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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7364-2010 (O&M)
Date of Decision : 05.02.2026

Sudhir and Others ... Appellants

Versus

Sanjay and Others ... Respondents

111-1 **FAO-3370-2011 (O&M)**

Vikas Gupta ... Appellant

Versus

Sudhir and Others ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sumit Sangwan, Advocate
for the appellants in FAO-7364-2010 and
for respondent Nos.1 to 5 in FAO-3370-2011.

Ms. Khushboo, Advocate for
Mr. Madhur Jangra, Advocate
for the appellant in FAO-3370-2011 and
for respondent No.2 in FAO-7364-2010.

Mr. D.P. Gupta, Advocate
for respondent No.3 in FAO-7364-2010 and
for respondent No.7 in FAO-3370-2011.

ALKA SARIN, J. (Oral)

1. This order shall dispose off the above-captioned two appeals. The appeal being FAO-7364-2010 has been filed by the claimants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as the 'Tribunal') vide award dated 14.08.2010 on account of death of Maya Devi (hereinafter referred to as the

'deceased') while the appeal being FAO-3370-2011 has been filed by the owner of the Tempo bearing registration No.HR-19E-0515 (hereinafter referred to as the 'offending vehicle') aggrieved by the recovery rights, which have been given to the Insurance Company. The parties are being referred to as the claimants, owner and driver of the offending vehicle and the Insurance Company for the sake of clarity.

2. The brief facts relevant to the present *lis* are that on 12.01.2009 at about 12.00 noon, Ajit Singh alongwith his wife Maya Devi (deceased) was waiting for transport at bus stand of village Pentawas Kalan to go to Bhiwani. In the meantime, the offending vehicle, which was being driven by its driver, namely, Sanjay in a rash and negligent manner and at a high speed, came from the side of Dadri and by coming on the wrong side of the road, struck against the deceased. As a result of accident, the deceased suffered injuries on her legs and other parts of the body. The driver of the offending vehicle, after leaving the offending vehicle, fled from the spot. The deceased was taken to General Hospital, Bhiwani where she succumbed to her injuries on the next day i.e. 13.01.2009. FIR No.26 dated 12.01.2009 for offences under Sections 279 and 337 of the Indian Penal Code, 1860 was registered at Police Station Sadar Charkhi Dadri.

3. The Tribunal relying on the statement of PW-1 Ajit Singh i.e. husband of the deceased, held that a number of passengers were travelling in the offending vehicle which was not a passenger vehicle. Since the offending vehicle was being used for transporting passengers on hire, as such the same was being driven in violation of terms and conditions of the insurance policy and thus the Insurance Company was granted the recovery rights.

4. The Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹4,000/-
2	Annual Income	₹48,000/- [₹4,000 x 12]
3	Deduction - 50%	₹24,000/- [₹48,000 - ₹24,000]
4	Multiplier - 9	₹2,16,000/- [₹24,000 x 9]
5	Funeral expenses	₹5,000/-
6	Loss of consortium	₹5,000/-
	Total Compensation	**₹2,26,000/-**
	Interest	**6%**

5. Learned counsel appearing on behalf of the owner of the offending vehicle would contend that merely on the statement of PW-1 that there were some passengers travelling in the offending vehicle, the Tribunal has returned the finding that the passengers were being carried for hire. Learned counsel for the owner of the offending vehicle has further contended that issue No.7, which was framed by the Tribunal, was specifically as to whether the offending vehicle was being driven in violation of the terms and conditions of the insurance policy and the onus was cast upon the Insurance Company. The Insurance Company failed to lead even an iota of evidence in this regard that the passengers, if at all, were travelling in the offending vehicle were travelling on payment. It is further the contention that in the absence of any such evidence having been led, merely on the statement of eye-witness that some passengers were travelling in the offending vehicle, the Tribunal could not have presumed that they were travelling for payment.

6. Learned counsel appearing on behalf of the claimants would contend that the deceased in the present case was a homemaker and as per postmortem report her age was 48 years. However, the Tribunal has assessed the age of the deceased as 54 years only on the statement of her husband, who stated that they were married in the year 1973 and at that point of time the

deceased was about 18 years of age. Learned counsel for the claimants would further contend that in the absence of any documentary evidence, the postmortem report ought to have been relied upon for ascertaining the age of the deceased. It is further the contention that income of the deceased has been assessed as ₹4000/- per month, which ought to have been assessed as per the minimum wages applicable to a skilled worker at the relevant point of time. In support of his contention, learned counsel for the claimants has relied upon a judgment of the Hon'ble Supreme Court in case of **Kirti & Anr. vs. Oriental Insurance Company Ltd. [2021 (1) RCR (Civil) 478]**. Learned counsel for the claimants has further contended that the Tribunal has not made any addition towards loss of future prospects and if the age of the deceased is assessed as 48 years, an addition of 25% would have to be made towards loss of future prospects. Further, the Tribunal has made a deduction of 50% towards personal expenses of the deceased, however, since there were five claimants, a deduction of 1/4th ought to have been applied. It has further been contended that keeping in view the age of the deceased being 48 years, a multiplier of '13' would be applicable instead of '9' as applied by the Tribunal. It is further the contention 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 support of his contentions, he 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]**.

7. *Per contra* learned counsel appearing on behalf of the Insurance Company would contend that recovery rights have rightly been granted to the Insurance Company inasmuch as the eye-witness i.e. PW-1 clearly stated that there were passengers travelling in the offending vehicle. Learned counsel for the Insurance Company would further contend that once there were passengers travelling in the offending vehicle, it can safely be presumed that they were travelling on hire and that a goods vehicle was being used as a passenger vehicle. It has further been contended that as per statement of husband of the deceased that they were married in 1973 and at that point of time the deceased was aged about 18 years and therefore the age of the deceased has rightly been assessed as 54 years. It is further the contention that the income of the deceased has rightly been assessed and so as the deduction and the multiplier.

8. I have heard learned counsel for the parties.

9. In the present case the Tribunal while granting recovery rights relied upon the statement of PW-1, who was the eye-witness of the accident, who stated in his affidavit (Ex.PW-1/A) that some passengers were travelling in the offending vehicle. The Tribunal while holding that the offending vehicle was being driven in violation of terms and conditions of the insurance policy, assumed and presumed that the offending vehicle was being used for transporting the passengers on payment. Issue No.7 was specifically framed by the Tribunal and the onus was cast upon the Insurance Company. The Insurance Company failed to lead any evidence qua the said issue. Merely on a single line in the statement of the eye-witness that there were some

passengers travelling in the offending vehicle it could not have been assumed and presumed that the offending vehicle was being used for transporting passengers on payment. Once the onus of issue No.7 was cast upon the Insurance Company, it was incumbent upon the Insurance Company to have discharged the onus by leading cogent evidence that the offending vehicle was being used for transporting passengers. In the absence of any such evidence the finding qua recovery rights cannot be sustained and the same is accordingly set aside.

10. The argument of learned counsel for the claimants that the age of the deceased has wrongly been assessed as 54 years, deserves to be accepted. No doubt the husband of the deceased had stepped into the witness-box and had admitted that in the year 1973 when they got married the deceased was aged about 18 years however, there is no document on the record to show the age of the deceased. In the absence of any documentary evidence the Tribunal ought to have relied upon the postmortem report as per which the age of the deceased was 48 years. Accordingly, the age of the deceased is taken to be 48 years at the time of accident.

11. The argument of the learned counsel for the claimants that the income of the deceased, who was a homemaker, ought to have been assessed as per the minimum wages applicable to a skilled worker at the relevant point of time, deserves to be accepted. In case of **Kirti** (supra), Hon'ble Supreme Court while emphasizing upon the contribution made by a homemaker and the services rendered by a woman in a household observed that there can be no exact calculation or formula that can ascertain the actual value provided by a homemaker gratuitously. In order to streamline the calculation of notional income for homemakers and the grant of future prospects with respect to them

for the purposes of assessing the compensation, the following principles were laid by Hon'ble Supreme Court :

> *"42. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarized as follows:*
>
> > *a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.*
> >
> > *b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.*
> >
> > *c. Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.*

> *d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.*
>
> *e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation."*

12. In the present case, considering the extensive contribution of the deceased in the household and in the absence of any evidence regarding her exact income, this Court deems it appropriate to assess the income of the deceased as per the minimum wages applicable to a skilled worker at the relevant point of time, which were ₹4,230/- per month. Accordingly, the income of the deceased is assessed as ₹4,230/- per month.

13. Further, the Tribunal has not made any addition towards loss of future prospects, which ought to have been made in view of the law laid down by Hon'ble Supreme Court in the case of **Kirti** *(supra)*. Since the age of the deceased is assessed as 48 years at the time of accident, an addition of 25% would be applicable towards loss of future prospects as per the law laid down by Hon'ble Supreme Court in the case of **Pranay Sethi** *(supra)*.

14. Further, the argument of learned counsel for the claimants that the Tribunal has wrongly applied a deduction of 1/2 towards personal expenses of the deceased, deserves to be accepted. There are five dependents in the present case hence, as per law laid down by Hon'ble Supreme Court in case of **Sarla Verma** *(supra)*, a deduction of 1/4th would be applicable.

15. The Tribunal has applied a multiplier of '9'. Since the age of the deceased is taken to be 48 years hence as per the law laid down by Hon'ble Supreme Court in case of **Sarla Verma** *(supra)*, a multiplier of '13' would be applicable.

16. Further, the amounts awarded under the conventional heads as well as under the head 'loss of consortium' are 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 claimant-appellants would be entitled to ₹18,000/- (₹15,000 + 20% increase) towards loss of estate and ₹18,000/- (₹15,000 + 20% increase) towards funeral expenses as also to ₹48,000/- each (₹40,000 + 20% increase) towards loss of consortium.

17. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹4,230/-
2	Annual Income	₹50,760/- [₹4,230 x 12]
3	Deduction - 1/4th	₹38,070/- [₹50,760 - ₹12,690]
4	Future Prospects - 25%	₹47,588/- [₹38,070 + ₹9,518]
5	Multiplier - 13	₹6,18,644/- [₹47,588 x 13]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 4] (iii) Spousal's	 ₹1,92,000/- ₹48,000/- (Total ₹2,40,000/-)
	Total Compensation	**₹8,94,644/-**

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.

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 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 claimant-appellants 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 award passed by the Tribunal is modified and both the appeals filed by the claimants as well as owner of the offending vehicle stand allowed accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

05.02.2026
jk

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