IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA
FAO No341/2018
Decided on 31.10.2026

Shri Ram General Insurance Co. Limited .....Appellant.

Versus

Surjeet Kaur and others .....Respondents.

Coram
The Hon'ble Mr. Justice Bipin Chander Negi, Judge.
Whether approved for reporting?[1]

For the Appellant	:	Mr. Jagdish Thakur, Advocate.
For the Respondents	:	Mr. H.S. Rana, Advocate, with Ms. Kamlesh Kumari, Advocate, for respondents No. 1 to 4. None for respondents No. 5 & 6.

Bipin Chander Negi, Judge *(oral).*

The present appeal has been preferred by the Insurance Company in the case at hand against the impugned judgment dated 04.04.2018 passed by the Motor Accident Claim Tribunal-I, Solan, H.P., whereby the claim petition preferred by the claimants/respondents No. 1 to 4 has been allowed and the appellant has been directed to pay compensation amounting to Rs.14,75,000/- along with interest at the rate of 6% interest per annum from the date of filing of the petition till deposit. Litigation expenses have been quantified at Rs.10,000/-.

2. The accident in the case at hand occurred on 19.03.2013. The deceased was travelling on a motorcycle as a pillion rider. The motorcycle was being driven by one Shri Gurmesh Lal Sharma. The

[1] Whether reporters of Local Papers may be allowed to see the judgment? YES

accident had occurred at Karmala Mor on National Highway-21. The motorcycle on which the deceased was riding as a pillion was hit by a truck bearing registration No. HP-63-3162, which was coming from the opposite side and was being driven in a rash and negligent manner by the present respondent No. 6 (respondent No.2 before the Motor Accident Claims Tribunal).

3. The first and foremost contention raised by the appellant in the case at hand is with respect to the quantification of the income of the deceased at Rs.8,000/- per month in the year 2013. In this respect, the attention of this Court has been invited to the claim petition, specifically Serial No. 4, which pertains to the occupation of the deceased, wherein it has been averred that the deceased was working as a carpenter and also used to run a carpenter shop. Other than the aforesaid, attention has also been invited to Serial No. 6 of the claim petition, wherein the income of the deceased has been shown to be Rs.20,000/-. In the response filed by the Insurance Company to the claim petition, the contents of paragraph 4 were stated to be wrong and denied, and qua those contained in paragraph 6, it was stated that the claimants be put to strict proof of the same.

4. Besides the same, attention has been invited to the examination-in-chief of PW-2, Smt. Surjeet Kaur (wife of the deceased), which is Exhibit PW-2/A, wherein, in paragraph 1 thereof, the wife of the deceased had deposed that the deceased had obtained a diploma in his profession, i.e., carpentry, and was running

a shop in the village. It was further deposed by PW-2 that the deceased was engaged by individuals to perform carpentry work at their respective homes. Other than the aforesaid, it is pointed out that neither the diploma obtained by the deceased was placed on record, nor were specific details provided qua the shop allegedly owned by the deceased in the village. It is further contended that apart from the bald averments made in the petition and the self-serving statement of the wife of the deceased, no documentary material was placed on record to demonstrate the exact income of the deceased. Furthermore, the renewal certificates of the furniture shop (Exhibits PW-2/D and PW-2/E) placed on record stand in the name of one Shri Ram Singh, son of Shri Pohu Lal, resident of Village Palli, P.O. Panjehra, Tehsil Nalagarh, District Solan, H.P., who is the brother of the deceased. Hence, it is contended that the shop being claimed to be that of the deceased belongs to the brother of the deceased. In the aforesaid facts and attending circumstances, it is contended that for assessing the income of the deceased in the case at hand, reliance should be placed on the minimum wages prevalent at the time of the accident, as has been upheld by the Apex Court in ***Kirti & Anr. v. Oriental Insurance Company Ltd., (2021) 2 SCC 166.***

5. Per contra, learned counsel appearing on behalf of the respondents/claimants submits that insofar as the cross-examination of PW-2, Smt. Surjeet Kaur, wife of the deceased is concerned, only a suggestion was put to the said witness qua the income of the

deceased being not Rs.20,000/-. Other than the aforesaid, attention is also invited to Exhibits PW-2/C to PW-2/G to demonstrate that the deceased had completed a course in the carpentry trade from the Industrial Training Institute (ITI), Nalagarh, District Solan, in the year 1987. Besides the aforesaid, it is contended that the shop in question, qua which the renewal certificates (Exhibits PW-2/D and PW-2/E) were placed on record though issued in the name of the brother of the deceased was being jointly run by the brothers, as it is highly improbable that the deceased would have been working merely as a craftsman/employee in a shop being run by his brother. In order to support his contention, learned counsel appearing on behalf of the respondents has placed reliance upon the decision of the Apex Court in ***Chandra & Ors. v. Mukesh Kumar Yadav & Ors., (2022) 1 SCC 198.***

6. I have heard learned counsel for the parties and perused the record.

7. Though the wife of the deceased (PW-2, Smt. Surjeet Kaur) deposed that the income of the deceased was Rs.20,000/- per month, however, Tribunal, in the case at hand, assessed his monthly income from the profession at Rs.8,000/- in the year 2013, on the premise that the deceased was a skilled and trained carpenter. ***In Kirti & Anr. v. Oriental Insurance Company Ltd. (supra),*** the Hon'ble Apex Court, while assessing the monthly income of the deceased therein, had taken assistance of the minimum wages applicable to a skilled worker in April 2014 in the State of Haryana.

8. The aforesaid judgment was subsequently considered by the Apex Court in ***Chandra & Ors. v. Mukesh Kumar Yadav & Ors. (supra***), wherein it was observed that while the notification of minimum wages can serve as a yardstick to assess the income of a deceased in the absence of salary certificates, it cannot be treated as an absolute rule for fixing the income of the deceased. Other than the aforesaid, the Apex Court in the said judgment held that an element of guesswork in assessing income is not be detached from reality, and merely because the claimants were unable to produce documentary evidence proving the monthly income of the deceased, the same could not justify adopting the lowest tier of minimum wages. In Chandra's case (supra), the wife of the deceased had deposed that the income of the deceased was Rs.15,000/- per month. However, no salary certificate of the deceased, who was driving a heavy vehicle, was placed on record. The Tribunal therein had assessed the income of the deceased on the basis of the minimum wages notified for skilled labour in the year 2016. In the aforesaid facts and attending circumstances, keeping in view the oral deposition of the wife of the deceased, the Apex Court held that there was no reason to discard the oral evidence. The judgment in Kirti's case was distinguished, keeping in view the facts and evidence on record.

9. In the case at hand, the wife of the deceased deposed that the income of the deceased was Rs.20,000/- per month. She further deposed that he had obtained a diploma in carpentry. The

documentary evidence placed on record as Exhibits PW-2/C to PW-2/G establishes that the deceased had completed a course in the carpentry trade from ITI, Nalagarh, in the year 1987. Other than the aforesaid, from the renewal certificates (Exhibits PW-2/D and PW-2/E), it is evident that a furniture shop was being run in the family by the brother of the deceased. The existence of the shop was also deposed to by the wife of the deceased, PW-2 Smt. Surjeet Kaur. Besides, running the shop, the deceased engaged himself in doing carpentry work for individuals at their respecrtive homes. Nothing contrary was elicited during her cross-examination, and only a bare suggestion was put to her. In my considered view, the facts and evidence on record in the case at hand are akin to those in Chandra and others vs. Mukesh Kumar Yadav and others (Supra), hence, I see no reason to interfere in the income of the deceased as has been assessed by the MACT.

10. The next contention urged on behalf of the appellant-Insurance Company is that the learned Tribunal, in the case at hand, could not have awarded any compensation under the head of loss of love and affection. In this respect, the attention of this Court has been invited to the judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi & Ors., (2017) 16 SCC 680.*** The relevant extract thereof, i.e. paragraph 59.8, reads as under:

> 59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, respectively. The

> aforesaid amounts should be enhanced at the rate of 10% in every three years.

11. Per contra, learned Counsel appearing on behalf of the respondents/claimants has drawn the attention of this Court to the judgment of the Hon'ble Supreme Court in ***Ranjana Prakash & Ors. v. Divisional Manager & Anr., (2011) 14 SCC 639***. Relevant extract thereof reads as under:-

> "In Sarla Verma, this Court held that where the deceased had a permanent job with a regular salary with provisions for periodic increases, 30% of the current income could be added towards future prospects if the deceased was aged between 40 to 50 years. In Sarla Verma, this Court also stated that income tax paid should be deducted from the annual income to arrive at the `income' which will form the basis for calculating the compensation. The Tribunal did neither of these two things. If both are done, the result would be that there would be no change in the income arrived by the Tribunal for calculating the compensation. The 30% increase on account of future prospects and the 30% deduction on account of income tax would cancel each other, resulting in the `income' remaining unchanged. As a result, the compensation awarded by the Tribunal also would remain unaltered".

12. Based on the aforesaid, it is contended by learned counsel appearing on behalf of the respondents/claimants that if the amount awarded under the head of "loss of love and affection" is deleted and replaced by an amount under the head of "loss of estate", the corresponding decrease can be suitably compensated by an increase under the head of loss of consortium in terms of paragraph 59.8 of Pranay Sethi (supra).

13. The head "loss of love and affection" in the impugned judgment is replaced by the head "loss of estate". However, there is merit in the contention raised by learned counsel appearing on behalf of the respondents/claimants. The reduction on account of deletion of the amount awarded under the head of "loss of love and

affection” and its replacement by an amount under the head of “loss of estate”, amounting to Rs.15,000/-, would result in a reduction of the compensation amount by Rs.85,000/-. However, the said decrease would be offset by a suitable increase under the head of “loss of consortium”, as laid down in Pranay Sethi (supra). Hence, no change quantum is warranted in the award.

14. In the aforesaid facts and attending circumstances, I see no reason to interfere with the income of the deceased assessed at Rs.8,000/- per month in the year 2013 by the learned Motor Accident Claims Tribunal. Therefore, the appeal stands dismissed in the aforesaid terms, so also the pending miscellaneous applications, if any.

(Bipin Chander Negi)
Judge

31th October, 2026
(Tarun Singh)