2026:PHHC:011936

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2290-2023 (O&M)

BATERI DEVI AND ANOTHER ….Appellants

Vs.

VIRENDER KUMAR AND OTHERS …..Respondents

1	*The date when the judgment was reserved*	*15.01.2026*
2	*The date when the judgment is pronounced*	*28.01.2026*
3	*The date when the judgment is uploaded on the website*	*28.01.2026*
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. R.K. Saini, Advocate for the appellants.

Mr. Abhimanyu Kalsy, Advocate for respondent No. 3/Insurance Company.

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<u>HARKESH MANUJA, J.</u>

1. By way of present appeal, challenge has been laid to an award dated 04.01.2023 passed by the learned Motor Accident Claims Tribunal, Karnal (for brevity, "the Tribunal"), whereby an amount of Rs. 16,09,428/- was awarded as compensation to the appellants/claimants along with interest @ 9% per annum from the date of institution of claim petition till its realization on account of death of Rahul in a motor vehicular accident, occurred on 25.05.2020.

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. 1 crore, on account of death of Rahul in a motor vehicular accident which took place on 25.05.2020 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.3/Insurance Company liable and awarded compensation in the following manner:-

S.No.	**Nature**	**Amount (in Rs.)**
1.	Annual Income of deceased	Rs. 1,25,352/-
2.	Future Prospects (40%)	Rs. 1,75,492/-
3.	Deduction (1/2nd)	Rs. 87,746/-
4.	**Multiplier (18)**	**Rs. 15,79,428/-**
5.	**Loss of Estate**	**Rs. 15,000/-**
6.	**Funeral Expenses**	**Rs. 15,000/-**
	Total Compensation	**Rs. 16,09,428/-**

4. Being aggrieved of the award dated 04.01.2023 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.

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

5. Learned counsel for the appellants/claimants submitted that the impugned award dated 04.01.2023 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 failed to consider the age, future prospects and actual income of the deceased besides wrongly applying the deduction of ½ towards personal expenses instead of settled norm of 1/3rd despite clear dependency., and erroneously assessed the income on the basis of minimum wages ignoring cogent and unrebutted evidence on record. Furthermore, it was submitted that the amount of compensation granted under conventional heads was not in consonance with the settled law, therefore, he prayed for enhancement of compensation as per latest decision on the subject.

ARGUMENTS ON BEHALF OD LEARNED COUNSEL FOR RESPONDENT No.3/INSURANCE COMPANY.

6. Per contra, learned counsel representing respondent No.3/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 learned Counsel for the appellants.

QUESTION OF INCOME ASSESSED

8. In the present case, in view of the statement of Bateri Devi (mother of deceased) who appeared as PW-1, it was deposed that the deceased was earning Rs. 20,000/- per month by working as a mason (Raj MistrI), however, no documentary evidence to support the same was placed before the Tribunal in this regard, thus, the learned Tribunal assessed the monthly income of deceased @ Rs. 10,446/- while considering the deceased as a skilled labour. In this situation observations made by the Hon'ble Apex Court in ***"Kubra Bibi vs. Oriental Insurance Co. Ltd.",*** reported as ***2023 (3) Apex Court Judgments (SC) 23,*** to the effect that in the absence of definite proof of income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and the notional income is required to be taken into consideration to help the cause of the appellant. Relevant para from this judgment is reproduced hereunder:-

> *"7. In a matter of the present nature where the compensation is sought and even in absence of definite proof of the income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and the notional income in any event is required to be taken into consideration. The fact that the deceased had three dependents to be cared for and had claimed that he was working as a mechanic, the amount payable to an unskilled labour, cannot be the basis and in that circumstance when he was a skilled person, the daily income at Rs. 200 per day in any event could have been taken even if the income from jeep transport business was discarded for want of documents. More so in a circumstance, where the MACT had referred to the evidence available on record and then arrived at its conclusion, the re-appreciation of the evidence by the High Court is without being sensitive to nature of lis before it."*

8.1 Furthermore, the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in stricto sensu is not required. The Hon'ble Supreme 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……"*

8.2 Considering the facts of the present case, wherein Bateri Devi (mother of deceased), while deposing as PW-1, stated that her son was working as a mason 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 learned Tribunal deducted 1/2nd of the income towards personal and living expenses of the deceased in accordance with the law laid down by 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,*** held that in case the deceased was a bachelor and the claimants were the parents, the deduction follows a different principle and with regard to bachelors, and 50%

needs to be deducted as personal and living expenses. Relevant para of the judgment is culled out as under:-

> *"15. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In this regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependent and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will wither be independent and earning, or married, or be dependent on the father. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be dependent, and 50% would be treated as the personal and living expenses of the bachelor 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third."*

9.2 In the present case, it stands duly established on record that the deceased was survived by his aged parents and an elder brother. In the prevailing social context, where it is increasingly observed that elderly parents are often neglected and left without adequate support by their children, the responsibility of an earning son towards the care, maintenance and welfare of aged parents assumes even greater legal and social significance. The deceased, therefore, was under a clear moral, social and filial obligation to financially support his dependent parents, and it is reasonable to infer that a substantial portion of his income would have been set aside for their sustenance and welfare, rather than being spent exclusively on his personal needs.

Although, as per the ratio laid down by the Hon'ble Supreme Court in ***Sarla Verma's case,*** the standard deduction towards personal and living expenses of a bachelor is one-half (1/2nd), however, having regard to the peculiar facts and circumstances of the present case, the contemporary social realities, and the dependent status of the aged parents, such mechanical application may result in manifest injustice. Accordingly, a just, fair, and reasonable deduction towards personal and living expenses of the deceased is assessed at 40% of his income.

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. 96,000/- (Rs. 48,000 x 2) as the appellants, being parents of deceased are also entitled for filial consortium.

CONCLUSION

11. In view of the discussion made herein above, 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.	Add 40% Future Prospects	Rs. 57,600/-

3.	Total Income (Rs. 1,44,000 + Rs. 57,600)	Rs. 2,01,600/-
4.	Deduction (40%)	Rs. 80,640/-
5.	Net Income (Rs. 2,01,600 – Rs. 80,640)	Rs. 1,20,960/-
6.	**Loss of Income after applying multiplier of 18 as per age of 25 years (1,20,960 x 18)**	**Rs. 21,77,280/-**
7.	**Funeral Expenses**	**Rs. 18,000/-**
8.	**Loss of Estate**	**Rs. 18,000/-**
9.	**Loss of Consortium (48,000 x 2)**	**Rs. 96,000/-**
	Total Compensation	**Rs. 23,09,280/-**
	Amount Awarded by the Tribunal	**Rs. 16,09,428/-**
	Enhanced Compensation	**Rs. 6,99,852/-**

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

January 28, 2026 **(HARKESH MANUJA)**
sonika **JUDGE**

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

Whether reportable? **Yes/No**