2026:PHHC:079869

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. FAO-2731-2013 (O&M)

MEERA TIWARI AND OTHERS ….Appellants

Vs.

TARA SINGH AND OTHERS …Respondents

2. FAO-2559-2012 (O&M)

THE ORIENTAL INSURANCE CO. LTD. ….Appellant

Vs.

MEERA TIWARI AND OTHERS …Respondents

1	*The date when the judgment was reserved*	*01.04.2026*
2	*The date when the judgment is pronounced*	*21.05.2026*
3	*The date when the judgment is uploaded on the website*	*22.05.2026*
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: Ms. Rajni Bala, Advocate
for the appellants-claimants (in FAO-2731-2013) and
for the respondents-claimants (in FAO-2559-2012).

Mr. D.P. Gupta, Advocate
for respondent-Insurance Company (in FAO-2731-2013) and
for the appellant-Insurance Company (in FAO-2559-2012).

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HARKESH MANUJA, J.

1. By this common judgment, two appeals arising out of the same award dated 21.12.2011 passed by the learned Motor Accident Claims Tribunal, Patiala (for short, "the Tribunal"), are being decided. The first appeal has been preferred by the claimants/appellants seeking enhancement of compensation, whereas the second appeal has been filed by the Insurance Company challenging the findings on negligence as well as fastening of liability upon it.

FACTS

2. The brief facts necessary for adjudication of the present appeals are that on 10.09.2008, deceased Karamjit Singh along with his brother Shashi Kumar and friend Ranjit Singh were returning from a marriage function at Taj Palace, Bhawanigarh Road, Samana on a Ghora Baggi/Tonga. At about 11:30 PM, when they reached near Samana Steel Factory on Patiala-Samana Road, an Eicher Truck bearing registration No. PB-10-BF-6053, being driven rashly and negligently by respondent No.1, came from the opposite direction and struck against the Tonga. Resultantly, Karamjit Singh fell on the road and was crushed under the offending vehicle, leading to his death at the spot.

3. The claimants, namely widow and minor children of the deceased, filed petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation to the tune of Rs.20,00,000/-. On the basis of pleadings, the Tribunal framed necessary issues and after appreciating the evidence on record, allowed the claim petition and awarded compensation of Rs.5,30,720/- along with interest @ 6% per annum from the date of filing of petition till realization.

4. Aggrieved by the award dated 21.12.2011, both the parties preferred the present appeals before this Court. The claimants/appellants filed the appeal seeking enhancement of the compensation on the ground that the amount awarded by the learned Tribunal was inadequate. On the other hand, the Insurance Company filed the connected appeal assailing the impugned award on the grounds of negligence as well as fastening of liability on it.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS/CLAIMANTS.

5. Learned counsel for the claimants/appellants submitted that the learned Tribunal rightly recorded finding on Issue No.1 after proper appreciation of evidence. It was argued that testimony of PW1-Shashi Kumar remained unshaken during cross-examination and there was no reason for the claimants to falsely implicate the offending vehicle. Learned counsel further contended that the compensation awarded by the Tribunal was grossly inadequate and deserves substantial enhancement.

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

6. Per contra, learned counsel for the Insurance Company vehemently argued that the Tribunal gravely erred in relying upon testimony of alleged eye-witness Shashi Kumar, who being the real brother of the deceased was an interested witness. It was argued that the FIR did not contain complete registration number of the offending vehicle and the statement of Shashi Kumar was recorded belatedly. He further submitted that the documentary evidence produced by the respondents clearly established that the vehicle in question was elsewhere at the relevant time and therefore, the involvement of the offending vehicle remained doubtful.

DISCUSSION AND REASONING

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

8. The first question that arises for consideration is with regard to the involvement of the offending vehicle and negligence of its driver. PW1-Shashi Kumar categorically deposed that he was accompanying the deceased at the time of accident and the offending Eicher Truck bearing No. PB-10-BF-6053 struck against their Tonga due to rash and negligent driving of its driver. His testimony finds corroboration from the FIR lodged promptly after the occurrence as well as from the post mortem report. Merely because PW1 happened to be brother of the deceased cannot be a ground to discard his testimony, especially when nothing substantial could be elicited in his cross-examination to discredit his version. Relationship by itself can't be a factor to affect credibility of a witness if otherwise his statement inspires confidence.

8.1 The contention raised by learned counsel for the Insurance Company regarding incomplete mention of registration number in the FIR also deserves rejection. The accident occurred during late night hours and the informant had specifically mentioned the digits "6053" of the offending vehicle. Subsequently, during investigation and evidence before the Tribunal, complete registration number of the offending vehicle came on record. Significantly, neither the driver nor the owner of the offending vehicle stepped into the witness box to rebut the allegations levelled by the claimants. Accordingly, an adverse inference was rightly drawn by the Tribunal against them.

Furthermore, the documents Ex.R-3 onwards relied upon by the respondents merely indicated that the vehicle was present at Ludhiana earlier during the day. The accident admittedly occurred at about 11:30 PM and therefore, such documents do not conclusively establish impossibility of presence of the offending vehicle at the place of occurrence. The Tribunal rightly held that the said evidence was insufficient to dislodge the cogent ocular testimony led by the claimants. Consequently, this Court finds no illegality or perversity in the finding recorded by the Tribunal on Issue No.1. The appeal filed by the Insurance Company challenging involvement of the offending vehicle and negligence is thus liable to be dismissed.

QUESTION OF INCOME ASSESSED

9. The learned Tribunal assessed the monthly income of the deceased at Rs.3,545/- by treating him as a semi-skilled worker on the basis of minimum wages prevailing in the State of Punjab at the relevant time. The claimants asserted that the deceased was earning approximately Rs.22,000/- per month by plying a Tonga/Ghora Baggi and by providing mare services during marriage functions. However, except for oral assertions made by the widow of the deceased and one supporting witness, no cogent or reliable documentary evidence was brought on record to substantiate the said income. No account books, receipts, licences, booking registers, bank statements, income tax returns, or any documentary proof reflecting the nature and extent of the alleged business activities of the deceased were produced before the Tribunal. Even the witness examined to support the alleged income merely made a bald statement regarding earnings from similar vocation, but failed to produce any independent material showing either his own income or the actual income of the deceased. The alleged income of Rs.22,000/- per month was substantially high for the year 2008 and would ordinarily place the deceased within the taxable income bracket, yet no income tax document whatsoever was produced. In such circumstances, the Tribunal rightly exercised caution in not accepting the claimed income at its face value.

9.1 It is well settled that though strict rules of evidence are not applicable in proceedings under the Motor Vehicles Act and some amount of guesswork is permissible while determining compensation, the assessment of income must nevertheless rest upon some reasonable foundation. In absence of reliable documentary evidence regarding actual earnings, the Courts are justified in taking recourse to the minimum wages notified by the State Government for an appropriate category of worker. Since the deceased was admittedly engaged in manual and service-oriented work involving operation of Tonga/Ghora Baggi and participation in marriage functions, the Tribunal rightly categorized him as a semi-skilled worker and assessed his income accordingly. Thus, the determination of monthly income at Rs.3,545/- by the Tribunal cannot be said to be arbitrary or perverse and the same deserves affirmation.

<u>QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES.</u>

10. As per the averments made in the claim petition and the testimony of claimants, the age of the deceased at the time of his death was stated to be 33 years, however, no documentary evidence has been produced on record to substantiate his age. Therefore, in the absence of any other cogent and reliable documentary evidence on record, this Court deems it appropriate to rely upon the testimony and accordingly assesses the age of the deceased as 33 years. Thus, placing reliance upon the law laid down in the case ***"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,*** 40% of the income needs to be granted towards future prospects. Accordingly, multiplier of 16 is applied. Further, as the dependents of the deceased comprise the widow, and three minor children; 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

11. 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 and minor son are entitled to spousal and parental consortium.

CONCLUSION

12. 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	42,540/-
2.	Add 40% future prospects	17,016/-
3.	Total Income (Rs. 42,540 + Rs. 17,016)	59,556/-
4.	Deduction (1/4th)	14,889/-
5.	Net Income (Rs. 59,556 – Rs. 14,889)	44,667/-
6.	**Loss of Income after applying multiplier of 16 as per the age of 33 years (Rs. 44,667 x 16)**	**7,14,672/-**
7.	**Loss of Consortium**	**1,92,000/-**
8.	**Funeral expenses**	**18,000/-**
9.	**Loss of estate**	**18,000/-**
	Total compensation	**9,42,672/-**
	Amount Awarded by the Tribunal	**5,30,720/-**
	Enhanced Amount	**4,11,952/-**

Accordingly, appellants/claimants shall be entitled to receive above enhanced compensation in the proportion already determined by the learned Tribunal.

13. The grant of interest @ 6% 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 re-assessed 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.

14. Consequently, in view of the foregoing discussion, the appeal preferred by the Insurance Company stands dismissed, whereas the appeal filed by the claimants/appellants is disposed of. The total compensation awarded by the Tribunal is enhanced from Rs. 5,30,720/- to Rs. 9,42,672/-. The liability to pay the compensation shall remain joint and several upon the respondents; however, the Insurance Company shall indemnify the insured and satisfy the award in the first instance. The awarded amount, along with accrued interest, shall be disbursed to the claimants in equal shares, in terms of the directions issued by the learned Tribunal. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

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

May 21, 2026 **(HARKESH MANUJA)**
Sonika **JUDGE**

(i) Whether reasoned/speaking? Yes

(ii) Whether reportable? Yes

SONIKA
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