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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-7514-2017 (O&M)

Date of Decision : 10.03.2025

Sunita & Ors

... Appellant(s)

Versus

Balkar & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deepak Vashishth, Advocate for the appellants.

Mr. Sandeep Suri, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

CM-24903-CII-2017

This is an application for condonation of delay of 35 days in filing the appeal.

For the reasons stated in the application, delay of 35 days in filing the appeal is condoned. CM stands disposed off.

FAO-7514-2017

1. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'Tribunal') vide the impugned award dated 17.04.2017 in a motor vehicle accident which occurred on 09.12.2015.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to 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	₹10,000/-
2	Deduction 1/4 th	[₹10,000 – 2,500] = ₹7,500/-
3	Annual income	[₹7,500 x 12] = ₹90,000/-
4	Multiplier of 14	[₹90,000 x 14] = ₹12,60,000/-
5	Funeral expenses	₹25,000/-
6	Loss of consortium	₹1,00,000/-
7	Total Compensation	₹13,85,000/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been assessed as ₹10,000/- per month inasmuch as the claimant-appellants in the present case had produced on record the Income Tax Returns for the Assessment Years 2011-12, 2012-13, 2013-14 and 2014-15 (Ex.P4 to Ex.P6) and the last Income Tax Return for the Assessment Year 2014-15 reveals that the income of the deceased minus income tax was ₹2,16,848/- per annum (₹2,18,720 – ₹1,872 tax). It is further the contention of the learned counsel that though the deduction as 1/4th and the multiplier of ‘14’ have rightly been applied, however, no amount has been awarded towards future prospects. It is further the contention of the learned counsel that the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are not as per 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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra* the learned counsel for respondent No.3-Insurance Company would contend that the Tribunal has rightly assessed the income of the deceased as ₹10,000/- per month as no supporting documents were produced on the record except for the Income Tax Returns. It is further the contention of the learned counsel that no documents pertaining to the business were produced on the record and, hence, the Income Tax Returns have rightly not been considered by the Tribunal while assessing the income. 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.

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

7. In the present case the Tribunal has assessed the income of the deceased as ₹10,000/- per month. The claimant-appellants, in order to prove the income of the deceased, had produced on record his Income Tax Returns (Ex.P4 to Ex.P6) and in this regard also examined Ajay Kumar, Tax Assistant as PW3. The only ground for not considering the Income Tax Returns was that there were no accompanying documents. Hon'ble Supreme Court in the case of **United India Insurance Co. Ltd. vs. Indiro Devi & Ors. [2018 (3) RCR (Civil) 455]** has held as under :

“9. We have given our anxious consideration to this contention. There is no doubt that if the salary certificate is taken into account the salary of the deceased should be

taken as Rs.1,06,176/- since the gross salary was Rs.8848 per month. That, however, in our view does not mean that the income of the deceased as stated in the Income Tax return should be totally ignored. It is not possible to agree with the observation of the Tribunal that it was necessary for the claimants to “explain the said contradiction” between two figures of income. The claimants had led reliable evidence that the deceased had returned an income of Rs.2,42,606/- for the assessment year 2004-05. This piece of evidence has not been discredited. Indeed, it was possible that the deceased had income from other sources also. There is nothing in the law which requires the Tribunal to assess the income of the deceased only on the basis of a salary certificate for arriving at a just and fair compensation to be paid to the claimants for the loss of life.”

8. The Income Tax Return for the Assessment Year 2014-15 (Ex.P4) clearly reflects the income of the deceased as ₹2,16,848/- per annum after deduction of ₹1,872 as tax (₹18,070/- per month). There is no reason for this Court to disbelieve the said Income Tax Return. Accordingly, the income of the deceased is assessed as ₹18,070/- per month. Though the deduction of 1/4th and the multiplier of ‘14’ have correctly been applied by the Tribunal, however, no amount has been awarded towards future prospects and hence, as per the law laid down by the Hon’ble Supreme Court in the case of **Pranay Sethi** (supra), 25% addition is made towards future prospects as the deceased

was 43 years of age at the time of accident. 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) and hence, 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 and the claimants (wife, three children and parents 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	₹18,070/-
2	Annual Income	₹2,16,840/- [₹18,070 x 12]
3	Deduction 1/4 th	₹1,62,630/- [₹2,16,840 – 54,210]
4	Future Prospects - 25%	₹2,03,288/- [₹1,62,630 + 40,658]
5	Multiplier - 14	₹28,46,032/- [₹2,03,288 x 14]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 3] (ii) Filial [₹48,000/- x 2] (iii) Spousal's	₹1,44,000/- ₹96,000/- ₹48,000/- (Total ₹2,88,000/-)
	Total Compensation	₹31,70,032/-

9. 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 claimants as directed by the Tribunal.

10. 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.

10.03.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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