2026:PHHC:083870

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. FAO-6771-2011

IFFCO TOKIO GENERAL INSURANCE CO. LTD. …Appellant

Vs.

SMT. ANITA AND OTHERS …Respondents

AND

2. FAO-3086-2013

SMT. ANITA AND OTHERS ….Appellants

Vs.

SATISH KUMAR AND OTHERS …Respondents

1	*The date when the judgment was reserved*	*16.04.2026*
2	*The date when the judgment is pronounced*	*27.05.2026*
3	*The date when the judgment is uploaded on the website*	*27.05.2026*
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. Tajender K. Joshi, Advocate with
Mr. Himanshu Khanna, Advocate
for the appellant (in FAO-6771-2011) and
for respondent No.3-Insurance Company (in FAO-3086-2013).

Ms. Babita Gupta, Advocate
for the appellants-claimants (in FAO-3086-2013) and
for respondents No.1 to 4-claimants (in FAO-6771-2011).

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HARKESH MANUJA, J.

1. The present judgment shall dispose of two appeals arising out of award dated 16.08.2011 passed by the learned Motor Accident Claims Tribunal, Panchkula (for short, "the Tribunal"), whereby compensation to the tune of Rs.30,76,683/- alongwith interest @7.5% per annum from the date of filing of the claim petition till realization came to be awarded on account of death of Tarsem Lal in a motor vehicular accident.

2. The appeal filed by the Insurance Company seeks reduction of compensation primarily on the ground that the Tribunal failed to deduct the amount of financial assistance payable to the dependents of the deceased under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (hereinafter referred to as "the 2006 Rules"). The appeal filed by the claimants seeks enhancement of compensation.

3. As sole issue for determination in the present appeals is confined to quantum of compensation awarded by the Tribunal, a detailed narration of facts of the case is not reproduced herein for the sake of brevity.

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

4. Learned counsel appearing on behalf of the Insurance Company contended that the Tribunal committed a patent illegality in not deducting the amount payable under the 2006 Rules from the compensation determined under the Motor Vehicles Act. It was argued that the widow of the deceased was receiving monthly financial assistance equal to the pay and allowances last drawn by the deceased for a period of twelve years and such benefit, being directly relatable to the death of the employee, was liable to be deducted while assessing loss of dependency. He further contended that claimant No.4-mother of the deceased was not financially dependent upon the deceased as she was receiving family pension and therefore deduction towards personal expenses ought to have been 1/3rd instead of 1/4th.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR APPELLANTS/CLAIMANTS.

5. Per contra, learned counsel for the claimants contended that the Tribunal erred in restricting the loss of dependency only to the remaining period after expiry of twelve years under the 2006 Rules. It was argued that the financial assistance under the 2006 Rules constitutes a service benefit arising out of the employment of the deceased and, therefore, the benefit thereof cannot be permitted to accrue to the advantage of the wrongdoer/tortfeasor. He further argued that the Tribunal wrongly applied multiplier of 13 instead of 15 in terms of the judgment of the Hon'ble Supreme Court. Learned Counsel further submitted that the future prospects and conventional heads were also not correctly assessed.

DISCUSSION AND REASONING

6. I have heard learned counsel for the parties and perused the paper-book of the case.

QUESTION OF INCOME ASSESSED

7. The deceased, at the time of the unfortunate accident, was approximately 38 years of age and was serving as a Head Constable in the Haryana Police Department, thus holding a permanent Government post.

In order to prove the income of the deceased, the claimants examined PW-2 and placed on record the salary certificate Ex.P-3, which established that the deceased was drawing a gross monthly salary of Rs.17,637/-. It has further emerged from the testimony of PW-2 that, after statutory deductions, the net take-home salary of the deceased was Rs.12,492/- per month. The learned Tribunal, upon appreciation of the oral as well as documentary evidence available on record, assessed the monthly income of the deceased at Rs.17,417/-. However, the said assessment is not borne out from the evidence on record, inasmuch as the salary certificate Ex.P-3 unequivocally proves that the deceased was earning a gross monthly salary of Rs.17,637/-. Accordingly, this Court reassesses and determines the monthly income of the deceased at Rs.17,637/-.

7.1 Furthermore, a perusal of the record show that the widow of the deceased, was receiving financial assistance equivalent to the last drawn pay and allowances for a period of twelve years under the 2006 Rules. The aforesaid fact stood duly corroborated from letter Ex.R4 issued by the office of the Director General of Police, Haryana, whereby financial assistance under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 came to be sanctioned in favour of the widow of the deceased in an amount equivalent to the pay and allowances last drawn by the deceased employee.

7.2 The learned Tribunal, while noticing the said benefit, held that the claimants would not suffer any loss of income for twelve years and accordingly assessed loss of dependency only for the remaining period of service. However, while computing compensation, the learned Tribunal ultimately failed to deduct the amount of financial assistance payable for twelve years.

7.3 The issue as to whether compassionate assistance payable under the 2006 Rules is deductible from compensation under the Motor Vehicles Act is no longer *res integra.* The latest legal position in this regard has been settled by the Hon'ble Apex Court in ***Reliance General Insurance Company Ltd. V. Kanika and Ors*** reported as ***2025 SCC OnLine SC 1167***, wherein it has been clarified that while computing compensation, only such financial assistance is liable to be deducted which overlaps or corresponds to the same pecuniary loss, particularly loss of income, for which compensation is awarded under the MVA. Any benefit that is not in the nature of income substitution or is otherwise unconnected with the accident-related loss is not deductible. The Court further emphasized that such deduction must be based on actual receipt or proven entitlement and not on mere assumption. Thus, only overlapping or equivalent benefits are subject to deduction, while unrelated financial assistance remains intact. Relevant extract is reproduced hereunder:-

> *"6.3 On a close reading of the two judgments, **Shashi Sharma (supra)** and **Birender (supra)** it can be concluded that they are not inconsistent on any point of law. Both decisions operate within the same conceptual framework governing the deduction of financial assistance under the 2006 Rules from compensation awarded under the MVA.*
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> *The rule laid down in **Shashi Sharma** is essentially substantive in character. It clarifies that deduction is permissible only to the extent that financial assistance overlaps with the same pecuniary loss for which compensation is awarded under the MVA, most notably the loss of income. Benefits that are not in the nature of income substitution, or that are otherwise unconnected to the accident-related loss, are not deductible. The decision is therefore concerned with the nature and scope of deductible benefits.*
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> ***Birender** does not revisit or alter this substantive rule. Instead, it addresses the stage at which such deductions may be made and the evidentiary basis required for doing so. The Court held thatthe High*

> *Court was not justified in deducting a portion of the financial assistance merely on the assumption that the claimants were entitled to it. It emphasized that eligibility or actual receipt must be established on record before any deduction is effected. The Court, therefore, required that compensation under the MVA be determined in full, with a declaration mechanism to adjust the award later if overlapping assistance is in fact received.*
>
> *Thus, the two decisions are consistent in principle.* ***Shashi Sharma*** *defines what is deductible, while* ***Birender*** *clarifies when and how such deductions should be made. The latter does not depart from the former; rather, it ensures that the substantive rule is applied with appropriate procedural safeguards and without speculative assumptions. Together, they form a coherent legal position governing both the nature and the timing of deductions under the 2006 Rules."*

7.4 In the present case, out of the total monthly financial assistance of Rs. 17,637/-, only a sum of Rs. 11,100/- was being received by the appellant/claimant No.1, Anita (widow of the deceased), towards basic pay, while the remaining amount was paid under various ancillary heads as Grade Pay, Dearness Allowance (DA) and medical allowances. Accordingly, in view of the law laid down in ***Kanika's case (supra),*** only the said amount of Rs. 11,100/- being the basic pay component was liable to be taken into account for the purpose of deduction. Since the financial assistance under the applicable Rules is payable for the period of 12 years, the aggregate amount liable to be deducted from the compensation thus works out to be Rs. 15,98,400/-.

8. Further, the computation of compensation, including the addition towards future prospects, application of the appropriate multiplier, and the award under conventional/statutory heads, also warrants fresh reassessment.

QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES.

9. Since the deceased was in permanent government employment and below the age of 40 years, addition towards future prospects is liable to be made. In terms of the judgment of the Hon'ble Supreme Court 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,*** addition of 50% towards future prospects is liable to be made. Accordingly, multiplier of 15 is applied. Further, as the dependents of the deceased comprise the widow, two children and his mother; four in all, the appropriate deduction towards the personal and living expenses of the deceased therefore ought to be assessed at one-fourth.

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. 1,92,000/- (48,000 x 4) as appellants/claimants being the widow, 2 children and the mother are entitled to spousal, parental and filial consortium.

CONCLUSION

11. In view of the discussion made herein above, 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. 17,637/- per	2,11,644/-

	month)	
2.	Add 50% future prospects	1,05,822/-
3.	Total Income (Rs. 2,11,644 + Rs. 1,05,822)	3,17,466/-
4.	Deduction (1/4th)	79,366.5/-
5.	Net Income (Rs. 3,17,466 – Rs. 79,366.5)	2,38,099.5/-
6.	**Loss of Income after applying multiplier of 15 as per the age of 38 years (Rs. 2,38,099.5 x 15)**	**35,71,492.5/-**
7.	**Loss of Consortium**	**1,92,000/-**
8.	**Funeral expenses**	**18,000/-**
9.	**Loss of estate**	**18,000/-**
	Total compensation	**37,99,492.5/-**
	Deduction under the Financial Assistance Rules of 2006 (Rs. 37,54,942.5 – Rs. 15,98,400)	**22,01,092.5/-**
	Amount Awarded by the Tribunal	**30,76,683/-**
	Modified Amount (Rs. 30,76,683 – Rs. 22,01,092.5)	**8,75,590.5/-**

However, it is made clear that such deduction shall be made subject to the proof of complete payment of the financial assistance to appellant/claimant No.1 in view of the law laid down ***"National Insurance Co. Ltd. vs. Birender & Ors."*** reported as ***2020 (11) SCC 356*** and further reiterated in the case of ***Kanika's case (supra).***

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*** and 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.

13. In view of the aforesaid modification, the appeal filed by the Insurance Company is partly allowed to the extent that the amount receivable by the claimants under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 is liable to be deducted while assessing compensation. The appeal filed by the claimants is also partly allowed to the extent that the multiplier is enhanced from 13 to 15 and the compensation awarded under conventional heads is enhanced.

14. The apportionment amongst the claimants and manner of disbursement shall remain in the same proportion as directed by the Tribunal. Both the appeals stand disposed of in the aforesaid terms.

15. Pending miscellaneous application(s), if any, shall also stand disposed of.

May 27, 2026 **(HARKESH MANUJA)**
sonika **JUDGE**

(i) Whether reasoned/speaking? Yes/No

(ii) Whether reportable? Yes/No