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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-520-2021 (O&M)
Date of Decision : 12.02.2026

Reliance General Insurance Company Limited ... Appellant

Versus

Kanta Devi and Others ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sachin Ohri, Advocate for the appellant.

Mr. Vipul Sharma, Advocate for respondent Nos.1 and 2.

Mr. Navin Kapur, Advocate for respondent No.4.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the Insurance Company aggrieved by the award dated 03.02.2021 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'Tribunal') in a motor vehicle accident which occurred on 19.09.2018. The parties are being referred to the claimants, Insurance Company, driver and owner of the offending vehicle for the sake of clarity.

2. The brief facts relevant to the present *lis* are that on 19.09.2018, Rajesh Kumar (hereinafter referred to as the 'deceased') was coming from the side of Barotiwala and was going towards Baddi while riding his motorcycle at a slow speed and on the correct left side of the road. At about 11.45 am, when he reached near Swaraj Majra Gujra, a Tipper bearing registration No.HP-12-D-7200 (hereinafter referred to as the 'offending vehicle') which

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was being driven by respondent No.3 at a fast speed came from the side of Baddi and by coming on to the wrong side of the road struck against the motorcycle of the deceased. As a result of the accident, the deceased fell down on the road and received serious injuries. He was taken to Civil Hospital, Nalagarh where he succumbed to his injuries. An FIR No.231 dated 19.09.2018 under Sections 279 and 338 of the Indian Penal Code, 1860 was registered at Police Station Baddi against respondent No.1.

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

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹16,580/-
2	Annual Income	₹1,98,960/- [₹16,580 x 12]
3	Deduction - 50%	₹99,480/- [₹1,98,960 - ₹99,480]
4	Future Prospects - 40%	₹1,39,272/- [₹99,480 + ₹39,792]
5	Multiplier - 17	₹23,67,624/- [₹1,39,272 x 17]
6	Loss of estate	₹15,000/-
7	Funeral expenses	₹15,000/-
8	Loss of consortium	₹80,000/-
	Total Compensation	**₹24,77,624/-**
	Interest	**6% per annum**

4. Learned counsel for the Insurance Company has contended that the Tribunal has not taken into account the forensic report (Ex.RW3/2) which was tendered in evidence by the Insurance Company and which clearly reveals that the alcohol content in the blood of the deceased was 160.52 mg%. It is further the contention that it was not the fault of the driver of the offending vehicle. It was rather the fault of the deceased, who was driving the motorcycle in an inebriated condition. It is further the contention of learned counsel for the Insurance Company that the income of the deceased has wrongly been assessed by the Tribunal as ₹16,580/- per month inasmuch as

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he had left the company on 21.06.2018.

5. *Per contra* learned counsel for the claimants would contend that the FSL Report (Ex.RW3/2) was only tendered/exhibited in evidence and was not proved in accordance with law. In support of his contention, he has relied upon the judgment of the Hon'ble Supreme Court in the case **Narbada Devi Gupta vs. Birendra Kumar Jaiswal & Anr. [2003 (4) RCR (Civil) 683]** to contend that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. In the absence of the document having been proved, no reliance can be placed on the said FSL Report. Learned counsel for the claimants has further pointed out that the said FSL Report (Ex.RW3/2) was not put to either the father of the deceased, who appeared as PW1, nor to the eye-witness who had appeared as PW2.

6. As regards income of the deceased, learned counsel for the claimants would contend that that till 21.06.2018 the deceased was working in the company as per evidence which has been proved on record. The accident took place on 19.09.2018 hence the capability of the deceased to earn the amount of ₹16,580/- per month stood duly proved. Learned counsel or the claimants has relied upon the judgment of the Hon'ble Supreme Court in the case of **Karuna Parmar Vs. Prakash Sinha & Ors. [Civil Appeal No.2317 of 2025 arising out of SLP (C) No.6428 of 2023 decided 11.02.2025]** to contend that in the said case though the claimant worked as a Professor in the year 2012 i.e. two years prior to the accident, however, her income was assessed more than the last drawn wages.

7. Learned counsel for the claimants has further contended that though no appeal has been preferred by the claimants however this Court under Order XLI Rule 33 of the Code of Civil Procedure, 1908 is empowered

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to make or pass any such order as required notwithstanding whether an appeal or cross-objections has been preferred by the claimants or not. He has further contended that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law laid down by the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680], Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

8. I have heard learned counsel for the parties.

9. In the present case, the argument of learned counsel for the Insurance Company that the deceased was in an inebriated condition hence it could not have been held to be the fault of the offending vehicle deserves to be rejected. The onus to prove issue No.1 as regards rash and negligent driving of the offending vehicle by its driver was upon the claimants, who have discharged the same by examining the eye-witness of the accident as well as the father of the deceased himself had stepped into the witness-box as PW1. The Insurance Company and the owner and driver led no evidence to the contrary. The case as setup by the claimants was that the offending vehicle had come on the wrong side of the road. In the absence of any evidence to the contrary, the fact that the offending vehicle came on the wrong side of the road stands proved. Once the offending vehicle came on the wrong side, the deceased could not be held to have been at fault. The FSL Report (Ex.RW3/2) was tendered and exhibited in evidence and but was not proved in accordance with law. It is trite that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. Hon'ble Supreme

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Court in the case of **Narbada Devi Gupta** (supra) held as under :

> *"16. Reliance is heavily placed on behalf of the appellant on the case of Ramji Dayawala & Sons (P) Ltd., (supra). The legal position is not in dispute that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence that is by the 'evidence of those persons who can vouchsafe for the truth of the facts in issue'. The situation is, however, different where the documents are produced, they are admitted by the opposite party, signatures on them are also admitted and they are marked thereafter as exhibits by the court. We find no force in the argument advanced on behalf of the appellant that as the mark of exhibits has been put on the back portions of the rent receipts near the place where the admitted signatures of the plaintiff appear, the rent receipts as a whole cannot be treated to have been exhibited as an admitted documents."*

10. Further, Hon'ble Supreme Court in a recent judgment in the case of **Birka Shiva vs. State of Telangana [2025 (SCC Online SC 1454]** has held that mere production and marking of a document as exhibited by the Court does not amount to proof of its contents. Its execution has to be proved by leading substantive evidence, that is, by the evidence of those persons who can vouchsafe for the truth of the facts in issue.

11. Further still, none of the witnesses produced by the claimants were confronted with the FSL Report (Ex.RW3/2). The said document was

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not put to any of the witnesses in the cross-examination. In view of the above referred judgments and in the absence of the FSL Report (Ex.RW3/2) having been proved in accordance with the law or even having been put to the witnesses of the claimants, no reliance can be placed on the same.

12. The argument of learned counsel or the Insurance Company that income of the deceased has wrongly been assessed as ₹16,580/- per month since he left the job on 21.06.2018 and the accident took place on 19.09.2018 also deserves to be rejected. Hon'ble Supreme Court in the case of **Karuna Parmar** (supra) has held as under :

> *"10. We are unable to agree with the view taken by the Tribunal on the salary of Appellant No.1. It is borne from the record that she was working as a professor till the year 2012 (two years prior to the accident) and drawing a salary of Rs.16,000/- per month. It is true that at the time of the accident, she was not holding such a position. However, it is imperative to note that the accident took away such potential income of the Appellant. It is not a case where the Appellant had left the field of education, as she was still imparting tuition. In our view, it is necessary to include her income as a professor, since it most accurately reflects her earning capacity at the time of the accident. Therefore, it is proper to take the income of Appellant No.1 as Rs.26,000/- per month."*

13. In the present case the evidence produced on the record by PW3 i.e. Vijay Kumar, Junior Executive (HR) with Macleods Pharmaceuticals Limited, Baddi in the shape of offer letter as Ex.P12; appointment letter as

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Ex.P13; salary break up as Ex.P14; last drawn salary as Ex.P15; and copy of ledger as Ex.P16, clearly reveal that the deceased was earning ₹16,580/- in June 2018. The said figure accurately reflects the earning capacity of the deceased at the time of his death. In view thereof, the argument of learned counsel for the Insurance Company stands rejected.

14. So far as argument of learned counsel for the claimants for invoking the provisions of Order XLI Rule 33 CPC *sans* filing of any appeal or cross-objections by the claimants is concerned, the same deserves to be accepted. The Motor Vehicles Act, 1988 is a beneficial piece of legislation and in absence of any appeal or cross-objections by the claimants, this Court can invoke the provisions of Order XLI Rule 33 CPC. Reference in this regard can be made to the judgment of the Hon'ble Supreme Court in the case of **Surekha & Ors. vs. Santosh & Ors. [2021(1) PLR 795]** wherein it has been held as under :

> *"3. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants".*

15. In view of the above, in the opinion of this Court the compensation awarded by the Tribunal under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** *(supra)***,** **Magma General Insurance Company Limited** *(supra)* and **N. Jayasree** *(supra)*. Hence, the claimants would be entitled to ₹18,000/- (₹15,000 + 20% increase) towards loss of estate and ₹18,000/- (₹15,000 + 20% increase)

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towards funeral expenses. The claimants being parents of the deceased would also be entitled to ₹48,000/- each (₹40,000 + 20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹16,580/-
2	Annual Income	₹1,98,960/- [₹16,580 x 12]
3	Deduction - 50%	₹99,480/- [₹1,98,960 - ₹99,480]
4	Future Prospects - 40%	₹1,39,272/- [₹99,480 + ₹39,792]
5	Multiplier - 17	₹23,67,624/- [₹1,39,272 x 17]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Filial [₹48,000/- x 2]	 ₹96,000/- (Total ₹96,000/-)
	Total Compensation	**₹24,99,624/-**

16. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

17. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the percentage directed by the Tribunal. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the

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Tribunal concerned.

18. In view of the above discussion, the award passed by the Tribunal is modified and the present appeal filed by the Insurance Company is dismissed accordingly. Pending applications, if any, also stand disposed off.

12.02.2026 **(ALKA SARIN)**
jk **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO

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