2026:PHHC:012534

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-4432-CII-2020 IN/AND
FAO-1311-2020 (O&M)

NISHA AND OTHERS …..Appellants

Vs.

NITIN BANSAL AND ANOTHER …..Respondents

1	*The date when the judgment was reserved*	*16.01.2026*
2	*The date when the judgment is pronounced*	*29.01.2026*
3	*The date when the judgment is uploaded on the website*	*29.01.2026*
4	*Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced*	*Full*
5	*The delay, if any, of the pronouncement of full judgment, and reasons thereof.*	*Not applicable*

CORAM: ***HON'BLE MR. JUSTICE HARKESH MANUJA***

Present: Mr. Sikandh Mehta, Advocate for
Mr. Pankaj Bali, Advocate for the appellants.

Mr. Sunil Polist, Advocate for respondent No.1.

None for respondent No.2/Insurance Company.

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HARKESH MANUJA, J.

CM-4432-CII-2020

Prayer in this application is for condonation of delay in filing the appeal.

Notice of the application was issued on 11.09.2025, but till date, no reply has been filed on behalf of the respondents, however, learned counsel for the respondent(s) vehemently opposes the prayer made in the application and prays for dismissal of the application.

Having heard learned counsel for the parties and gone through the contents of the application, the applicant makes out sufficient cause for condoning the delay.

Accordingly, application is allowed and delay of 496 days in filing the appeal is condoned.

Main case

1. By way of present appeal, challenge has been laid to an award dated 29.05.2018 passed by the learned Motor Accident Claims Tribunal, Kaithal (for brevity, "the Tribunal"), whereby an amount of Rs. 13,69,382/- was awarded as compensation to the appellants/claimants along with interest @ 7.5% per annum from the date of institution of claim petition till its realization on account of death of Deepak in a motor vehicular accident, occurred on 13.09.2017.

FACTS

2. A claim petition came to be filed at the instance of appellants/claimants before the learned Tribunal, praying for grant of compensation to the tune of Rs. 50,00,000/- (Rupees fifty lakhs only), on account of death of Deepak in a motor vehicular accident which took place on 13.09.2017 while alleging rash and negligent driving of respondent No.1/driver.

3. After going through the pleadings and evaluating the evidence led by both the parties, learned Tribunal arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No. 1/driver, holding respondent No. 2/Insurance Company liable and awarded compensation in the following manner:-

S.No.	**Nature**	**Amount (in Rs.)**
1.	Annual Income of deceased	Rs. 99,000/-
2.	Future Prospects (25%)	Rs. 24,750/-
3.	Total Income (Rs. 99,000 + Rs. 24,750)	Rs. 1,23,750/-
4.	Deduction ($1/4^{th}$)	Rs. 30,937/-
5.	Net Income (Rs. 1,23,750 – Rs. 30,937)	Rs. 92,813/-
6.	**Multiplier (14) (Rs. 92,813 x 14)**	**Rs. 12,99,382/-**
7.	**Loss of Estate**	**Rs. 15,000/-**
8.	**Funeral Expenses**	**Rs. 15,000/-**
9.	**Loss of Consortium**	**Rs. 40,000/-**
	Total Compensation	**Rs. 13,69,382/-**

4. Being aggrieved of the award dated 29.05.2018 passed by the learned Tribunal, the present appeal was preferred by the appellants/claimants for enhancement of compensation. Facts, as specified in the claim petition, about the manner of the accident and the issue regarding negligence of the driver recorded in favour of the appellants/claimants by the learned Tribunal, being not under challenge, are not being repeated here for the sake of brevity.

<u>ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS/CLAIMANTS.</u>

5. Learned counsel for the appellants/claimants submitted that the impugned award dated 29.05.2018 passed by the learned Tribunal suffers from grave illegality, material irregularity and erroneous appreciation of evidence insofar as the assessment of compensation is concerned. It was submitted that the learned Tribunal wrongly assessed the income of the deceased @ Rs. 8,250/- per month instead of Rs. 20,000/- per month as duly established on record. Furthermore, it was submitted that the deduction of $1/4^{th}$ towards personal and living expenses was also on the higher side besides the amount of compensation granted under conventional heads being not in consonance with the settled law, therefore, he prayed for enhancement of compensation as per latest decision on the subject.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT NO.2/INSURANCE COMPANY.

6. Per contra, learned counsel representing respondent No. 2/Insurance Company neither refuted the factum of accident nor even the negligence of the offending vehicle, however submitted that in the facts of the present case, the compensation assessed by the learned Tribunal called for no interference.

DISCUSSION

7. I have heard learned counsel for the parties and perused the paper-book of the case. I find force in the arguments advanced by the learned Counsel for the appellants.

QUESTION OF INCOME ASSESSED

8. In the present case, as far as the income of the deceased is concerned, the Tribunal has taken the income to be Rs. 8,250/- per month although the claimants had claimed the same to be Rs. 20,000/- as he was working as a Marketing Manager in B.R. Dhoop Industry, Kaithal. Since the documentary evidence, in the form of salary slip or income tax records, has not been placed on record to substantiate the claim of income of Rs. 20,000/- per month, therefore, this figure cannot be accepted by the Court on its face value. In this situation, observations made by the Hon'ble Apex Court in case of ***"Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors."***, reported as ***(2022) 1 SCC 198,*** held that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

> *"…….In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month……"*

8.1 Considering the facts of the present case, wherein it is the case of the claimants/appellants that the deceased was working as a Marketing Manager at B.R. Dhoop Industry, Kaithal and earning Rs. 20,000/- per month, it cannot be denied that the deceased would have a reasonable and steady source of income, sufficient to maintain himself and contribute to his family. Considering the age, nature of work, and prevalent minimum wages applicable to skilled/unskilled labourers during the relevant period, this Court reasonably assesses the monthly income of the deceased @ Rs. 12,000/- (Rs. 400 x 30), which shall form the basis for computation of compensation.

9. The Hon'ble Supreme Court in the case of ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another,"*** reported as ***2009(3) RCR (Civil) 77,*** went on to hold that in case the number of dependent family members was 4 to 6, $1/4^{th}$ would be deducted as personal expenses from the total income. Relevant para of the judgment is culled out as under:-

> *"30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra[(1996) 4 SCC 362], the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family member exceeds six."*

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

10. Furthermore, in view of the judgment of the Hon'ble Apex Court in ***Smt. Sarla Verma's case (supra)***, ***"National Insurance Co. Ltd. vs. Pranay Sethi and others"*** reported as ***(2017) 16 SCC 680*** and ***"United India Insurance Co.Ltd. vs. Satinder Kaur",*** reported as ***(2021) 11 SCC 780,*** compensation awarded under conventional heads are also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs. 18,000/- as compensation under funeral head and Rs. 18,000/- towards loss of estate. Loss of consortium is assessed to the tune of Rs. 1,92,000/- (Rs. 48,000 x 4) as the appellants, being spouse, children and father of deceased are also entitled for spousal, parental and filial consortium.

CONCLUSION

11. In view of the discussion made hereinabove, the appellants/claimants are held entitled for the grant of compensation in the following manner:-

S.No.	**Nature**	**Amount (in Rs.)**
1.	Annual Income of Deceased	Rs. 1,44,000/-
2.	Deduction (1/4th)	Rs. 36,000/-
3.	Net Income (Rs. 1,44,000 – Rs. 36,000)	Rs. 1,08,000/-
4.	Future Prospects (30%)	Rs. 32,400/-
5.	Total Income (1,08,000 + 32,400)	Rs. 1,40,400/-
6.	**Loss of Income after applying multiplier of 15 as per**	**Rs. 21,06,000/-**

	the age of 40 years (1,40,400 x 15)	
7.	**Loss of estate**	**Rs. 18,000/-**
8.	**Funeral Expenses**	**Rs. 18,000/-**
9.	**Loss of Consortium (48,000 x 4)**	**Rs. 1,92,000/-**
10.	**Total compensation**	**Rs. 23,34,000/-**
11.	**Amount Awarded by the Tribunal**	**Rs. 13,69,392/-**
12.	**Enhanced Compensation**	**Rs. 9,64,618/-**

Accordingly, appellants/claimants shall be entitled to receive compensation in the proportion already determined by the learned Tribunal.

12. The grant of interest @ 7.5% per annum is not equitable and just in view of the observations made by the Hon'ble Supreme Court in ***"Smt. Supe Dei and others vs. National Insurance Company Limited and other,*** reported as ***(2009) (4) SCC 513*** approved in a subsequent judgment titled as ***"Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443,*** thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

13. In view of the aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

January 29, 2026 **(HARKESH MANUJA)**
sonika **JUDGE**

Whether reasoned/speaking? **Yes/No**

Whether reportable? **Yes/No**