2026:PHHC:025684

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
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1. FAO-1559-2019(O&M)

United India Insurance Co.Ltd. ... Appellant

Versus

Rajwinder Singh and others ... Respondents

2. FAO-1231-2019(O&M)

Rajwinder Singh and others ... Appellants

Versus

Jaswinder Singh and others ... Respondents

Date of decision : 18.02.2026

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Harsh Aggarwal, Advocate
for the appellant in FAO-1559-2019 and
for respondents no.3 in FAO-1231-2019.

Mr.Rishabh Gupta, Advocate
for the appellants in FAO-1231-2019 and
for respondents no.1 to 5 in FAO-1559-2019.

VIKAS BAHL, J.(ORAL)

1. The present order would dispose of two appeals. FAO-1559-2019 has been filed by the insurance company in which challenge is made to the award dated 01.11.2018 vide which an amount of Rs.19,80,392/- along with interest had been awarded to the claimants on account of death of Babu Singh Mann, which had taken place in a motor vehicular accident on 04.04.2018. FAO-1231-2019 has been filed by the claimants, who are

son and daughters of the said deceased Babu Singh Mann. The prayer made in the said appeal is for enhancement.

2. Learned counsel for the insurance company has submitted that in the present case it is not in dispute that the son as well as four daughters were all major at the time of accident of the deceased Babu Singh Mann. It is further submitted that three daughters were married, whereas one daughter was unmarried at the time of death of deceased. It is submitted that in the said circumstances, the said persons cannot be stated to be dependent upon the deceased and thus, they had no locus standi to maintain the claim petition and the claim petition deserves to be dismissed on the said ground alone.

3. Learned counsel for the claimants, on the other hand, has submitted that as per the judgment of the Hon'ble Supreme Court in the case of ***National Insurance Company Limited vs. Birender and Others*** reported as ***2020(11) SCC 356***, even the major, married and earning sons of the deceased, being LRs of the deceased, have the right to apply for compensation and once the said application is filed, it is the bounden duty of the Tribunal to consider the said application irrespective of the fact, whether concerned legal representatives were dependent on the deceased or not. It is submitted that thus, the argument raised on behalf of the insurance company is not sustainable and the appeal filed by the insurance company deserves to be dismissed.

4. Learned counsel for the claimants has further argued that in fact

the amount of compensation which has been awarded to the claimants deserves to be enhanced, inasmuch as, only amount of Rs.15,000/- each on accounts of loss of estate and funeral expenses had been awarded and an amount of Rs.2 lacs (Rs.40,000/- x 5) had been awarded on account of loss of consortium. It is submitted that the claimants are entitled to benefit of increase of 10% after every three years. In support of his arguments, learned counsel for the claimants have relied upon the judgment of the Hon'ble Supreme Court in the case of ***Jitender Kumar and Anr. vs. Sanjay Prasad & Ors.*** reported as ***2025(3) ACC 563*** as well as in the cases of ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported as ***(2017) 16 SCC 680*** and ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others*** reported as ***(2018) 18 SCC 130***. It is argued that thus, the present claimants are entitled to an amount of Rs.19,500/- on account of loss of estate, Rs.19,500/- on account of funeral expenses and Rs.52,000/- each to all the claimants, who are five in number.

5. Learned counsel for the insurance company in rebuttal has submitted that even a perusal of the said judgment of the Hon'ble Supreme Court in the case of ***Jitender Kumar (supra)*** would show that 10% increase after every three years is taken from 2017. It is submitted that the said year 2017 is to be taken in consideration in view of the fact that the judgment in the case of ***Pranay Sethi (supra),*** was passed on 31.10.2017. It is submitted that in the said circumstances, at best, the increase of 10% can be granted twice and thus, the highest amount that can be granted on accounts of loss

of estate and funeral expenses is Rs.18,150/- each and on loss of consortium to the extent of Rs.48,400/- per claimant.

ANALYSIS AND FINDINGS

6. This Court has heard learned counsel for the parties and has perused the paper book.

7. The argument raised on behalf of the insurance company in FAO-1559-2019 to the effect that since all the claimants are major and some of the daughters are also married and thus, they did not have locus standi to file the claim petition, deserves to be summarily rejected in view of the law laid down by the Hon'ble Supreme Court of India in the case of ***Birender (supra).*** In the said judgment, the Hon'ble Supreme Court of India had observed that in view of the provision of Section 166 (1) (c), the legal representatives of the deceased could move application for compensation and that major, married son, who are earning and not fully dependent on the deceased, would still be covered by the expression "legal representative" of the deceased. It was further observed that it is a matter of settled law that even the major, married and earning sons of the deceased, being legal representatives, have a right to pursue the said application for compensation and it is bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependent on the deceased or not. No contrary judgment on said aspect has been cited before this Court. In view of the same, the appeal filed by the insurance company i.e., FAO-1559-2019 deserves to be dismissed.

8. The question that now remains to be adjudicated is whether the claimants are entitled to additional compensation or not. Additional compensation is being sought on behalf of the claimants by arguing that the amount on accounts of loss of estate which had been awarded to the tune of Rs.15,000/-, funeral expenses which had been awarded to the tune of Rs.15,000/- and loss of consortium which had been awarded to the tune of Rs.2,00,000/- (Rs.40,000 x 5) deserves to be enhanced to Rs.19,500/-, 19,500/- and Rs.52,000/- x 5 in view of the fact that 10% increase is required to be given after every three years from the year 2017. Reliance in this regard has been placed upon the judgment of the Hon'ble Supreme Court in the case of ***Jitender Kumar (supra)***. On the contrary, it is pointed out on behalf of the insurance company that since the judgment of the Hon'ble Supreme Court in the case of ***Pranay Sethi (supra)*** was passed on 31.10.2017, thus, the period of three years is to be taken from October 2017 and since nine years have not elapsed from the date of said judgment, thus, the highest benefit that can be granted to the claimants is with respect to two increases of 10%. The said argument raised on behalf of the insurance company is meritorious and deserves to be accepted. Accordingly, it is observed that although the claimants are entitled to enhancement under the headings of loss of estate, funeral expenses and loss of consortium but the amounts which they are entitled to would be Rs.18,150/- each on accounts of loss of estate, funeral expenses and each of the claimants would be entitled to Rs.48,400/- on account of loss of consortium. Accordingly, the

claimants are held entitled to a total enhanced compensation of Rs.48,300/- (3150 x 2 + 8400 x5) along with interest at the rate of 7.5% per annum.

9. Keeping in view the above said facts and circumstances, FAO-1559-2019 filed by the insurance company is dismissed and FAO-1231-2019 filed by the claimants is partly allowed and award dated 01.11.2018 is modified and the United India Insurance Company Limited is directed to pay an additional amount of compensation to the tune of Rs.48,300/- to the claimants along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation within a period of six weeks from today.

10. Pending application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

February 18, 2026.
Davinder Kumar

Whether speaking / reasoned Yes/No
Whether reportable Yes/No