2025:PHHC:132664

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6546-2017 (O&M)
Date of Decision : 23.09.2025

SHASHI KANTA & ORS .... Appellants

VERSUS

NAVEEN KUMAR & ANR .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Surender Saini, Advocate for the appellants.

Mr. Nigam K. Bhardwaj, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sonepat (hereinafter referred to as the 'Tribunal') vide award dated 21.03.2017.

2. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.

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

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹24,354
2.	Annual income	[₹24,354 x 12] = ₹2,92,248
3.	Future prospects 30%	[₹2,92,248 + ₹87,672] = ₹3,79,920
4.	Deduction 1/4th	[₹3,79,920 - ₹94,980] = ₹2,84,940
5.	Multiplier of 13	[₹2,84,940 x 13] = ₹37,04,220
6.	Loss of love and affection	₹1,00,000
7.	Loss of consortium	₹1,00,000
8.	Funeral expenses (given by the department)	**₹25,000**
	Total Compensation	**₹39,29,220**
	Amount to be deducted (received by the claimant-appellants under Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006	[₹20,790 x 12 x12] = ₹29,93,760
	Compensation after deduction	**₹9,35,460**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellants would contend that though the claimant-appellants do not challenge the income as assessed, the deduction, the addition made towards future prospects and the multiplier as applied by the Tribunal, however, the amount awarded under the head loss of consortium is on the lower side and that the amount awarded under the conventional heads i.e. funeral expenses is not in accordance with law laid down by the Hon'ble Supreme Court and no amount has been awarded under the head loss of estate. In support of his arguments, learned counsel for the claimant-appellants has relied upon the judgments 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]**. Learned counsel would further contend that the amount deducted on account of the compensation received under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 is also not sustainable.

5. *Per contra*, learned counsel for respondent No.2-Insurance Company would contend that as per the judgments of the Hon'ble Supreme Court in the cases of **Reliance General Insurance Co. Ltd. vs. Shashi Sharma & Ors. [2016(4) RCR (Civil) 569]** and **Krishna & Ors. vs. Tek Chand & Ors. [SLP (C) No.5044 of 2019 decided on 05.02.2024]** the amount received under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 has to be deducted while calculating the compensation payable to the claimant-appellants.

6. Heard.

7. In the present case since there is no challenge to the income as assessed, the deduction, the addition made towards future prospects and the multiplier as applied by the Tribunal, the same are maintained. The amounts awarded under the head loss of consortium and under the conventional heads i.e. funeral expenses and loss of estate are not in accordance with the law laid down in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra). Accordingly, the claimant-appellants 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-appellants, being the widow and the children of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium.

8. The argument of the learned counsel for the claimant-appellants that the amount received by the claimant-appellants under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 ought not to be deducted deserves to be rejected. The Hon'ble Supreme Court in case of **Shashi Sharma** (supra) has held as under:

> *19. Reverting back to Rule 5, sub-clause (1) provides for the period during which the dependents of the deceased employee may receive financial assistance equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Sub-rule (2) provides that the family shall be eligible to receive family pension as per the normal Rules only after the period during which they would receive the financial assistance in terms of sub-rule (1). Sub- rule (3) guarantees the family of a deceased Government employee of a Government residence in occupation for a period of one year from the date of death of the employee, upon payment of normal rent/license fee. By virtue of sub-rule (4), an ex-gratia assistance of 25,000/- is provided to the family of the deceased*

employee to meet the immediate needs on the loss of the bread earner. Sub-rule (5) clarifies that house rent allowance shall not be a part of allowance for the purposes of calculation of assistance.

20. Rule 5 broadly deals with two aspects. Firstly, to compensate the dependents of the deceased Government employee by granting ex-gratia financial assistance on compassionate grounds for the loss of pay and other allowances for a specified period. The second part of Rule 5 is to compensate the dependents of the deceased Government employee by way of allowances and concessions - of retaining occupation of the Government residence on specified terms, of family pension and other allowance. As regards the second part, it deals with income from other source which any way is receivable by the dependants of the deceased Government employee. That cannot be deducted from the claim amount, for determination of a just compensation under the Act of 1988.

21. The claimants are legitimately entitled to claim for the loss of "pay and wages" of the deceased Government employee against the tortfeasor or Insurance Company, as the case may be, covered by the first part of Rule 5 under the Act of 1988. The claimants or dependents of the *deceased Government employee (employed by State of Haryana), however, cannot set up a claim for the same subject falling under the first part of Rule 5 - "pay and allowances", which are receivable by them from employer (State) under Rule 5 (1) of the Rules of 2006. In that, if the deceased employee was to survive the motor accident injury, would have remained in employment and earned his regular pay and allowances. Any other interpretation of the said Rules would inevitably result in double payment towards the same head of loss of "pay and wages" of the deceased Government employee entailing in grant of bonanza, largesse or source of profit to the dependents/claimants. Somewhat similar situation has been spelt out in Section 167 of the Motor Vehicles Act, 1988, which reads thus:*

> *"167. Option regarding claims for compensation in certain cases. - Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the*

provisions of Chapter X claim such compensation under either of those Acts but not under both."

In the case of **Krishna** (supra) the judgment in the case of **Shashi Sharma** (supra) has been reiterated and relied upon. In view thereof, the amount received by the claimant-appellants under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 would have to be deducted, as has rightly been done by the Tribunal.

9. Accordingly, the reworked compensation to which the claimant-appellants are entitled to is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹24,354
2.	Annual income	[₹24,354 x 12] = ₹2,92,248
3.	Future prospects 30%	[₹2,92,248 + ₹87,675] = ₹3,79,923
4.	Deduction $1/4^{th}$	[₹3,79,923 - ₹94,981] = ₹2,84,942
5.	Multiplier of 13	[₹2,84,942 x 13] = ₹37,04,246
6.	Funeral expenses	₹18,000
	Loss of estate	₹18,000
7.	Loss of consortium:- (i) Spousal (ii) Parental	 ₹48,000 [₹48,000 x 3] = ₹1,44,000 Total = ₹1,92,000
	Total Compensation	**₹39,32,246**
	Amount to be deducted (received by the claimant-appellants under Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006	[₹20,790 x 12 x12] = ₹29,93,760
	Compensation after deduction	**₹9,38,486**

10. 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. The amount shall be apportioned between the claimant-appellants as directed by the Tribunal.

11. 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 respondent No.2-Insurance Company in the bank account(s) of the claimant-appellants within a period of six weeks from today. The share of the minor claimant-appellant(s) shall be kept in an FDR with a nationalized bank fetching maximum rate of interest. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimant-appellants to respondent No.2-Insurance company within a period of two weeks from today and needful shall be done by respondent No.2-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

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

23.09.2025 **(ALKA SARIN)**
Aman Jain **JUDGE**

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