



RSA-1485-2007 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

RSA-1485-2007 (O&M)

Dhanpati Devi and ors.

.....Appellants

vs.

DHBVNL & ors.

.....Respondents

Date of Reserve: 15.01.2026

Date of Pronouncement: 21.01.2026

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Whether only the operative part of the judgment is pronounced? No***Whether full judgment is pronounced? Yes*****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Deep Inder Singh, Advocate
for the appellant.

Mr. K.S. Malik, Advocate
for the respondents.

SUDEEPTI SHARMA J.

1. The present Regular Second Appeal is directed against the judgment and decree dated 12.12.2006 passed by the learned District Judge, Hisar, whereby the appeal preferred by the respondent was partly allowed and the judgment and decree dated 27.10.2005 passed by the learned Civil Judge (Senior Division), Hisar were modified. The First Appellate Court reduced the compensation awarded by the trial Court from ₹10,00,000/- to ₹4,02,528/-, along with interest at the rate of 9% per annum. The appellant, aggrieved by the said reduction of the decretal amount in a suit for recovery of ₹10,00,000/-, has approached this Court by way of the present Regular Second Appeal.

**FACTS NOT IN DISPUTE**

2. Brief facts of the case are that Ram Niwas, a Sub-Inspector in the Haryana Police, was on leave and residing at Hisar. He had constructed a shop near Barwala Chowk, Hisar, which was to be inaugurated on 07.04.2000. On 06.04.2000, while arrangements were being made for the inauguration, Pardeep, owner of a neighbouring shop, went to the first floor of the said premises and came into contact with a live electric wire passing through the roof, resulting in his electrocution. On hearing his cries, Ram Niwas attempted to rescue him but was himself electrocuted. He was removed to the Civil Hospital, where he was declared dead.

3. The plaintiffs alleged that despite representations made on 08.10.1998 by the then owners of the premises and deposit of the requisite charges in November 1998 for removal of the high-tension wire, no steps were taken by the electricity department. An FIR under Section 304-A IPC was registered on 03.05.2000 at Police Station City, Hisar, though no further action followed.

4. It was pleaded that the deceased was the sole breadwinner of the family, earning ₹9,315/- per month. A legal notice dated 20.12.2000 claiming compensation of ₹15,00,000/- was served upon the defendants.

5. Upon their failure to respond, the civil suit was instituted under the Fatal Accidents Act, 1855 seeking compensation of ₹10,00,000/- by the appellants, which was decreed in their favour vide judgment and decree dated 27.10.2005 passed by the learned Civil Judge (Senior Division), Hisar, awarding compensation of ₹10,00,000/- along with interest at the rate of 9% per annum.

6. Aggrieved thereby, the respondents preferred an appeal, which was partly allowed by the learned District Judge, Hisar vide judgment and decree dated

12.12.2006. By the said judgment, the compensation awarded by the trial Court



was modified and reduced to ₹4,02,528/-, while maintaining the rate of interest at 9% per annum.

7. The appellants, being dissatisfied with the interference made by the First Appellate Court in the quantum of compensation, have filed the present Regular Second Appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

8. Learned counsel appearing for the appellants contends that the learned District Judge has committed a manifest error in determining the quantum of compensation payable to the claimants under the Fatal Accidents Act. It is argued that the First Appellate Court wrongly deducted amounts from the gross monthly salary of the deceased, assessed at ₹9,165/-, and determined the net income as ₹5,590/- per month. Such deductions, according to the learned counsel, are contrary to the settled principles of law governing assessment of compensation.

9. It is further contended that, in the absence of any specific statutory formula under the Fatal Accidents Act for computation of compensation, the courts are required to be guided by the principles evolved for determination of compensation in motor accident claim cases. Reliance in this regard has been placed upon the judgment of this Court in **Kanwaljit Kaur v. State of Punjab, (2018) 2 PLR 5**, wherein it was held that, in the absence of statutory guidelines, the principles applicable to motor vehicular accident claims may be safely applied for awarding just compensation. On these premises, learned counsel submits that the reduction effected by the First Appellate Court is unsustainable and the present Regular Second Appeal deserves to be allowed.

10. Per contra, learned counsel for the respondents submits that the findings recorded by the First Appellate Court are based upon a proper



appreciation of the evidence on record and settled legal principles. It is contended that the compensation has been correctly assessed and that no perversity or illegality is discernible so as to warrant interference by this Court in exercise of its jurisdiction under Section 100 of the Code of Civil Procedure.

11. I have heard learned counsel for the parties at length and have carefully perused the record with their able assistance.

ANALYSIS OF THE RECORD

12. A perusal of the record reveals that it is not in dispute that the death of the deceased occurred due to electrocution. The appellants have successfully established that the fatal accident was the direct result of electrocution. It also stands admitted that a civil suit for recovery of ₹10,00,000/- under the Fatal Accidents Act was instituted by the appellants and was decreed in their favour vide judgment and decree dated 27.10.2005 passed by the learned Civil Judge (Senior Division), Hisar.

13. It further transpires that the respondents preferred an appeal against the said judgment, which was partly allowed by the learned District Judge, Hisar vide judgment and decree dated 12.12.2006, whereby the compensation of ₹10,00,000/- along with interest at the rate of 9% per annum was modified and reduced to ₹4,02,528/-, while maintaining the same rate of interest.

14. However, this Court finds that the learned First Appellate Court fell into patent error while assessing the monthly income of the deceased. As per the salary certificate Exhibit P-4, the gross monthly salary of the deceased was ₹9,165/-. The learned Appellate Court, however, assessed the monthly income as ₹5,590/- by deducting amounts towards provident fund, pension and insurance.

Such deductions are legally impermissible, as these components do not form part

of deductions affecting the determination of loss of dependency.



15. The issue is no longer *res integra*. Hon'ble the Supreme Court, in ***Hanumantharaju B. (Dead) through LRs v. M. Akram Pasha, 2025 SCC OnLine SC 1106***, has categorically held that any amount receivable on account of provident fund, pension or insurance cannot be deducted from the salary of the deceased for the purpose of determining income or loss of earning while computing compensation. The relevant extract of the same is reproduced as under:-

“19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.

*For this proposition of law, we may refer to the decision in **Vimal Kanwar & Ors. v. Kishore Dan & Ors. (2013) 7 SCC 476**, wherein this Court, by referring to the earlier decision in **Helen C. Rebello v. Maharashtra SRTC (1999) 1 SCC 90**, held as follows:-*

*"19. The aforesaid issue fell for consideration before this Court in **Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90: 1999 SCC (Cri) 197]**. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage"*



liable for deduction. The following was the observation and finding of this Court: (SCC pp. 111-12, para 35)

"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co-relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any co-relation. The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the



tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."

*Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in **Reliance General Insurance Co. Ltd. v. Shashi Sharma & Ors. (2016) 9 SCC 627** and **National Insurance Company Ltd. v. Birender & Ors. (2020) 11 SCC 356.**"*

16. In view of the settled legal position, the monthly income of the deceased is liable to be assessed at ₹9,165/-.

17. It is further noted that the Division Bench of this Court in **Paramjit Kaur and others v. State of Punjab and others, (2008) 4 RCR (Civil) 772**, has authoritatively held that where negligence on the part of the respondent distribution licensee is established and no statutory mechanism exists for determination of compensation under the electricity laws, the principles governing assessment of compensation under the Motor Vehicles Act, 1988 can be applied.

The relevant extract of the same is reproduced as under:-

"18. Having held that this is a clear case of negligence, incompetent workmanship and supervision on the part of the Board and its officials, which has resulted in the untimely and sudden death of Sh. Lajja Ram, we proceed to assess the amount of



compensation to which the petitioners would be entitled to in the present case. Since there is nothing in the Acts governing the transmission and supply of Electricity which regulates the grant or quantum of compensation in our considered view the well settled and accepted principles adopted by the Courts for determination of compensation to be awarded in fatal accident cases under the Motor Vehicles Act, 1988 can be adopted, as the underlying principles for determination of the quantum of compensation are the same.

18. The said position has been reiterated by a Coordinate Bench of this Court in ***Kanwaljit Kaur and others v. State of Punjab, (2018) 2 PLR 5***, wherein it was held as under:-

“8. Since I have decided that the respondents are at fault, now the question would be as to what compensation should be awarded to the petitioners. In such cases where there is no provisions for assessing the compensation, the Court has to fall back upon the principles of awarding compensation in case of a motor vehicular accident. The petitioners have alleged that the deceased was of 28 years of age and was earning Rs. 16,000/- per month but there is no evidence brought on record in that regard but keeping in view the fact that the deceased was a healthy bodied person, income of the deceased is assessed @ Rs. 10,000/- per month, out of which, after deducting 1/3rd amount for his personal use and expenses, the annual dependency of the petitioners upon the deceased comes to Rs. 80,000/- (Rs.6666.6x12) and while applying the multiplier of 17, being the deceased 28 years of age, the amount of compensation to be paid to the petitioners comes to Rs. 13,60,000/-. The aforesaid amount of compensation is directed to be paid by the respondents to the petitioners along with interest @ 6% per annum from the date of death of the deceased till its actual realization within a period of two months from the date of receipt of certified copy of this order



19. In view of the above discussion and the settled legal position, this Court proceeds to reassess the compensation payable to the appellants by applying the principles governing determination of compensation under the Motor Vehicles Act.

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.9165/-
2	Future prospects @ 30%	Rs.2750/- (30% of 9165)
3	Deduction towards personal expenditure 1/3rd	Rs.3972/- (11915X 1/3rd)
4.	Total Income	Rs.7943/-(11915-3972)
4	Multiplier	13
5	Annual Dependency	Rs.12,39,108/- (79437X12X13)
6	Loss of Estate	Rs.18,150/-
7	Funeral Expenses	Rs.18,150/-
8	Loss of Consortium Spousal : Rs. 48,400/-x1 Parental : Rs. 48,400/-x2	Rs.1,45,200/-
	Total Compensation	Rs.14,20,608/-

20. Upon reassessment of the evidence and by applying the settled principles governing determination of compensation in motor accident claim cases, the total compensation payable to the appellants works out to ₹14,20,608/-. However, it is also not in dispute that the appellants had restricted their claim to



₹10,00,000/- in the suit. Consequently, the appellants cannot be granted an amount in excess of the relief claimed in regular second appeal.

21. Accordingly, the appellants are held entitled to compensation to the extent of ₹10,00,000/-, along with interest at the rate of 9% per annum, as awarded by the trial Court.

22. In view of the foregoing discussion and reasons recorded hereinabove, the present Regular Second Appeal is ***allowed***. The judgment and decree dated 12.12.2006 passed by the learned District Judge, Hisar, is hereby set aside, and the judgment and decree dated 27.10.2005 passed by the learned Civil Judge (Senior Division), Hisar, is affirmed and civil suit filed by the appellant is decreed.

23. Parties are left to bear their own costs. Decree sheet be prepared

21.01.2026
Gaurav Arora

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes