



FAO NO.1983 OF 2021 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1983 of 2021 (O&M)

GAFOOR KHAN AND OTHERS
Vs
SARAFAT AND OTHERS

...Appellants
...Respondents

1	The date when the judgment was reserved	24.03.2026
2	The date when the judgment is pronounced	08.05.2026
3	The date when the judgment is uploaded on the website	08.05.2026
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. Ashish Gupta, Advocate
for the appellants.

Mr. Harsh Aggarwal, Advocate and
Mr. Tarun Jindal, Advocate
for respondent No.3/Insurance Company.

HARKESH MANUJA, J.

1. By way of present appeal, challenge has been laid to an award dated 19.02.2021 passed by the learned Motor Accident Claims Tribunal, Mewat at Nuh (for brevity, “the Tribunal”), whereby an amount of Rs.2,10,000/- was awarded as compensation to the appellants/claimants along with interest @ 8% per annum from the date of filing of claim petition till its realization on account of death of Najeer Ahmed in a motor vehicular accident, occurred on 21.07.2017.
2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the Tribunal, a detailed narration of facts of the case is not reproduced herein for the sake of brevity.



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

3. Learned counsel for the appellants/claimants vehemently argued that the learned Tribunal erred both on facts as well as in law while assessing the compensation on the lower side. It was contended that the deceased was the sole breadwinner of the family and the learned Tribunal wrongly deducted 50% towards personal expenses despite there being five dependents, whereas deduction ought to have been restricted to 1/4th in view of the settled principles governing assessment of dependency. He further argued that the monthly income of the deceased was arbitrarily assessed at Rs.6,000/- per month despite unrebutted evidence showing that the deceased was earning about Rs.10,000/- per month as a labourer. Learned counsel further submitted that inadequate amount was awarded under the conventional heads including funeral expenses, loss of consortium, transportation charges and loss of estate. It was, thus, prayed that the impugned award be suitably modified and the compensation be enhanced along with just and reasonable interest.

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

4. Per contra, learned counsel representing the 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 and circumstances of the present case, the compensation assessed by the learned Tribunal called for no interference.



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DISCUSSION AND REASONING

5. I have heard learned counsel for the parties and perused the paper-book of the case. I find substance in the arguments advanced by the learned counsel for the appellants/claimants.

QUESTION OF INCOME ASSESSED

6. A perusal of the impugned award reveals that the learned Tribunal assessed the monthly income of the deceased at Rs.6,000/- per month on mere conjectures and surmises, without there being any cogent basis for such assessment. Though the appellants claimed that the deceased was earning Rs.10,000/- per month as a labourer, no documentary evidence regarding his exact income was brought on record. However, it is well settled that in the absence of direct proof of income, the income of a deceased labourer is required to be assessed on the basis of the minimum wages prevailing at the relevant time. Reliance in this regard can be placed on “Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors.”, reported as (2022) 1 SCC 198, wherein the Hon’ble Supreme Court held that in 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



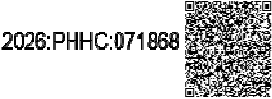
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not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month.....”

Since the accident pertains to the year 2017 and the deceased was admittedly working as a labourer this Court deems it appropriate to assess his income on the basis of minimum wages notified for an unskilled labourer in the year 2017 in the State of Haryana. Consequently, the monthly income of the deceased is reassessed accordingly @ Rs.10,500/- per month (350 x 30) for the purpose of computation of compensation.

QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES.

7. As per the averments made in the claim petition and the documents placed on record (Aadhar Card), the age of the deceased at the time of his death was stated to be 83 years. Thus, placing reliance upon the law laid down in the case “Smt. Sarla Verma and others vs. Delhi Transport Corporation and another”, reported as 2009 (3) RCR (Civil) 77, and “National Insurance Co. Ltd. vs. Pranay Sethi and others” reported as (2017) 16 SCC 680, no addition towards future prospects is liable to be made and the multiplier of ‘5’ is accordingly applied for assessing the loss of dependency. Further, considering that the deceased left behind five dependents, the deduction towards personal and living expenses could not have exceeded 1/4th of the assessed income in view of the principles laid down by the Hon’ble Supreme Court in Sarla Verma’s case (supra). The learned Tribunal, therefore, fell in error while deducting 50% towards personal expenses of the deceased merely on account of his advanced age. Consequently, deduction towards personal and living expenses of the deceased is reassessed to the extent of 1/4th of



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the monthly income, while treating the remaining 3/4th as contribution towards the family dependency.

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

8. Furthermore, in view of the judgment of the Hon’ble Apex Court in Smt. Sarla Verma’s case (supra), Pranay Sethi’s case (supra) and “United India Insurance Co.Ltd. vs. Satinder Kaur”, reported as (2021) 11 SCC 780, compensation awarded under conventional heads is 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.2,40,000/- (48,000 x 5) as appellants/claimants being children are entitled to parental consortium.

CONCLUSION

9. 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	1,26,000/-
2.	Deduction (1/4 th)	31,500/-
3.	Net Income (Rs. 1,26,000 – Rs. 31,500)	94,500/-
4.	Loss of Income after applying multiplier of 5 as per the age of 83 years (Rs. 94,500 x 5)	4,72,500/-
5.	Loss of Consortium	2,40,000/-
6.	Funeral expenses	18,000/-
7.	Loss of estate	18,000/-
	Total compensation	7,48,500/-
	Amount Awarded by the Tribunal	2,10,000/-
	Enhanced Amount	5,38,500/-



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Accordingly, appellants/claimants shall be entitled to receive above enhanced compensation in the proportion already determined by the learned Tribunal.

10. The grant of interest @ 8% per annum is not equitable and just 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, thus, the interest is enhanced to 9% per annum on the amount of compensation re-assessed from the date of institution of claim petition till its realization. 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.

11. In view of the foregoing discussion, the present appeal preferred at the instance of appellants/claimants stand allowed. Pending miscellaneous application(s), if any, shall also stand disposed of.

May 08, 2026
Atik

(HARKESH MANUJA)
JUDGE

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