2025:PHHC:104713

107-2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6641-2017 (O&M)
Date of Decision : 12.08.2025

NATIONAL INSURANCE COMPANY LTD. .... Appellant

VERSUS

NISHU BALA AND ORS .... Respondents

AND

FAO-8453-2017 (O&M)

NISHU BALA AND ORS. .... Appellants

VERSUS

JAI SINGH AND ORS .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Harjinder Singh, Advocate
for the appellant in FAO-6641-2017
for respondent No.3 in FAO-8453-2017.

Mr. Lakhan Paul Garg, Advocate for
Mr. J.S. Gill, Advocate
for respondents No.1 to 5 in FAO-6641-2017 and
for the appellants in FAO-8453-2017.

ALKA SARIN, J. (ORAL)

1. The present order shall dispose off the above noted two appeals being FAO-6641-2017 preferred by the Insurance Company and FAO-8453-2017 preferred by the claimants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sirsa vide impugned award dated 30.05.2017 (hereinafter referred to as 'the Tribunal'). The parties are

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being referred to as 'the claimants', 'the Insurance Company' and 'the owner' and 'the driver of the offending vehicle' for the sake of clarity.

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	₹6,500
2	Annual income	[₹6,500 x 12] = ₹78,000
3	Deduction 1/4th	[₹78,000 - ₹19,500] = ₹58,500
4	Future prospects @50%	[₹58,500 + ₹29,250] = ₹87,750
5	Multiplier of 16	[₹87,750 x 16] = ₹14,04,000
6	Funeral expenses	₹25,000
7	Loss of consortium	₹1,00,000
8	Loss of love and affection	₹1,00,000
	Total Compensation	**₹16,29,000**
	Interest	**@9% per annum**

4. Learned counsel for the claimants would contend that the income of the deceased, as ₹6,500 per month, had been assessed as per the minimum wages applicable to an unskilled worker though in the present case Income Tax Returns (ITRs) of the deceased for the period of 2010-11 and 2012-13 were produced on the record as Ex.PW-2/A and Ex.PW-2/B respectively, which were proved by the official appearing from the Income Tax Department, Sirsa as PW-2. It is further the contention of the learned counsel for the claimants that as per the last ITR the income of the deceased was shown to be ₹1,57,882. Learned counsel for the claimants would further contend that

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the amounts awarded under the head 'loss of consortium' and under the conventional heads are not in consonance of the judgments 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]**.

5. *Per contra*, learned counsel for the Insurance Company would contend that the ITR for the last year prior to the death of the deceased was not placed on the record hence the ITRs for the period 2010-11 and 2012-13 have rightly been ignored by the Tribunal and that there was no other corroborating evidence on the record besides the ITRs. It is further the contention of the learned counsel for the Insurance Company that an addition of 50% has been made towards future prospects which ought to have been 40% keeping in view the age of the deceased being 33 years at the time of accident and as per the law laid down in **Pranay Sethi's** case (supra).

6. Heard.

7. In the present case it was the case set up by the claimants that the deceased was running a Handloom business and was earning ₹25,000 per month from the aforesaid work. The claimants herein examined Amit Jain, Stenographer, Income Tax Office, Sirsa as PW-2 who had brought the summoned record and proved the record of income tax returns for the year 2010-11 and 2012-13 as Ex.PW-2/A and Ex.PW-2/B respectively. As per the said income tax returns, the income of the deceased was ₹1,57,882 per annum.

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Once the income tax returns were proved on the record, there was no reason for the Tribunal to discard the same. The accident took place on 16.01.2015 and therefore considering the ITRs for the year 2010-11 and 2012-13 as last ITRs, the income of the deceased is assessed as ₹13,000 per month.

8. The argument of the learned counsel for the Insurance Company that an addition of 50% has been made towards future prospects which ought to have been 40% deserves to be accepted hence as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition is made towards future prospects. Since there is no challenge to the multiplier of '16' as applied and the deduction of 1/4th as made by the Tribunal, the same are maintained.

9. 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 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. The claimants, being widow, children and parents of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium.

10. Accordingly, the reworked compensation, to which the claimants are entitled to, is as under :

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Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹13,000
2.	Annual income	[₹13,000 x 12] = ₹1,56,000
3.	Deduction 1/4th	[₹1,56,000 - ₹39,000] = ₹1,17,000
4.	Future prospects @ 40%	[₹1,17,000 + ₹46,800] = ₹1,63,800
5.	Multiplier of '16'	[₹1,63,800 x 16] = ₹26,20,800
6.	Funeral expenses	₹18,000
7.	Loss of estate	₹18,000
8.	Loss of consortium : (i) Parental (ii) Filial (iii) Spousal's	 [₹48,000 x 2] = ₹96,000 [₹48,000 x 2] = ₹96,000 [₹48,000 x 1] = ₹48,000 Total = ₹2,40,000
	Total Compensation	**₹28,96,800**

11. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% 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 claimants as directed by the Tribunal.

12. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 = AIR 2025 SC 1713]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within a period of six weeks from today. The share of the minor claimants shall be invested in an FDR in a nationalized bank fetching maximum rate of interest till the time they attain the age of majority. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimants to the Insurance Company within a period of two weeks from today and needful shall be done by the Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-

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date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

13. In view of the above discussion, both the appeals being FAO-6641-2017 preferred by the Insurance Company and FAO-8453-2017 preferred by the claimants are disposed off and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

12.08.2025 **(ALKA SARIN)**
Aman Jain **JUDGE**

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

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