IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7386-2017(O&M)
Date of decision: 09.09.2025

Shalini Devi @ Vandana and others

… Appellants

Versus

Ramesh Kumar and others

… Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. S.S. Khurana, Advocate,
for the appellants.
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VIKRAM AGGARWAL, J. (ORAL)

Claimants are in appeal seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as, '**the Tribunal**') in a claim petition preferred by them under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the MV Act') for the grant of compensation on account of the death of one Sudhir in a motor vehicular accident which took place on 21.10.2015. The appellants/claimants are the widow, minor daughter and parents of deceased Sudhir.

2. As per the claim petition, on 21.10.2015, at about 8:15 pm, Sudhir was going to his native Village Radha Ki Dhani on his motorcycle bearing registration No.HR-36K-3658. He was being followed by his uncle Krishan Kumar, and his friend Bir Singh. When Sudhir reached near Indian Public School at Basduda road, a maruti car bearing registration No.HR-36F-1074 (hereinafter referred to as '**the offending vehicle**') came at a very high speed from behind and struck the motorcycle of Sudhir. As a result of

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the impact, Sudhir fell on the road, sustained multiple grievous injuries, and unfortunately died at the spot. The driver of the offending vehicle, Ramesh Kumar (respondent No.1), fled from the spot. FIR No.259, dated 22.10.2015 was registered under Sections 279 & 304-A of the Indian Penal Code, 1906 (for short, 'IPC').

3. It was claimed that Sudhir was 26 years old and was employed as a driver in Astha School, Basduda. It was further asserted that he was also an agriculturist, earning an income of Rs.40,000/- per month. Accordingly, a compensation of Rs.40,00,000/- was claimed from the respondents.

4. Respondents No.1 & 2 opposed the claim petition. While denying the factum of the alleged accident, it was averred that the offending vehicle was insured with respondent No.3 (New India Assurance Company).

5. The New India Assurance Company (respondent No.3) also took its usual defences and on merits denied the factum of accident.

6. From the pleadings of the parties, the following issues were framed on 17.05.2016:

> **"1. Whether on 21.10.2015, Sudhir died in the accident in question which took place due to rash and negligent driving of offending car (Maruti 800) bearing registration no.HR-36F-1074, by respondent no.1? OPP**
>
> **2. If issue no.1 is proved, whether the claimants are entitled to any compensation? If so to what amount and from whom? OPP**
>
> **3. Whether respondent no.1 was not holding a valid and effective driving licence at the date of accident in question, If so to what effect? OPR**

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4. Relief."

7. Parties led their respective evidence.

8. Under issue No.1, the Tribunal concluded that the accident as a result of which Sudhir had expired, had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1.

8.1 As regards the issue of quantum of compensation, the Tribunal did not rely upon the evidence led by the claimants in support of the monthly income of the deceased, which as per them was Rs.9,800/- per month as salary for which they had produced Sunil Kumar, Clerk, Astha School Basduda (PW2), who had proved the salary certificate as Ex.P2. However, the Tribunal held that merely on the basis of a salary certificate, the income could not be assessed at Rs.9,800/- per month, for, no other record viz. appointment letter, attendance record, authority letter to depose etc. has been produced. Accordingly, the income of Sudhir was assessed as Rs.8,000/- per month.

8.2 As regards Sudhir being an agriculturist, the Tribunal held that the revenue record produced did not indicate Sudhir as owner or in possession of the land. While adding 50% of loss of future income, the Tribunal assessed compensation in the following manner:

Income of deceased per month	**Rs.8000/-**
Add 50% for the loss of future income	**Rs.4000/-**
Total Income	**Rs.12,000/-**
Less 1/4th (deducted for personal expenses of deceased) (12000-3000=9000/-)	**Rs.9000/-**
Net loss of annual income (9000x12)	**Rs.1,08,000/-**

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Multiplier	**17**
Loss of dependency (1,08,000x17)	**Rs.18,36,000/-**
Loss of consortium to widow, petitioner No.1	**Rs.1,00,000/-**
Loss of Love and affection to petitioner no.2	**Rs.1,00,000/-**
Funeral expenses	**Rs.25,000/-**
Total	**Rs.20,61,000/-**

9. The liability to pay the compensation was held to be that of the Insurance Company.

10. The only argument which has been addressed by learned counsel for the appellants is that the Tribunal erred in assessing the monthly income of the deceased at Rs.8,000/-, whereas it had been duly proved on record that the deceased was earning Rs.9,800/- per month, as evident from the salary certificate produced and proved by Sunil Kumar, Clerk, at Astha School, Basduda (PW2). He further submits that the Tribunal had also erred in not taking into account the agricultural income of the deceased while computing the compensation.

11. I have considered the submissions made by learned counsel for the appellants.

12. There would be no necessity of issuing notice to the respondents, for, in view of the nature of the order that is proposed to be passed, no prejudice would be caused to them.

13. Notably, there is no appeal by the Insurance Company. Be that as it may, the argument that the income was wrongly assessed is devoid of merit. The Tribunal rightly held that apart from the salary certificate, no other record such as employment letter, attendance record, or authority to

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depose etc. were produced. In the absence of such evidence, merely on the basis of the salary certificate, the income could not be taken up as Rs.9,800/- per month.

14. I have also examined the various heads of compensation in terms of the principles laid down by the Hon'ble Supreme Court of India in **Sarla Verma and others v. DTC and others, 2009 ACJ 1298 (SC)** and **National Insurance Company v. Pranay Sethi, 2017(16) SCC 680**. Though there are some differences under the heads of compensation awarded, but the total amount of compensation would largely remain the same, even if compensation under certain heads is modified. Be that as it may, as noticed earlier, the Insurance Company is not in appeal.

15. I do not, therefore, find any illegality or infirmity in the manner in which the income was assessed by the Tribunal. Accordingly, the appeal is found to be devoid of merit and is accordingly dismissed.

16. Pending applications, if any, shall also stand disposed of.

(Vikram Aggarwal)
Judge

September 9, 2025
Rajan

Whether speaking / reasoned: Yes/No
Whether Reportable: Yes/No

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