

FAO-681-2013 filed by the owner of the offending vehicle as well as the cross-objections being **XOBJC-26-CII-2013** filed by the claimants in **FAO-1459-2012** challenging the impugned award dated 05.11.2011 passed by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as ‘Tribunal’). The parties are being referred to as the Insurance Company, claimants, owner and driver of the offending vehicle for the sake of clarity.

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

3. The claim petition was filed on account of death of Parmod Kumar in a motor vehicular accident which took place on 13.01.2010. The deceased – Parmod Kumar – was stated to be employed with Jagran Parkashan Ltd., Noida. The Tribunal vide the impugned award, while holding that the driving licence was fake, had granted the recovery rights to the Insurance Company and had awarded the following compensation :

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹19,800/-
2	Future Prospects - 30%	₹25,740/- [₹19,800 + ₹5,940]
3	Deduction - 1/4 th	₹19,305/- [₹25,740 - ₹6,435]
4	Annual Income	₹2,31,660/- [₹19,305 x 12]
5	Multiplier - 13	₹30,11,580/- [₹2,31,660 x 13]
6	Funeral expenses	₹5,000/-
7	Loss of consortium	₹10,000/-
	Total Compensation	₹30,26,580/- rounded off to ₹30,26,600/-
	Interest	6%

4. Learned counsel for the Insurance Company would contend that since the driving licence was fake, the Tribunal ought to have exonerated the Insurance Company. Learned counsel would further contend that since the deceased was in a private job, hence, future prospects ought to have been 25% instead of 30%.

5. Learned counsel for the owner of the offending vehicle would contend that there was no evidence on the record to even remotely suggest that the driving licence was fake and only a Surveyor's report was produced on the record as Ex.PW3/B and no one appeared from the Licensing Authority/RTO Allahabad Office to depose that the licence was fake.

6. Learned counsel appearing on behalf of the claimants would contend that the Tribunal has applied the deductions on account of allowances and has not taken the entire income into consideration while assessing the compensation. Learned counsel has further contended that the age of the deceased was 45 years and not 46. Learned counsel would further contend that addition of 30% has rightly been made towards future prospects as the deceased was a permanent employee.

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

8. In the present case the argument raised by the learned counsel for the Insurance Company that since the driving licence was fake, the Tribunal ought to have exonerated the Insurance Company, deserves to be rejected. The Insurance Company submitted a report of a Company by the name of Shadow Technical Advisors and Investigators Pvt. Ltd. as Ex.RW3/B wherein it was stated that instructions had been received for verification of the driving licence of Sanjay Yadav and he visited the RTO Allahabad and met with the concerned person and was verbally informed them that the subject driving licence record was not found, hence, the report. The said witness RW3 - Arvind Kumar - Legal Manager, in his cross examination, stated that he had never visited the office of RTO Allahabad to verify the driving licence and the person who had visited was working in their office. He further stated that he had not brought any application sent to verify the record. The said report

(Ex.RW3/B) is based on some verbal information having been received. There was nothing in writing which was produced from the RTO Allahabad to even remotely suggest that the driving licence was fake. Further still, the report does not even mention the name of the concerned person or his designation who is stated to have informed that the record of the driving licence of Sanjay Yadav was not found. In view thereof, the argument stands rejected.

9. The second argument of the learned counsel for the Insurance Company that an addition of 25% ought to have been applied towards future prospects instead of 30% deserves to be rejected inasmuch as the appointment letter of the deceased (Ex.P4) clearly states that he was being appointed in the establishment in Officer's Cadre on permanent basis. In the absence of any contrary evidence having been led, no fault can be found with the addition of 30% made by the Tribunal towards future prospects.

10. The argument of the learned counsel for the owner of the offending vehicle in FAO-681-2013 that the recovery rights have wrongly been granted to the Insurance Company inasmuch as there was nothing on the record to even remotely suggest that the driving licence was fake deserves to be accepted. As discussed above, the report (Ex.RW3/B) was based on some verbal information having been obtained from the alleged concerned person. The letter on the letterhead of Shadow Technical Advisors and Investigators Private Limited does not state the name or designation of the person who informed them. Further still, there was nothing in writing which was obtained from the RTO Allahabad to even remotely suggest that the driving licence was fake. The witness RW3 - Arvind Kumar - who is the Legal Manager of Shadow Technical Advisors and Investigators Private Limited, in his cross-examination, clearly stated that though the person who had visited the RTO

Allahabad was working in their office, however, he was not produced to prove the said report. As admitted in the cross examination, there was no application filed by them to verify the driving licence. In the absence of any cogent and reliable evidence, it could not have been held that the driving licence was fake. In view thereof, this Court is of the considered opinion that no recovery rights could have been granted to the Insurance Company. Accordingly, the finding of the Tribunal granting recovery rights to the Insurance Company is set aside.

11. The argument of the learned counsel for the claimants that the income has wrongly been assessed as ₹19,800/- per month deserves to be accepted. In order to prove the income the deceased the claimants examined PW1 – R.K. Dubey, Legal Manager of Dainik Jagran Newspaper, Noida who deposed that the deceased - Parmod Kumar son of Har Sarup - was working as Foreman in their Company and he was a permanent employee. He further deposed that the salary prior to his death was ₹30,550/-. He also placed and proved on the record the salary certificates as Ex.P1 and Ex.P2 and copy of the Form-16A as Ex.P3. As noticed by the Tribunal, the total income of the deceased in the Assessment Year 2009-10 was ₹3,53,150/- and the salary certificate (Ex.P2) reveals that the total salary to the deceased in December 2009 was ₹30,550/- per month. The accident in the present case occurred in January 2010. From the evidence duly proved on record, the income of the deceased at the time of his death was ₹30,550/- per month. Deduction of allowances from the gross salary to the extent of ₹10,750/- by the Tribunal while assessing the income cannot be sustained in view of the law laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Nalini & Ors. [2024 (2) PLR 671]**, wherein it has been held as under:

“2. The aforesaid aspect is no longer res integra

inasmuch as a three Judges Bench of this Court in Vijay Kumar Rastogi Vs. Uttar Pradesh State Roadways Transport Corporation [2018 SCC Online SC 193] has clearly held as follows:

“11. Strikingly, the High Court noted the taxable income disclosed in tax return of the appellant for the relevant period as Rs.77,480/- (rounded off) and tax deduction of Rs.4,496/-, yet proceeded to hold that the net income of the appellant has been rightly taken into consideration by the Tribunal. It is unfathomable that the High Court, despite having accepted the claim of the appellant founded on his tax return for the relevant period, disclosing the taxable income of the appellant as Rs.77,480/- (rounded off) and deduction of tax of Rs.4,496/- could have affirmed the conclusion of the Tribunal that the net annual income of the appellant was Rs. 44,511/-. It ought to have reckoned the taxable income for computing the head towards loss of income. This, in our opinion, is the manifest error committed by the High Court. The appellant is justified in relying upon the decisions of this Court which have taken the view that loss of taxable earning should be reckoned for the purpose of determining just compensation as enunciated in National Insurance Co. Ltd. v. Indira Srivastava

[(2008) 2 SCC 763], which has been followed in Oriental Insurance Company Limited v. Jashuben [(2008) 4 SCC 162], and Kavita v. Deepak [(2012) 8 SCC 604] . It has been held that the “income” should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may, or may not be taxable due to the exemption conferred thereupon under the statute.”

[emphasis added]

3. *It is apparent from the observations made in the aforesaid decision that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, which are described by learned counsel for the petitioner-Insurance Company as personal to him to arrive at the dependency factor, ought to be included irrespective of whether they are taxable or not.”*

12. It is trite that while assessing the income, the allowances also have to be included. In view of the law laid down by the Hon’ble Supreme Court in the case of **Nalini** (supra), the income of the deceased is assessed as ₹30,550/- per month. Accordingly, the annual income of the deceased is ₹3,66,600 – minus income tax prevalent at the relevant point of time. The accident in the present case had taken place on 13.01.2010 and the income tax

slab for the Financial Year 2009-10 (Assessment Year 2010-11) reads as under :

INCOME SLABS		INCOME TAX RATES
Upto ₹1,60,000		NIL
₹1,60,000	to	10% of the amount exceeding ₹1,60,000 (₹14,000)
₹3,00,000		
₹3,00,000	to	₹14,000 + 20% of the amount exceeding ₹3,00,000 (₹13,320)
₹5,00,000		

Thus, the annual income of the deceased comes out to be ₹3,39,280/- (₹3,66,600 – ₹27,320).

13. The argument of the learned counsel for the Insurance Company that an addition of 25% ought to be made instead of 30% already stands rejected and, therefore, the finding qua addition of 30% towards future prospects is maintained.

14. In the absence of any evidence regarding the age of the deceased, the same has rightly been taken to be 46 years as per the post-mortem report, hence, the multiplier as applied by the Tribunal is maintained. Since there is no dispute to the deduction as applied by the Tribunal, the same is also maintained. However, 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 **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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**. 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 (widow, three children and father 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	Annual Income	₹3,39,280/- [₹28,273 x 12]
2	Deduction - 1/4 th	₹2,54,460/- [₹3,39,280 - ₹84,820]
3	Future Prospects - 30%	₹3,30,798/- [₹2,54,460 + ₹76,338]
4	Multiplier - 13	₹43,00,374/- [₹3,30,798 x 13]
5	Loss of estate	₹18,000/-
6	Funeral expenses	₹18,000/-
7	Loss of consortium (i) Parental [₹48,000/- x 3] (ii) Filial [₹48,000/- x 1] (iii) Spousal	₹1,44,000/- ₹48,000/- ₹48,000/- (Total ₹2,40,000/-)
	Total Compensation	₹45,76,374/-

15. 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.

16. 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 and the share of the minor claimant shall be kept in fixed deposit by the Bank concerned. 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.

17. In view of the above discussion, the impugned award passed by the Tribunal stands modified accordingly. The appeals being **FAO-1459-2012** filed by the Insurance Company is dismissed and **FAO-681-2013** filed by the owner of the offending vehicle is allowed and the cross-objections being **XOBJC-26-CII-2013** in **FAO-1459-2012** filed by the claimants are also allowed. Pending applications, if any, also stand disposed off.

07.03.2026
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

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