

2025:PHHC:012869



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

**105**

**FAO-7174-2018 (O&M)**

**Date of Decision : 28.01.2025**

SUNDER SINGH AND ANR

.... Appellants

VERSUS

SHIV DUTT AND ORS

.... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Mahender Singh Tewatia, Advocate  
for the appellants.

Mr. Varun Sharma, Advocate for respondent No.3.

**ALKA SARIN, J. (ORAL)**

**CM-16653-CII-2024**

1. This is an application for condonation of delay of 1029 days in filing the application being CM-16654-CII-2024 for restoration of the main appeal which was dismissed in default vide order dated 04.10.2019.
2. Notice of the application.
3. Mr. Varun Sharma, Advocate accepts notice on behalf of respondent No.3-Insurnace Company and states that he has no objection if the present application is allowed.
4. In view of the above, the present application is allowed and the delay of 1029 days in filing the application being CM-16654-CII-2024 for restoration of the main appeal is condoned.

**CM-16654-CII-2024**

5. This is an application for restoration of the main appeal which was dismissed in default vide order dated 04.10.2019.
6. Notice of the application.
7. Mr. Varun Sharma, Advocate accepts notice on behalf of respondent No.3-Insurnace Company and states that he has no objection if the present application is allowed.
8. In view of the above, the present application is allowed and the main appeal is restored to its original number and status.

**FAO-7174-2018**

9. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Palwal (hereinafter referred to as ‘the Tribunal’) vide impugned award dated 13.08.2018.
10. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being adverted to herein for the sake of brevity.
11. The Tribunal in the present case had awarded the following compensation :

| Sr. No. | Heads                     | Compensation Awarded      |
|---------|---------------------------|---------------------------|
| 1.      | Monthly income            | ₹3,000                    |
| 2.      | Annual income             | [₹3,000 x 12] = ₹36,000   |
| 3.      | Multiplier of ‘5’         | [₹36,000 x 5] = ₹1,80,000 |
| 4.      | Funeral expenses          | ₹15,000                   |
| 5.      | Loss of estate            | ₹15,000                   |
|         | <b>Total Compensation</b> | <b>₹2,10,000</b>          |
|         | <b>Interest</b>           | <b>@7.5% per annum</b>    |

12. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been assessed as ₹3,000 per month by the Tribunal as the minimum wages of an unskilled worker prevailing at the time of the accident were ₹8,280 per month. It is further the contention that no amount has been awarded under the head 'loss of consortium' and that the amount awarded under the conventional heads is on the lower side. In support of his contentions the learned counsel for the claimant-appellants has relied upon the judgments of 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]**.

13. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

14. Heard.

15. In the present case the deceased was a homemaker aged about 66 years and the Tribunal has assessed her income as ₹3,000 per month, however, the minimum wages of an unskilled worker prevailing at the time of the accident were admittedly ₹8,280 per month. Hence, the income of the deceased is assessed as ₹8,280 per month. Further, the amount awarded under the conventional heads is on the lower side and no amount has been

awarded under the head ‘loss of consortium’. Hence, 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), 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 son and husband of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium. Since there is no challenge to the multiplier of ‘5’ as applied by the Tribunal, the same is maintained.

16. Accordingly, the reworked compensation is as under :

| Sr. No. | Heads                                                | Compensation Awarded                      |
|---------|------------------------------------------------------|-------------------------------------------|
| 1.      | Monthly income                                       | ₹8,280                                    |
| 2.      | Annual income                                        | [₹8,280 x 12] = ₹99,360                   |
| 3.      | Multiplier of ‘5’                                    | [₹99,360 x 5] = ₹4,96,800                 |
| 4.      | Funeral expenses                                     | ₹18,000                                   |
| 5.      | Loss of estate                                       | ₹18,000                                   |
| 6.      | Loss of consortium<br>(i) Parental<br>(ii) Spousal’s | ₹48,000<br>₹48,000<br><br>Total = ₹96,000 |
|         | Total Compensation                                   | ₹6,28,800                                 |

17. 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.

18. 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.

**28.01.2025**

*Aman Jain*

**(ALKA SARIN)**

**JUDGE**

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