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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-718-2012 (O&M)
Date of Decision : 18.02.2026

Sonia & Anr ... Appellant(s)

Versus

Mandeep @ Monu & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rakesh, Advocate for
Mr. S.K. Verma, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'Tribunal') vide the impugned award dated 25.07.2011 in a motor vehicle accident which occurred on 20.07.2010.

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 Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Annual income after applying 1/3rd deduction	₹74,268/- [₹6,189/- x 12]
2	Loss of 70% of the salary for the remaining 13¾ years	₹10,21,185/- [₹74,268 x 13¾]

3	Consortium/transportation/ funeral expenses	₹10,000/-
4	Multiplier	14
5	Income on account of gratuitous services of the deceased (doing extra labour work)	₹6,04,800/- [₹3,600 x 12 x 14]
	Total Compensation	**₹16,35,985/-**
	Interest	**9% per annum**

4. Learned counsel for the claimant-appellants would contend that though he does not challenge the deduction and the multiplier as applied by the Tribunal, however, monthly income of the deceased as assessed by the Tribunal is on the lower side inasmuch as the Tribunal has wrongly deducted all the allowances including family pension from the gross salary of the deceased. It is further the contention of the learned counsel that no addition has been made towards future prospects which ought to have been 30% inasmuch as the deceased was 44 years of age at the time of the accident and was a permanent employee. 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' is not in accordance with the law laid down by the Hon'ble Supreme Court. In support of his contentions, the learned counsel for the claimant-appellants has relied upon the judgments of 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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that though the income of the deceased has

rightly been assessed by the Tribunal, however, the Tribunal has wrongly awarded ₹6,04,800/- under the head gratuitous services of the deceased towards the claimant-appellants which is unknown to the law. It is further the contention of the learned counsel that there is no scope of any enhancement in the present case.

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

7. 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 and the multiplier as applied by the Tribunal, the same are maintained accordingly.

8. So far as the argument of the learned counsel for the claimant-appellants as regards assessing of income by deducting allowances including family pension from the gross salary of the deceased, is concerned, the same deserves to be accepted. In the present case, in order to prove the employment and salary of the deceased, the claimant-appellants have examined Vinod Kumar, Establishment Clerk from Haryana Cooperative Sugar Mills Limited, Rohtak as PW4 who deposed that the deceased was working as a Cane Development Supervisor in their Mill and was drawing a salary of ₹16,878/- per month at the time of his death. This witness proved on record the salary certificate of the deceased as Ex.P5 reflecting gross salary of the deceased as ₹16,878/- per month. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Nalini & Ors. [2024 (2) PLR 671]** has 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."*

9. Further Hon'ble Supreme Court in the case of **Sebastiani Lakra & Ors. vs. National Insurance Company Ltd. & Anr. [2018 (4) RCR (Civil) 837]** has held as under :

> *"12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to 'just compensation' under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his life time cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death".*

10. Keeping in view the above law laid down by the Hon'ble Supreme Court in the cases of **Nalini** (supra) and **Sebastiani Lakra** (supra),

the Tribunal ought not to have deducted the allowances from the gross salary of the deceased as well as family pension of the widow while assessing the income of the deceased. Accordingly, the gross last salary drawn by the deceased i.e. ₹16,878/- per month, is assessed as his monthly income. Accordingly, annual income of the deceased as ₹2,02,536 – minus income tax prevalent at the relevant point of time. The accident in the present case had taken place on 20.07.2010 and the income tax slab for the Financial Year 2010-11 (Assessment Year 2011-12) reads as under :

INCOME SLABS	INCOME TAX RATES
Upto ₹1,60,000	NIL
₹1,60,000 to ₹5,00,000	10% of the amount exceeding ₹1,60,000

Thus, the annual income of the deceased comes out to be ₹1,98,283/- (₹2,02,536 – ₹4,253).

11. Further, in addition to monthly salary of the deceased, the Tribunal has also assessed wages of a casual workman for gratuitous services of the deceased towards the claimant-appellants @ ₹3,600/- per month. Learned counsel for the claimant-appellants could not cite any law that the compensation under the head gratuitous services, can also be awarded for the death of a salaried class employee in a motor vehicular accident. Accordingly, in the opinion of this Court, the Tribunal has erroneously awarded compensation by assessing the income of the deceased for his gratuitous services towards the claimant-appellants in addition to his monthly salary.

12. The Tribunal has not made any addition towards future prospects. The deceased was admittedly 44 years of age at the time of service and was a permanent/salaried employee, hence, as per the law laid down by

the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 30% addition is made towards future prospects. Further, 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 (widow and son 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	₹1,98,283/-
2	Deduction - 1/3rd	₹1,32,188/- [₹1,98,283 - ₹66,095]
3	Future Prospects - 30%	₹1,71,845/- [₹1,32,188 + ₹39,657]
4	Multiplier - 14	₹24,05,830/- [₹1,71,845 x 14]
5	Loss of estate	₹18,000/-
6	Funeral expenses	₹18,000/-
7	Loss of consortium (i) Parental [₹48,000/- x 1] (ii) Spousal	 ₹48,000/- ₹48,000/- (Total ₹96,000/-)
	Total Compensation	**₹25,37,830/-**

13. 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.

14. 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.

15. 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.

18.02.2026 **(ALKA SARIN)**
Yogesh Sharma **JUDGE**

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