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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2389-2011 (O&M)
Date of Decision : 11.02.2026

Gopi Ram & Ors ... Appellant(s)

Versus

Rampal & Anr ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Sunita Shekhawat, Advocate for the appellants.
Mr. Vishal Ahuja, Advocate for respondent No.2.

<u>ALKA SARIN, J.</u> (Oral)

<u>CM-20858-CII-2025</u>

1. This is an application for fixing an actual date of hearing in the main case.

2. For the reasons stated in the application, the same is allowed. With the consent of the learned counsel for the parties, the main case is taken on Board today itself.

<u>CM-8151-CII-2011</u>

3. For the reasons mentioned therein, the application seeking condonation of delay of 135 days in refiling the appeal is allowed and the delay of 135 days in refiling the appeal is condoned.

<u>CM-8152-CII-2011</u>

4. For the reasons mentioned therein, the application seeking condonation of delay of 164 days in filing the appeal is allowed and the delay

of 164 days in filing the appeal is condoned. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

FAO-2389-2011

5. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'Tribunal') vide the impugned award dated 10.08.2009 in a motor vehicle accident which occurred on 22.03.2007.

6. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

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

Sr. No.	**Heads**	**Compensation Awarded**	
1	Monthly Income	₹4,500/-	
2	Deduction - 1/3rd	₹3,000/-	[₹4,500 - ₹1,500]
3	Multiplier - 13	₹4,68,000/-	[₹3,000 x 12 x 13]
4	Funeral expenses	₹10,000/-	
5	Loss of love and affection	₹12,000/-	
	Total Compensation	**₹4,90,000/-**	
	Interest	**8% per annum**	

8. Learned counsel for the claimant-appellants would contend that she does not challenge the deduction as applied by the Tribunal. She, however, states that the income of the deceased has been assessed on the lower side inasmuch as Sh. Rajnarain Dube, Proprietor of M/s Raj Enterprises Company, Rajeev Nagar, Gurgaon, who was the employer of the deceased, had stepped into the witness box as PW6 and had produced on record wage slip as Ex.PW6/B which shows the payment of ₹1,808/- for the period of 10 days of work. Learned counsel would contend that if the monthly income is calculated

on the basis of the wage slip, the same comes to ₹5,424/- per month. It is further the contention of the learned counsel that the Tribunal has not made any addition towards future prospects and has wrongly applied a multiplier of 13. It is the contention that as the deceased was 23 years of age at the time of the accident, hence, an addition of 40% and a multiplier of 18 ought to have been applied. It is further the contention of the learned counsel that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' are not in accordance with the law laid down by the Hon'ble Supreme Court. In support of her contentions, she has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121], 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]**.

9. *Per contra* the learned counsel for respondent No.2-Insurance Company would contend that the income of the deceased has rightly been assessed and that if the income is taken as ₹1,808/- for the period of 10 days and is multiplied by 25 working days, the same comes to ₹4,500/-. It is further the contention of the learned counsel that no amount is payable to the brother of the deceased towards loss of consortium.

10. I have heard the learned counsel for the parties.

11. Admittedly, no appeal has been preferred by the Insurance Company. In the present case, since no challenge has been laid by the learned counsel for the claimant-appellants to the deduction as applied by the

Tribunal, the same is maintained accordingly.

12. The argument of the learned counsel for the claimant-appellants that the income has wrongly been assessed as ₹4,500/- per month deserves to be accepted. In the present case, PW6 – Rajnarain Dube, Proprietor of M/s Raj Enterprises Company, Rajeev Nagar, Gurgaon, who is the employer of the deceased, stepped into the witness box and had deposed that the deceased was working as Supervisor in his firm and was a computer expert. He also used to look after the accounts of firm. This witness had produced on record wage slip as Ex.PW6/B which shows the payment of ₹1,808/- for the period of 10 days of work. Copy of the attendance register was also produced on record as Ex.PW6/DA showing the name of the deceased in the register. In the cross-examination by the Insurance Company, there is nothing elicited to disbelieve these documents, nor did the Insurance Company lead any evidence to rebut the same. The income for a period of 10 days was shown as ₹1,808/- and, hence, monthly income would come to ₹5,424/- per month.

13. The argument of the learned counsel for respondent No.2-Insurance Company that the amount has to be worked out as per 25 working days formula deserves to be rejected inasmuch as the minimum wage in motor accident claim cases is only a benchmark for calculating the notional income of the deceased or the injured person. It is used as a yardstick for granting/calculating the compensation in the absence of any evidence qua the income. It is not that the Courts are calculating the income strictly as per the minimum wages but are to be assessed in the motor accident claim cases. When minimum wages are being used as a yardstick, the question of multiplying the daily income by 30 or 26 would not even arise. Hon'ble Supreme Court in the case of **Chandra @ Chanda @ Chandraram & Anr.**

vs. Mukesh Kumar Yadav & Ors. [**2021(4) RCR (Civil) 492]** has held that a certain amount of guesswork can be done in motor accident claim cases while assessing the income in the absence of any definite proof regarding income. Para 10 of the said judgment reads as under :

> " 10. It is the specific case of the claimants that the *deceased was possessing heavy vehicle driving licence and was earning Rs.15000/- per month. Possessing such licence and driving of heavy vehicle on the date of accident is proved from the evidence on record. Though the wife of the deceased has categorically deposed as AW-1 that her husband Shivpal was earning Rs.15000/- per month, same was not considered only on the ground that salary certificate was not filed. The Tribunal has fixed the monthly income of the deceased by adopting minimum wage notified for the skilled labour in the year 2016. In 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 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 the 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 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.15000/- per month. In the case of Minu Rout & Anr. v. Satya Pradyumna Mohapatra & Ors., (2013) 10 SCC 695 this Court while dealing with the claim relating to an accident which occurred on 08.11.2004 has taken the*

salary of the driver of light motor vehicle at Rs.6000/- per month. In this case the accident was on 27.02.2016 and it is clearly proved that the deceased was in possession of heavy vehicle driving licence and was driving such vehicle on the day of accident. Keeping in mind the enormous growth of vehicle population and demand for good drivers and by considering oral evidence on record we may take the income of the deceased at Rs.8000/- per month for the purpose of loss of dependency. Deceased was aged about 32 years on the date of the accident and as he was on fixed salary, 40% enhancement is to be made towards loss of future prospects. At the same time deduction of 1/3rd is to be made from the income of the deceased towards his personal expenses. Accordingly the income of the deceased can be arrived at Rs.7467/- per month. By applying the multiplier of '16' the claimants are entitled for compensation of Rs.14,33,664/-. As an amount of Rs.10,99,700/- is already paid towards the loss of dependency the appellant-parents are entitled for differential compensation of Rs.3,33,964/-. Further in view of the judgment of this Court in the case of Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram & Ors., 2018 SCC OnLine SC 1546 = (2018) 18 SCC 130 the appellants are also entitled for parental consortium of Rs.40,000/-each. The finding of the Tribunal that parents cannot be treated as dependents runs contrary to the judgment of this Court in the case of Sarla Verma (Smt). & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121. The judgment in the case of Kirti & Anr. v. Oriental Insurance Company Limited, (2021) 2 SCC 166 relied on by the counsel for the respondent would not render

> *any assistance in support of his case having regard to* facts of the case and the evidence on record."

14. In view of the above, the monthly income of the deceased is assessed as ₹5,424/- rounded off ₹5,500/-.

15. The arguments of the learned counsel for the claimant-appellants that no addition has been made towards future prospects and that a wrong multiplier of 13 has been applied by the Tribunal also deserve to be accepted in view of the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra) and **Sarla Verma** (supra). Accordingly, since the deceased was admittedly 23 years and 07 months of age at the time of the accident, 40% addition is made towards future prospects and a multiplier of 18 would be applicable.

16. The argument of the learned counsel for respondent No.2-Insurance Company that no amount is to be awarded to the minor brother of the deceased under the head loss of consortium deserves to be rejected in view of the law laid down by the Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited** (supra) wherein their Lordships have clearly held that the parents and the siblings are entitled to loss of consortium under the head 'filial consortium'. In view thereof, the argument of the learned counsel for the respondent stands rejected.

17. The compensation awarded under the conventional heads and under the head 'loss of consortium' is not as per 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) towards funeral

expenses and the claimants (parents and brother 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	₹5,500/-	
2	Annual Income	₹66,000/-	[₹5,500 x 12]
3	Deduction - 1/3rd	₹44,000/-	[₹66,000 - ₹22,000]
4	Future Prospects - 40%	₹61,600/-	[₹44,000 + ₹17,600]
5	Multiplier - 18	₹11,08,800/-	[₹61,600 x 18]
6	Loss of estate	₹18,000/-	
7	Funeral expenses	₹18,000/-	
8	Loss of consortium (i) Filial [₹48,000/- x 3]	₹1,44,000/-	
	Total Compensation	**₹12,88,800/-**	

18. 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. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

19. 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 direction of 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 Tribunal concerned.

20. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

11.02.2026
Yogesh Sharma

(ALKA SARIN)
JUDGE

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