245 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

FAO-1840-2002
Date of Decision: 20.01.2026

POOJA DEVI AND ORS

....Appellants

Versus

MOHAMAD SAYEED AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Prerna Aggarwal, Advocate and
Mr. Kulvir Narwal, Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for respondent No.3-Insurance Company.

Mr. Brij Bhushan Sharma, Advocate for
Mr. Deepak Suri, Advocate
for respondent No.5-Insurance Company.

Parmod Goyal, J. (Oral)

Claimants-appellants are aggrieved by compensation of Rs.2,30,400/- by award dated 05.12.2001 passed by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as Tribunal). Claimants-appellants have sought enhancement of compensation.

2. It is the case of claimants-appellants that deceased had died in motor vehicular accident dated 19.12.2000 on account of rash and negligent driving of offending vehicle No.DL-1GA-1282 by its driver. Since, findings on issue No.1 are not being challenged in the present appeal. The detailed facts as regards to accident are not being noticed for sake of brevity.

3. Learned counsel for claimants-appellants has argued that

learned Tribunal has erred in not taking into consideration future prospects and while granting loss of dependency, has wrongly applied deduction of 50% whereas, deceased had 4 dependents. The learned Tribunal ought to have deducted 1/4th amount towards personal expenses and prayed that compensation be awarded vide award be enhanced.

4. It is the case of claimants-appellants that deceased-Satyanand was 23 years old at the time of his death and working as driver on the truck of one Moti Lal thereby earning Rs.6,000/-+100/- per day as diet money. However, except for oral assertions, no evidence was led to show that deceased was working as driver with one Moti Lal and was earning Rs.6,000/- +100/- per day as diet money.

5. In absence of any cogent evidence, learned Tribunal has assessed monthly salary of deceased-Satyanand as Rs.2,400/- taking him to be driver on the basis of minimum wages payable to driver.

6. Learned counsel for appellants-claimants could not show any error in the approach of learned Tribunal in taking monthly salary of deceased as Rs.2,400/- on the basis of minimum wages in absence of any material except for self-serving oral assertions. Onus to prove income of deceased is upon claimants. This onus needs to be discharged at least *prima facie* to accept pleaded income. Oral assertions must be justified with corroborated material to conclude higher income than minimum wages where no evidence is led by examining employer. Accordingly, income of deceased is taken as Rs.2,400/- per month. Learned Tribunal has considered age of deceased to be 28 years on the basis of postmortem report and has

awarded multiplier of 16. There is no rebuttal to age of deceased the best evidence was available with claimants which they have not disclosed.

7. However, since deceased was 28 years old, multiplier of 17 would be applicable in view of ***Sarla Verma Vs. Delhi Transport Corporation,*** 2009 (3) RCR (Civil) 77. Keeping in view the fact that deceased was 28 years old while calculating loss of dependency an amount to the extent of 40% of monthly income needs to be added to the income of the deceased as future prospects. Since, there are 4 claimants including 60 years old father, claimants-appellants are entitled to compensation after applying 1/4th deduction in respect of 50% applied by learned Tribunal.

8. Learned counsel for the Insurance Company has argued that learned Tribunal has duly taken into consideration that father of deceased was Class-II heir and therefore, cannot be held to be dependent upon deceased. However, there is no merit in the argument raised on behalf of learned counsel for Insurance Company.

9. The entitlement to receive compensation under Motor Vehicle Act, 1988 vest in legal representative and not merely on upon dependents. The role of dependents is generally to find out loss of dependency and for deducting personal expenses of deceased. In a case of aged father, it cannot be held that he was not dependent upon deceased accordingly, father i.e. claimant No.4 is to be taken to be dependent of deceased and deduction in the present case shall be applicable to the extent of 1/4th instead of 50% as applied by learned Tribunal.

10. Claimants-appellants shall also be entitled to compensation for

funeral expenses to the extent of Rs.7,500/- compensation for loss of estate Rs.7,500/- and parental, filial as well as spousal consortium to the extent of Rs.15,000/- each to the claimants.

11. In view of above discussion, claimants-appellants are entitled to following compensation:-

Income of deceased		Rs.2,400/- per month
Future prospects	40% (2400+960)	Rs.3,360/-
Deduction	1/4th (3360-840)	Rs.2,520/-
Multiplier	17	17
Total Loss of Dependency	2520 x 12 x 17	Rs.5,14,080/-
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		Rs.15,000/-
Loss of filial consortium to claimant Nos.3 & 4.	Rs.15,000/- x 2	Rs.30,000/-
Total compensation awarded in appeal		Rs.5,89,080/-
Compensation awarded by Tribunal	Rs.2,30,400/-	
Enhancement of compensation	Rs.5,89,080 (awarded in appeal) - Rs.2,30,400/- (awarded by Tribunal)	Rs.3,58,680/-

12. Claimants-appellants shall also be entitled to interest @ 7.5% on the enhanced compensation from the date of filing of claim petition till realization. Apportionment and liability to pay compensation shall be as per

the award.

13. Appeal is accordingly allowed in above terms.

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

(PARMOD GOYAL)
20.01.2026 **JUDGE**
Ravinder

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No