IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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I. **FAO-5034-2002**

Smt. Pushpa Devi and another . . . . Appellants

Vs.

State of Haryana and others . . . . Respondents

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II. **FAO-5035-2002**

Smt. Moorti Devi and another . . . . Appellants

Vs.

State of Haryana and others . . . . Respondents

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Reserved on: 05.03.2026
Pronounced on: 07.03.2026
Pronounced Fully/Operative Part: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. Nonish Kumar, Advocate, for the appellants.

Mr. Gaurav Garg, AAG, Haryana, for respondent Nos.1 and 2.

Mr. Neeraj Khanna, Advocate, for Mr. Ravinder Arora, Advocate, for the Oriental Insurance Company.

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DEEPAK GUPTA, J.

These two appeals arise out of the common award dated 01.06.2002 passed by the learned Motor Accident Claims Tribunal, Karnal, whereby two claim petitions arising out of the same motor vehicular accident were decided. Since both the appeals stem from the same accident and involve common questions of fact and law, they are being disposed of together by this common judgment.

2. The appellants have approached this Court primarily assailing the award on the aspect of quantum of compensation awarded by the Tribunal.

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3. The record reveals that on 10.07.1999, two brothers, namely Mukesh Kumar and Pawan Kumar, were travelling on a motorcycle from Delhi towards their native village Borwal Majri. The motorcycle was being driven by Mukesh Kumar. When they reached near Samalkha, a bus bearing registration No. HR-29G-4053, coming from the side of Panipat, allegedly came on the wrong side of the road and collided with the motorcycle, running over both the riders. The accident resulted in the death of both Mukesh Kumar and Pawan Kumar. The accident was attributed to the rash and negligent driving of respondent Balinder Singh, who was driving the offending bus at the relevant time.

4. Mukesh Kumar was married and left behind his widow and four minor children. They filed a claim petition alleging that the deceased was a building contractor earning about ₹10,000/- per month and was approximately 35 years of age at the time of the accident.

5. Pawan Kumar, on the other hand, was unmarried. His parents filed a separate claim petition asserting that he was about 40 years of age and was working as a mason earning about ₹10,000/- per month.

6. The claim petitions were contested by the respondents by denying the allegations of rash and negligent driving on the part of the bus driver. It was pleaded that the accident had occurred due to the negligence of the motorcyclist himself. The respondents further asserted that the vehicle was duly insured with the Insurance Company.

7. The Insurance Company raised an additional plea that the driver of the offending vehicle was not holding a valid and effective driving licence at the time of the accident and therefore, the insurer was not liable to indemnify the insured.

8. Upon appreciation of the evidence on record, the learned Tribunal recorded a categorical finding that the accident had occurred due to rash and negligent driving of the bus being driven by respondent Balinder Singh. However, it was also held that the said driver was not holding a valid and effective driving licence at the time of the accident. While determining the compensation, the

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Tribunal awarded a sum of ₹1,58,000/- in each claim petition and directed the respondents to pay the said amount jointly and severally, though recovery rights were granted to the Insurance Company against the insured.

9. Aggrieved by the inadequacy of the compensation awarded, the claimants have filed the present appeals. Learned counsel for the appellants contends that the Tribunal failed to apply the settled principles governing assessment of compensation under the Motor Vehicles Act. It is submitted that neither the income of the deceased persons was correctly assessed nor the appropriate multiplier was applied, resulting in grant of inadequate compensation.

10. Learned counsel appearing for the Insurance Company has fairly not disputed that compensation is required to be determined in accordance with the structured formula laid down by the Hon'ble Supreme Court. However, he has prayed that the recovery rights granted to the Insurance Company by the Tribunal should be maintained.

11. As regards the finding of the Tribunal that the accident occurred due to rash and negligent driving of the bus by respondent Balinder Singh, the same has not been challenged before this Court. Similarly, the finding that the driver did not possess a valid and effective driving licence on the date of the accident has also not been assailed by the owner or driver of the vehicle. Neither of them has filed any cross-objections. Consequently, these findings have attained finality and are affirmed.

FAO-5034-2002 :

12. Coming to the determination of compensation in the case relating to the death of Mukesh Kumar, the record shows that the deceased was about 35 years of age. Although it was claimed that he was earning ₹10,000/- per month as a building contractor, no documentary or reliable evidence was produced to substantiate the said claim. The Tribunal also noticed that as per the testimony of PW-1 Pushpa, the deceased had studied only up to the primary level.

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13. In the absence of cogent evidence regarding the actual income of the deceased, the Court is required to assess the income on a notional basis keeping in view the prevailing minimum wages. It is well settled that where documentary proof of income is not available, the Courts can reasonably determine the income by taking guidance from the minimum wages notified at the relevant time.

14. In the present case, the accident occurred in July 1999, when the minimum wages for an unskilled worker were approximately ₹1,851.58 per month. Taking guidance from the same, the notional income of the deceased Mukesh Kumar can reasonably be assessed at ₹2,000/- per month i.e. ₹24,000/- per annum.

15. In view of the law laid down by the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi,*** future prospects are required to be added even where the income of the deceased is assessed on a notional basis. Since the deceased was below 40 years of age, an addition of 40% towards future prospects is warranted. Consequently, the annual income of the deceased comes to ₹33,600/-.

16. As the deceased left behind five dependents, deduction of one-fourth of the income towards personal and living expenses would be appropriate in terms of the principles laid down in ***Sarla Verma v. Delhi Transport Corporation***. After such deduction, the annual loss of dependency works out to ₹25,200/-.

17. Considering that the deceased was 35 years of age, the appropriate multiplier applicable would be '15' as per the multiplier table laid down in *Sarla Verma* (supra). Accordingly, the total loss of dependency comes to ₹3,78,000/-.

18. In addition to the loss of dependency, the claimants are also entitled to compensation under the conventional heads. In terms of the principles laid down in ***Magma General Insurance Co. Ltd. v. Nanu Ram***, the widow and children are entitled to compensation for loss of consortium. Considering that the accident occurred in the year 1999, a sum of ₹15,000/- each is awarded to

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the five claimants towards loss of consortium, amounting to ₹75,000/-. A further sum of ₹5,000/- each is awarded under the heads of loss of estate and funeral expenses.

19. Thus, the total compensation payable in the case of Mukesh Kumar is calculated as follows:

- Loss of dependency – ₹3,78,000/-
- Loss of consortium – ₹75,000/-
- Loss of estate – ₹5,000/-
- Funeral expenses – ₹5,000/-
- Total – ₹4,63,000/-.

20. After deducting the amount of ₹1,58,000/- already awarded by the Tribunal, the enhanced compensation comes to ₹3,05,000/-.

<u>FAO-5035-2002 :</u>

21. Coming to the claim arising out of the death of Pawan Kumar, it is not disputed that he was unmarried and about 40 years of age at the time of the accident. The claimants are his parents.

22. In ***Sarla Verma (supra***), the Hon'ble Supreme Court has held that in the case of death of a bachelor, ordinarily only the mother is treated as a dependent unless there is evidence to show that the father was also dependent upon the deceased. In the present case, no such evidence has been produced to show dependency of the father. Consequently, only the mother i.e. Moorti Devi would be treated as the dependent for the purpose of calculating loss of dependency.

23. The deceased was stated to be working as a mason, but again no reliable evidence has been produced regarding his actual earnings. Therefore, applying the same reasoning as adopted in the case of Mukesh Kumar, the notional income of the deceased is assessed at ₹24,000/- per annum. After adding 40% towards future prospects in terms of ***Pranay Sethi (supra),*** the annual income works out to ₹33,600/-.

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24. Since the deceased was a bachelor, deduction of one-half of the income towards personal and living expenses is required to be made as per ***Sarla Verma (supra).*** Consequently, the annual loss of dependency comes to ₹16,800/-.

25. Applying the multiplier of '15' in accordance with the age of the deceased, the compensation under the head of loss of dependency works out to ₹2,52,000/-.

26. In addition thereto, a sum of ₹15,000/- each is awarded to the father and mother of the deceased towards parental consortium. Further, a sum of ₹5,000/- each is awarded towards funeral expenses and loss of estate.

27. Thus, the total compensation payable in the case of Pawan Kumar is calculated as follows:

- Loss of dependency – ₹2,52,000/-./-
- Loss of consortium – ₹30,000/-
- Loss of estate – ₹5,000/-
- Funeral expenses – ₹5,000/-
- Total – ₹2,92,000/-.

28. After deducting the amount of ₹1,58,000/- already awarded by the Tribunal, the enhanced compensation comes to ₹1,34,000/-.

29. In view of the above discussion, both the appeals are partly allowed.

30. **FAO No.5034 of 2002** relating to the death of Mukesh Kumar is allowed to the extent that the appellants shall be entitled to enhanced compensation of ₹3,05,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization. The said amount shall be shared equally among the five claimants.

31. **FAO No.5035 of 2002** relating to the death of Pawan Kumar is also partly allowed. The appellants shall be entitled to enhanced compensation of ₹1,34,000/- along with interest @ 7.5% per annum from the date of filing of the

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claim petition till realization. Out of this amount, a sum of ₹15,000/- along with proportionate interest shall be payable to the father of the deceased, whereas the remaining amount shall be payable to the mother Moorti Devi.

31. It is, however, clarified that the recovery rights granted by the Tribunal to the Insurance Company against the insured shall remain intact.

32. Both the appeals stand disposed of accordingly.

A photocopy of this order be placed on the file of connected case.

(DEEPAK GUPTA)
JUDGE

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Whether Speaking/reasoned *Yes*
Whether reportable *No*

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