased's personal consumption and properly applied a multiplier of '**18**'. Accordingly, the compensation for loss of dependency is calculated as ₹4,200 × 12 × 18 = **₹9,07,200**/-.

13. Compensation under conventional heads i.e. ₹15,000/-, ₹15,000/- and ₹40,000/- to each claimant should have been awarded which comes to ₹1,10,000/-. Accordingly, total compensation payable comes to ₹9,07,200/-.+ ₹1,10,000/- = ₹10,17,200/-. The learned Tribunal has awarded interest at the rate of 7.5% per annum, which is correct.

14. In view of the foregoing discussion, the appeal preferred by the insurance company is hereby dismissed, while the cross-objections filed by the respondents-claimants are allowed. The Award of the Tribunal stands modified accordingly, and the claimants are held entitled to compensation for a sum of **₹10,17,200/-**, along with interest at the rate of 7.5% per annum, calculated from the date of the filing of the claim petition until the date of actual realization of the Award.

15. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)
JUDGE

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Whether reasoned / speaking? Yes / No
Whether reportable? Yes / No

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