FAO-1569-2019 (O&M) with XOBJC-78-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1569-2019 (O&M)
with XOBJC-78-2021(O&M)
Reserved on: 12.01.2026
Pronounced on: 23.01.2026
Uploaded on: 23.01.2026

UNITED INDIA INSURANCE CO. LTD. …..Appellant

Vs.

KRISHNA DEVI AND OTHERS …..Respondents

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

Present: Mr. Sandeep Suri, Advocate
for the appellant.

Mr. Vipul Sharma, Advocate for
Mr. Ashwani Arora, Advocate
for the respondents-claimants/Cross-Objectors.

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HARKESH MANUJA, J.

1. By way of present appeal filed at the instance of Insurance Company, prayer has been made for setting aside of the decision dated 21.08.2018 passed by learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as "Tribunal"), whereby, Rs. 56,54,524/- along with pendente lite interest @ 9% per annum was awarded as compensation to respondent No.1 to 4/claimants; whereas, in this appeal, cross objections under Order 41 Rule 22 read with Section 151 CPC have also been filed at the instance of respondents. No. 1 to 4/cross-objectors seeking enhancement/modification of the award passed by the Tribunal.

FACTS

2. Respondents No. 1 to 4 being legal representatives of deceased, filed claim petition before the learned Tribunal for grant of compensation to the tune of Rs. 1 crore along with interest on account of death of Prem Chand in a motor vehicular accident which took place on 03.08.2017, while alleging rash and negligent driving of respondent No. 5/driver.

3. Upon a careful appraisal of the evidence available on record, the learned Tribunal concluded that the accident occurred on account of the rash and negligent driving of respondent No. 5, the driver of the offending vehicle. Consequently, the Tribunal held the appellant along with respondents No. 5 & 6 to be jointly and severally liable, and awarded compensation in the following manner:-

S.No.	**Heads of Claim**	**Amount (in Rs.)**
1.	Gross monthly salary	Rs. 50,551/-
2.	Deduction of Income Tax	Rs. 1,500/-
3.	Net Income	Rs. 49,051/-
4.	Deduction towards personal expenses (1/4)	Rs. 36,789/-
5.	Add 15% future prospects	Rs. 42,307/-
6.	Annual Dependency (Rs. 42,307 x 12)	Rs. 5,07,684/-
7.	**Multiplier (11)**	**Rs. 55,84,524/-**
8.	**Loss of Estate**	**Rs. 40,000/-**
9.	**Loss of Consortium**	**Rs. 15,000/-**
10.	**Transportation and Funeral Expenses**	**Rs. 15,000/-**
	Total Compensation	**Rs. 56,54,524/-**

4. Being aggrieved of the aforementioned award, the present appeal was preferred by the appellant/Insurance Company, for setting aside the award to the extent of reduction of compensation as awarded by the learned Tribunal; whereas the cross objections were filed by respondent No. 1 to 4/cross-objectors, praying for enhancement of compensation.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANT/INSURANCE COMPANY

5. Learned counsel for the appellant/Insurance Company submitted that the impugned award dated 21.08.2018 passed by the learned Tribunal was legally unsustainable, been rendered in disregard of the settled principles governing assessment of compensation. It was submitted that the learned Tribunal erred in applying an incorrect multiplier of 11 despite the deceased having attained the age of 55 years, whereas in view of settled law, a multiplier of 9 ought to have been applied, particularly when the deceased was to retire within three years. It was further argued that the learned Tribunal wrongly treated major children as dependents without any cogent evidence of dependency and, consequently made an erroneous deduction of only 1/4th towards personal and living expenses, whereas a deduction of 50% was warranted as only the widow and mother could be considered dependents. He further submitted that the learned Tribunal failed to deduct income tax while assessing the income and future prospects of the deceased and awarded a conditional rate of interest, which was impermissible in law. He concluded his arguments by submitting that the impugned award being contrary to the evidence on record and settled legal principles was liable to be set aside or suitably reduced.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENTS No. 1 to 4/CROSS-OBJECTORS

6. Per contra, learned counsel for respondents No. 1 to 4/claimants submitted that the award dated 21.08.2018 passed by the learned Tribunal was grossly inadequate and contrary to the evidence on record and settled principles of law. It was submitted that the learned Tribunal failed to correctly appreciate the evidence on record regarding the deceased's permanent and regular employment as a Lineman with PSPCL, his steady increments and future prospects, having assessed his income on the lower side. It was further stated that the compensation awarded under the conventional heads, particularly loss of consortium, was contrary to the law laid down by the Hon'ble Supreme Court and deserves suitable enhancement and thus, the impugned award be modified.

DISCUSSION

7. I have heard learned counsel for the parties and perused the paper-book. I find force in the arguments advanced by learned counsel for respondents No. 1 to 4.

QUESTION OF INCOME ASSESSED

8. In the present case, perusal of the record indicates that deceased- Prem Chand, at the time of accident was 55 years of age and was drawing a monthly salary of Rs. 50,551/- being employed with PSPCL. The learned Tribunal after examining service record (Ex. PW2/A) and salary slip (Ex.PW2/B), rightly accepted the said amount as the monthly income of the deceased. The learned Tribunal thereafter deducted a sum of Rs. 1,500/- towards income tax and, accordingly, assessed the monthly income of the deceased @ Rs. 49,051/-. Although, evidence to the contrary was led by the appellants, but the same was rightly discarded by the learned Tribunal, by upholding the income of the deceased on the basis of documentary evidence produced on record in the form of his salary slip (Ex.PW2/B). Therefore, in the humble opinion of this Court, the determination of the monthly as well as annual income of the deceased by the learned Tribunal is based on cogent documentary evidence and does not suffer from any infirmity or illegality, warranting interference by this Court.

9. The next issue which arises for consideration in the present appeal is whether the learned Tribunal was justified in treating major children as dependents and, consequently deducting 1/4th towards personal expenses of the deceased.

9.1 From a perusal of the evidence on record, it is evident that respondents No. 1 to 4 are the legal heirs of the deceased Prem Chand. The testimony led by the respondents No. 1 to 4 regarding their dependency upon the deceased has remained unrebutted and unchallenged.

9.2 The learned Tribunal has applied a deduction of 1/4th, which is justified in view of the law laid down by the Hon'ble Supreme Court in the case of ***"Seema Rani & Ors. v. The Oriental Insurance Company Limited & Ors."*** reported as ***[2025 (2) RCR (Civil) 48]*** wherein it has been held that major married and earning children of the deceased, being legal representatives, have a right to apply for compensation, irrespective of their dependency status on the deceased. The relevant para from the judgment is reproduced hereunder:-

> *"9. We have heard learned counsel for the Appellants. We are unable to agree with the view taken by the Tribunal on the dependents of the deceased. This Court in* ***National Insurance Company Limited v. Birender & Ors., (2020) 11 SCC 356*** *had expounded that major married and earning sons of the deceased, being legal representatives, have a right to apply for compensation, and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent on the deceased or not. The Court went on to conclude that since the sons, in that case, were earning merely Rs. 1,50,000/- per annum, they were largely dependent on the earnings of the deceased and were staying with her.*
>
> *10. Adverting to the facts at hand, on a perusal of the statement of Shashi Kumar, the son of the deceased (Appellant No.2 herein), annexed as Annexure P6, was working at a petrol pump, while the other son was involved in temporary 1 (2020) 11 SCC 356 employment opportunities only. Both of them were residing with the deceased. In such circumstances, it cannot be said that they were self-sufficient or independent of the deceased. Similarly, applying the exposition in Birender (Supra), there is no reason to exclude a married daughter from compensation. Therefore, in view of this, the High Court erred in excluding these dependants."*

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

10. Furthermore, in view of the judgment of the Hon'ble Apex Court in ***"Sarla Verma & others v. DTC & another", (2009) 6SCC 121,*** ***"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 re-assessed accordingly. Respondents No. 1 to 4 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 respondents No. 1 to 4, being spouse, children and mother of deceased are also entitled for spousal, parental and filial consortium.

CONCLUSION

11. In view of the discussion made hereinabove, the respondents No. 1 to 4/cross-objectors are held entitled for the grant of compensation in the following manner:-

S.No.	**Nature**	**Amount (in Rs.)**
1.	Annual Income of Deceased	Rs. 5,88,612/-
2.	Deduction ($1/4^{th}$)	Rs. 1,47,153/-
3.	Net Income (Rs. 5,88,612 – Rs. 1,47,153)	Rs. 4,41,459/-
4.	Future Prospects (15%)	Rs. 66,218.85/-
5.	Total Income (4,41,459 + 66,218.85)	Rs. 5,07,677.85/-
6.	**Loss of Income after applying multiplier of 11 as per the age of 55 years (5,07,677.85 x 11)**	**Rs. 55,84,456.35/-**
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. 58,12,456.35/-**
11.	**Amount Awarded by the Tribunal**	**Rs. 56,54,524/-**
12.	**Enhanced Compensation**	**Rs. 1,57,932.35/-**

Accordingly, respondents No. 1 to 4/cross-objectors shall be entitled to receive compensation in the proportion already determined by the learned Tribunal.

12. In the 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,*** the grant of interest @ 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization is justified. 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. Accordingly, the appeal filed at the instance of Insurance Company is hereby dismissed and the cross-objections for enhancement filed at the instance of respondent no.1 to 4 is disposed of in view of aforesaid modification of the award passed by the Tribunal.

14. Pending miscellaneous application(s) if any, shall also stand disposed of.

January 23, 2026 **(HARKESH MANUJA)**
Tejwinder **JUDGE**