IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3041 of 2024 (O&M)

DEEPAK AND ORS. …Appellants

Vs

INFFCO TOKIO GENERAL INSURANCE CO. LTD. AND ORS.
…Respondents

1	The date when the judgment was reserved	12.01.2026
2	The date when the judgment is pronounced	23.01.2026
3	The date when the judgment is uploaded on the website	23.01.2026
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. Surinder Gaur, Advocate
for the appellants.

Mr. Sachin Gupta, Advocate
for respondent No.1/Insurance Company.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 16.03.2024 passed by the learned Motor Accident Claims Tribunal, Rohtak (for brevity, "the Tribunal"), whereby an amount of Rs.18,24,200/- was awarded as compensation to appellant/claimant No.2 along with interest @ 9% per annum from the date of institution of claim petition till its realization on account of death of Shakuntala in a motor vehicular accident, occurred on 29.09.2019.

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.40,00,000/- (Rupees forty lakhs only), on account

of death of Shakuntala in a motor vehicular accident which took place on 29.09.2019 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.	Monthly Income	Rs. 17,920/-
2.	Annual Income	Rs. 2,15,040/-
3.	Future Prospects (25%)	Rs. 53,760/-
4.	Total Income (Rs. 2,15,040 + Rs. 53,760)	Rs. 2,68,800/-
4.	Less 1/2nd on account of personal expenses (Rs. 2,68,800– Rs. 1,34,400)	Rs. 1,34,400/-
5.	Annual Dependency	Rs. 1,34,400/-
6.	Loss of Income after applying multiplier of 13 as per age of 48 years (1,34,400 x 13)	Rs. 17,47,200/-
7.	Loss of estate	Rs. 16,500 /-
8.	Funeral expenses	Rs. 16,500/-
9.	Loss of consortium	Rs. 44,000/-
10.	Total Compensation	Rs. 18,24,200/-

[4]. Being aggrieved of the award dated 16.03.2024 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 appellant/claimant 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 submitted that the impugned award suffers from illegality for mis-appreciation of evidence. It was submitted that the learned Tribunal, erred in holding that only claimant No. 2 was dependent upon the deceased while ignoring the unrebutted evidence on record which clearly established that claimant No. 1 to 4 were dependent upon the income of deceased Shakuntala Devi at the time of her death. Consequently, the deduction of 50% towards personal expenses was wholly unjustified and contrary to the settled law. 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 OF LEARNED COUNSEL FOR RESPONDENT No.1/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, perusal of the record indicates that deceased-Shakuntala Devi, at the time of accident was 48 years of age and was receiving family pension to the tune of Rs.17,920/- per month. The learned Tribunal after

examining the pension slips placed on record as Ex.P1 to Ex.P11, rightly accepted the said amount as the monthly income of the deceased and, accordingly, assessed her annual income @ Rs.2,15,040/-. No evidence to the contrary was led by the respondents to discredit the authenticity of the said documents or to suggest that the income so assessed was incorrect. Therefore, in the humble opinion of this Court, the determination of the monthly as well as annual income of the deceased by the learned Tribunal is based on cogent documentary evidence and does not suffer from any infirmity or illegality, warranting interference by this Court.

[9]. The next issue which arises for consideration in the present appeal is whether the learned Tribunal was justified in treating claimant No.2 as the sole dependent and, consequently deducting **50% towards personal expenses** of the deceased.

[9.1]. From a perusal of the evidence on record, it is evident that claimants No.1 to 4 are the legal heirs of the deceased Shakuntala Devi. The testimony led by the claimants regarding their dependency upon the deceased has remained unrebutted and unchallenged. The learned Tribunal, without assigning any cogent reason, has arbitrarily held that only claimant No.2 was dependent upon the deceased. Such a finding is not borne out from the evidence and cannot be sustained.

[9.2]. The learned Tribunal has applied a deduction of 50%, though the claimants in the present case are 4 i.e. 1 major son, 2 major daughters and 1 mother-in-law. The Hon'ble Supreme Court in the case of ***"Seema Rani & Ors. v. The Oriental Insurance Company Limited & Ors."*** reported as ***[2025 (2) RCR (Civil) 48]*** has held that major married and earning children of the deceased, being legal representatives, have a right to apply for compensation, irrespective of their dependency status on the deceased. The relevant para from the judgment is reproduced hereunder:-

> *"9. We have heard learned counsel for the Appellants. We are unable to agree with the view taken by the Tribunal on the dependents of the deceased. This Court in National Insurance Company Limited v. Birender & Ors., (2020) 11 SCC 356 had expounded that major married and earning sons of the deceased, being legal representatives, have a right to apply for compensation, and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent on the deceased or not. The Court went on to conclude that since the sons, in that case, were earning merely Rs. 1,50,000/- per annum, they were largely dependent on the earnings of the deceased and were staying with her.*
>
> *10. Adverting to the facts at hand, on a perusal of the statement of Shashi Kumar, the son of the deceased (Appellant No.2 herein), annexed as Annexure P6, was working at a petrol pump, while the other son was involved in temporary 1 (2020) 11 SCC 356 employment opportunities only. Both of them were residing with the deceased. In such circumstances, it cannot be said that they were self-sufficient or independent of the deceased. Similarly, applying the exposition in Birender (Supra), there is no reason to exclude a married daughter from compensation. Therefore, in view of this, the High Court erred in excluding these dependants."*

[9.3]. In view of the law laid down by the Hon'ble Supreme Court in the case of ***Seema Rani (supra)***, the major sons and married daughters would also be held to be dependents and thus the number of claimants was 4 and therefore, a deduction of $1/4^{th}$ was to be applicable in the present case.

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.1,92,000/- (Rs. 48,000 x 4) as the appellants, being children and mother-in-law of deceased are also entitled for parental and filial consortium.

CONCLUSION

[11]. In view of the discussion made hereinabove, 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. 2,15,040/-
2.	Deduction ($1/4^{th}$)	Rs. 53,760/-
3.	Net Income (Rs. 2,15,040 – Rs. 53,760)	Rs. 1,61,280/-
4.	Future Prospects (25%)	Rs. 40,320/-
5.	Total Income (1,61,280 + 40,320)	Rs. 2,01,600/-
6.	Loss of Income after applying multiplier of 13 as per the age of 48 years (2,01,600 x 13)	Rs. 26,20,800/-
7.	Loss of estate	Rs. 18,000/-
8.	Funeral Expenses	Rs. 18,000/-
9.	Loss of Consortium (48,000 x 4)	Rs. 1,92,000/-
10.	Total compensation	Rs. 28,48,800/-
11.	Amount Awarded by the Tribunal	Rs. 18, 24,200/-
12.	Enhanced Compensation	Rs. 10,24,600/-

Thus, the appellants/claimants shall be entitled for enhanced compensation in equal proportions.

[12]. In the 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.

(HARKESH MANUJA)
JUDGE

January 23, 2026
Atik

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