IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215 **FAO-2179-2002**
Date of decision :01.07.2026

SIMLA RANI AND OTHERS **... APPELLANTS**

VERSUS

JASWINDER SINGH AND OTHERS **...RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Rajbir Singh, Advocate for
Mr. C.M. Munjal, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocated for
Mr. Ravinder Arora, Advocate
for respondent No. 2.

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PARMOD GOYAL, J. (ORAL)

1. That Claimants-appellants have preferred the present appeal being wife, minor sons and mother of the deceased, Balbir Singh (hereinafter referred to as the "Deceased"), who died in a road accident which took place on 13.02.1997, on account of rash and negligent driving by respondent No. 1 while driving truck bearing registration No.PBP-5187.

2. Being aggrieved by the impugned award dated 08.11.2001 passed by the Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as "Tribunal"), vide which the claimants-appellants were found entitled to total compensation of Rs.1,90,000/-. The claimants-appellants are seeking enhancement of compensation awarded by the Tribunal as the same is not according to their entitlement.

3. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal are not being adverted herein for sake of brevity.

4. The Tribunal in the present case had awarded the following compensation:

Monthly Income	Rs.1,670/- per month
Deduction	Rs.1,000/- (1670-670)
Multiplier	15
Loss of dependency	Rs.1,80,000/- (Rs.1000x15x12)
Funeral expenses	Rs.10,000/-
Total Compensation awarded	Rs.1,90,000/-

5. Learned counsel for the claimants-appellants contended that the income of the deceased has been wrongly assessed as Rs.1,670/- per month by the Tribunal. Learned counsel for the claimants-appellants stated that deceased was working as constable in the police department with number 1901 Ferozepur and drawing a salary of Rs.5,170/- per month. That the learned Tribunal has erred in deducting pension component from the salary of the deceased and assessed the income to be Rs.1,670 per month. The income of deceased ought to have been taken as Rs.5,170/- per month as proved vide salary certificate Ex. A3. He further asserted that no addition has been made towards future prospects which ought to be 50% in terms of judgment of Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs Pranay Sethi & Ors,*** *2017 (16) SCC 680*. It is further the contention of the learned counsel for the claimants-appellants that the amounts awarded under the conventional heads as well as under the head

'loss of consortium' are not in accordance with the law laid down by the Hon'ble Supreme Court.

6. *Per contra*, learned counsel for respondent No. 2 has argued that sufficient amount has already been given as compensation in the present case and there is no scope of any enhancement.

7. I find that the learned Tribunal has committed an error in deducting the pension amount from the income of the deceased as pension is receivable on account of the services rendered by the deceased. Whether the deceased died in a motor accident or had died due to natural causes, his family would, in any case, would be entitled to the pensionary benefits arising out of services rendered by him. This issue is no longer *res integra*. The Hon'ble Supreme Court in **Hanumantharaju B (dead) by LR Vs. M Akram Pasha & Anr.** 2025 AIR Supreme Court 3283 has duly considered the question as to whether pension is required to be deducted or not from the income of the deceased while determining loss of dependency. It has been held as under:

> *"19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.*
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> *For this proposition of law, we may refer to the decision*

in ***Vimal Kanwar & Ors. v. Kishore Dan & Ors. (2013) 7 SCC 476****, wherein this Court, by referring to the earlier decision in* ***Helen C. Rebello v. Maharashtra SRTC (1999) 1 SCC 90****, held as follows:-*

> ***"19****. The aforesaid issue fell for consideration before this Court in Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90: 1999 SCC (Cri) 197]. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. The following was the observation and finding of this Court: (SCC pp. 111-12, para 35)*
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> > *"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co-*

relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any co-relation. The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of *an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."*

Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in ***Reliance General Insurance Co. Ltd. v. Shashi Sharma & Ors. (2016) 9 SCC 627 and National Insurance Company Ltd. v. Birender & Ors. (2020) 11 SCC 356****.*

20. Keeping the aforesaid legal position in mind, we shall examine the issues at hand.

21. As regards computing the loss of income, in the light of the above referred decisions, it would not be permissible to deduct the pensionary amount of Rs. 15,247/- from the salary of Rs. 36,231/- as was done by the High Court. Hence, for the purpose of computing the loss of earning, the said monthly salary of Rs. 36,231/- has to be accepted without deducting the pension amount."

8. Therefore, the income of the deceased has to be taken as Rs.5,170/- per month. Admittedly, the deceased was 30 years old at the time of accident and was survived by five dependents, namely, his wife, minor children and mother. Accordingly, the deceased is entitled to addition of 50% towards future prospects, as he was in permanent service, in view of the law laid down by the

Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others**, 2017 (16) SCC 680. The applicable multiplier is "17", which is accordingly applied. An amount of 1/4th towards personal and living expenses is required to be deducted, keeping in view that the deceased is survived by five dependents.

9. The claimants-appellants shall also be entitled to compensation under the conventional heads, namely, loss of estate to the extent of ₹7,500/-, funeral expenses amounting to ₹7,500/-, and ₹15,000/- to each of the claimants-appellants towards loss of spousal, parental and filial consortium. It is, however, made clear that in case Hon'ble Supreme Court answer the reference regarding quantum of compensation under conventional head made in **Hasina Yasmin and Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of claimants-appellants, claimants-appellants shall be free to seek said amount by moving appropriate application in this regard.

10. Accordingly, the reworked compensation payable to respondents - claimants is as under :-

Income of deceased	Rs.5,170/-	Rs.5,170/- per month
Future Prospects	50% (5170+2585)	Rs.7,755/-
Deduction	1/4th (7755-1939)	Rs.5,816/-
Multiplier	17	17
Total loss of dependency	Rs.5,816 x17x 12	Rs.11,86,464/-
Loss of estate		Rs.7,500/-
Funeral expenses		Rs.7,500/-
Loss of spousal consortium to claimant No.1		Rs.15,000/-
Loss of Parental consortium to claimant No. 2 to 4	Rs.15,000x3	Rs.45,000/-
Loss of filial consortium to claimant no. 5		Rs.15,000/-

Compensation awarded by Tribunal	Rs.1,90,000/-	
Compensation awarded in appeal		Rs.12,76,464/-
Enhancement of compensation	Rs.12,76,464 (awarded in appeal) – Rs.1,90,000/- (awarded by Tribunal)	Rs.10,86,464/-

11. Appellants/claimants shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Apportionment and liability to pay compensation shall be as per award.

12. Appeal is accordingly allowed in above terms.

13. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

01.07.2026 **(PARMOD GOYAL)**
Manoj **JUDGE**

Whether speaking/reasoned Yes
Whether reportable Yes/No