2026:PHHC:040005

(Pronouncement)

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

**FAO No. 855 of 2010 (O&M)
Reserved On: 16.02.2026
Pronounced On: 16.03.2026
Uploaded On:16.03.2026**

Asha Rani and another

...Appellants

Versus

Dharam Pal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Argued By: Mr. Rahul, Advocate for
Mr. Vivek Goyal, Advocate
for the appellants-claimants.

Dr. Himani Anand, Advocate
for respondent No. 3-Insurance Company.

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HARKESH MANUJA, J.

By way of present appeal, challenge has been laid to an award dated 18.05.2009 passed by the learned Motor Accident Claims Tribunal, Kurukshetra **(for brevity, "the Tribunal")**, whereby an amount of Rs.2,75,000/- was awarded as compensation to the appellants/claimants along with interest @ 7.5% per annum from the date of filing of petition till its realization on account of death of Mohit Kumar in a motor vehicular accident, that occurred on 29.06.2008.

[2] Since the sole issue for determination in the present appeal is confined to the quantum of compensation and apportionment, a detailed narration of the facts of the case is omitted herein for the sake of brevity.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS

[3] The appellants/claimants before the learned Tribunal had claimed compensation by assessing the monthly income of the deceased at ₹3,000/-, which was accordingly accepted and granted by the learned Tribunal. However, the appellants have assailed the said award before this Court on the ground that the learned Tribunal erred in assessing the income of the deceased on the lower side, and that the same ought to have been determined on the basis of the minimum wages. Learned counsel for the appellants further submitted that the deceased was about 14–15 years of age at the time of the accident, yet the learned Tribunal applied a multiplier of 15, whereas the appropriate multiplier in the facts and circumstances of the case ought to have been 17. It was also contended that the compensation awarded under the conventional heads, as well as the rate of interest granted by the learned Tribunal, were inadequate and on the lower side. On these grounds, learned counsel prayed for enhancement of the compensation.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No.3/INSURANCE COMPANY

[4] 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 AND REASONING

[5] I have heard learned counsels 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 AS TO THE INCOME OF THE DECEASED

[6] In the present case, Smt. Asha Rani, mother of the deceased while appearing as PW-1 deposed that the deceased was working as a helper at a fertilizer shop in New Grain Market, Ladwa, earning Rs.3,000/- per month; however no cogent documentary or oral evidence was led in support of the same. The learned Tribunal while considering the deceased to be a casual labourer assessed his monthly income @Rs. 3,000/-. As the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in *stricto sensu* is not required.

[6.1] The Hon'ble Supreme Court in case of ***"Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors."***, reported as ***(2022) 1 SCC 198***, held that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

> *"…….In the 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 the 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 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. 15,000/- per month……"*

[6.2] The Hon'ble Supreme Court reiterated the same in the case of ***Jakir Hussein vs. Sabir and others,*** reported as ***2015(2) R.C.R (Civil)141*** . Relevant excerpt is reproduced herein below:

> *" the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage, as per the State government notification alone may at times fail to meet the requirements that are needed to maintain the basic quality of life since it is not inclusive of factors of cost of living index."*

[7] In the present case, the deceased, aged about 14–15 years, was stated to be working as a helper in the grain market, where labour is typically engaged for physically demanding tasks such as loading and unloading of agricultural produce and payments are often made in cash without formal records. For the relevant period, the minimum wages for an unskilled labourer in the State of Haryana were approximately Rs.141.02/- per day, i.e., about Rs.3,664.54/- per month, which provides a useful benchmark. However, keeping in view the young age and physical ability of the deceased and the realities of mandi labour where helpers may receive small incidental cash payments, it would be reasonable to assess his monthly income at Rs.4,500/- representing a modest enhancement over the notified minimum wages.

QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES

[8] In the present case, as per the claim of the appellants/claimants, the deceased was 15 years of age whereas in the copy of the post mortem report, the age is reflected as 14 years. In the absence of any other evidence, it can reasonably be presumed that deceased Mohit Kumar was 14-15 years of age at the time of death. Thus, in terms of the law laid down in ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"***, reported as ***2009(3) RCR (Civil) 77***, and ***"National Insurance Co. Ltd. vs. Pranay Sethi and others***" reported as ***(2017) 16 SCC 680***, an addition of 40% of the income is assessed towards future prospects. Accordingly, the appropriate multiplier applicable would be 18.

[9] In the case in hand, the deceased was only about 14–15 years of age at the time of the accident and had not yet attained an age where personal expenditure would ordinarily constitute a major portion of his income. At such a tender age, the personal needs and financial independence of the deceased would have been minimal, and a substantial part of his earnings would reasonably have been expected to be contributed towards the support of the family. Moreover, being the young son of the claimants, his financial contribution to the household was likely to increase with age rather than diminish. Although the law laid down in ***Sarla Verma (supra)*** prescribes that where the deceased is a bachelor, a deduction of 50% of the income towards his personal expenses is ordinarily applied, the judgment itself clarifies that such deduction is not an inflexible or rigid rule. Relevant extract is reproduced hereunder:-

> *“13.* ***But, such percentage of deduction is not an inflexible rule and offers merely a guideline. In Susamma Thomas, it was observed that in the absence of evidence, it is not unusual to deduct one-third of the gross income towards the personal living expenses of the deceased and treat the balance as the amount likely to have been spent on the members of the family/dependants****. In UPSRTC v. Trilok Chandra [1996(4) SCC 362], this Court held that if the number of dependents in the family of the deceased was large, in the absence of specific evidence in regard to contribution to the family, the Court may adopt the unit method for arriving at the contribution of the deceased to his family. By this method, two units is allotted to each adult and one unit is allotted to each minor, and total number of units are determined. Then the income is divided by the total number of units. The quotient is multiplied by two to arrive at the personal living expenses of the deceased. This Court gave the following illustration :*
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> > *"X, male, aged about 35 years, dies in an accident. He leaves behind his widow and 3 minor children. His monthly income was Rs. 3500. First, deduct the amount spent on X every month. The rough and ready method hitherto adopted where no definite evidence was forthcoming, was to break up the family into units, taking two units for and adult and one unit for a minor. Thus X and his wire make 2+2=4 units and each minor one unit i.e. 3 units in all, totaling 7 units. Thus the share per unit works out to Rs. 3500/7 = Rs. 500 per month. It can thus be assumed that Rs. 1000 was spent on X. Since he was a working member some provision for his transport and out-of-pocket expenses has to be estimated. In the present case we estimate the out-of-pocket expense at Rs. 250. Thus the amount spent on the deceased X works out to Rs. 1250 per month per month leaving a balance of Rs. 3500-1250= Rs. 2250 per month. This amount can be taken as the monthly loss of X's dependents."*

> ***In Fakeerappa v. Karnataka Cement Pipe Factory, 2004(2) RCR (Civil) 619 : 2004(2) SCC 473, while considering the appropriateness of 50% deduction towards personal and living expenses of the deceased made by the High Court, this Court observed :***
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> > ***"What would be the percentage of deduction for personal expenditure cannot be governed by any rigid rule or formula of universal application. It would depend upon circumstances of each case. The deceased undisputedly was a bachelor. Stand of the insurer is that after marriage, the contribution to the parents would have been lesser and, therefore, taking an overall view the Tribunal and the High Court were justified in fixing the deduction." In view of the special features of the case, this Court however restricted the deduction towards personal and living expenses to one-third of the income."***
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> ***(Emphasis supplied)***

In view of the aforesaid discussion, this Court is of the considered opinion that the present case stands on an exceptional footing. Accordingly, a deduction of **40%**, instead of the standard **50%**, towards the personal and living expenses of the deceased would be **just, reasonable and appropriate** in the peculiar facts and circumstances of the 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)***, ***Pranay Sethi's case (supra)*** and ***"United India Insurance Co.Ltd. vs. Satinder Kaur",*** reported as ***(2021) 11 SCC 780,*** compensation awarded under conventional heads is 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. 96,000/- (48,000 x 2) as appellants/claimants being the parents of the deceased are entitled to 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 (monthly income Rs. 4,500/-)	54,000/-
2.	Deduction (40%)	21,600/-
3.	Net Income (Rs.54,000-Rs.21,600)	32,400/-
4.	Future Prospects (40%)	12,960/-
5.	Total Income (Rs.32,400 + Rs.12,960)	45,360/-
6.	**Loss of Income after applying multiplier of 18 as per the age of 15 (45,360 x 18)**	**8,16,480/-**
7.	**Loss of estate**	**18,000/-**
8.	**Funeral Expenses**	**18,000/-**
9.	**Loss of Consortium (48,000 x 2)**	**96,000/-**
10.	**Total compensation**	**9,48,480/-**
11.	**Amount Awarded by the Tribunal**	**2,75,000/-**
12.	**Enhanced Compensation**	**6,73,480/-**

[12] The grant of interest @ 7.5% per annum is not equitable and just in 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***, thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. 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.

QUESTION OF LIABLITY AND RECOVERY RIGHTS

[13] In the present case, the learned Tribunal, upon appreciation of the evidence on record, returned a categorical finding that the driving licence of respondent No.1/ driver of the offending vehicle was fake. The copy of the driving licence, purportedly issued by the Licensing Authority, Mathura, was brought on record as Ex. R1. However, as per the report placed on record as Ex. R4, which purports to bear the signature of the District Transport Officer, Mathura, the said licence was never issued by the concerned authority, thereby establishing that the licence being relied upon was fake. Significantly this finding was never assailed by either respondent No.1/driver or respondent No.2/owner of the offending vehicle by way of appeal or cross-objections. Further, in terms of Section 149(2) of the Motor Vehicles Act, 1988, an insurer is entitled to defend the claim on the ground of breach of specified conditions of the policy, *inter alia*, where the vehicle is driven by a person who is not duly licensed or is disqualified from holding or obtaining a driving licence. In such circumstances, the learned Tribunal rightly directed the insurance company to first satisfy the award in favour of the claimants and to thereafter recover the same from the respondent

No.2/owner (insured) of the offending vehicle. Accordingly, the finding of the learned Tribunal on the issue of liability and grant of recovery rights calls for no interference and is hereby affirmed.

[14] In view of the aforesaid modification, the present appeal stands **disposed off**.

[15] Pending miscellaneous application(s), if any, shall also stand(s) disposed off.

March 16, 2026 **(HARKESH MANUJA)**
'dk kamra' **JUDGE**

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No