



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

(i) FAO-459-2013 (O&M)

Oriental Insurance Company Ltd.

...Appellant

VERSUS

Surender Kumar and others

...Respondents

(ii) FAO-460-2013 (O&M)

Oriental Insurance Company Ltd.

...Appellant

VERSUS

Sunita and others

...Respondents

Date of Decision: March 30, 2026

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Neeraj Khanna, Advocate
for the appellant.

None for the respondents.

ARCHANA PURI, J.

These are two appeals filed by the Oriental Insurance Company Limited, thereby, assailing the Award dated 16.10.2012 passed by learned Motor Accident Claims Tribunal, whereby, compensation was awarded, on account of injuries sustained by Surender Kumar as well as compensation awarded, on account of death of Prabhu Ram, in a motor vehicular accident.

In pursuance of the notice issued, none had made appearance,



on behalf of the respondents, despite service.

Counsel for the appellant heard.

Suffice to consider that the accident had taken place on 17.02.2011. On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place, due to rash and negligent driving of Tanker bearing registration No.PB-11W-2305, driven by respondent-Amar Singh and the same resulted into injuries on the person of Surender Kumar as well as death of Prabhu Ram.

It is pleaded case of claimant Surender Kumar that he had sustained grievous injuries in the accident in question, which caused permanent disability. As per the medical evidence, brought on record, claimant Surender Kumar had suffered fracture of upper end of tibia and as per the disability certificate proved as Ex.P10, the disability was assessed to be 20%. However, learned Tribunal, while making assessment of the loss of income, on account of permanent disability, reduced the disability and the functional disability was held to be to the extent of 10%. His income was assessed as Rs.5,000/- per month, annual whereof is Rs.60,000/- To the said amount, addition, on the ground of 'future prospects' was made to the extent of 30% and thus, the total income was worked upon as Rs.78,000/- per annum.

Considering the age of Surender Kumar to be 30 years, multiplier of '17' was applied and also taking into consideration the functional disability to the extent of 10%, the compensation, on account of disability, was worked upon as $\text{Rs.78,000} \times 17 \times 10 / 100 = \text{Rs.1,32,600/-}$.

Besides the aforesaid, considering the medical receipts Ex.P2 to Ex.P9 and Ex.P12 to Ex.P40, it was held that an amount of Rs.70,000/- had



been spent, on the medical treatment and this amount was also awarded to the claimant.

On account of claimant Surender Kumar having remained on bed for substantial period, on the count of 'loss of income', another amount of Rs.20,000/- was awarded. On the count of 'attendant charges' and 'special diet', another amount of Rs.20,000/- was awarded, on each count. Further, on the count of 'pain and mental agony', Rs.20,000/- was also awarded. Thus, in total, compensation to the extent of Rs.2,82,600/- was awarded.

Likewise, coming to the claim, on account of death of Prabhu Ram, his monthly earnings were assessed as Rs.5,000/- per month, annual whereof is Rs.60,000/-. To the aforesaid amount, addition of 30% was made, on the count of 'future prospects' and the annual earnings were worked upon as Rs.78,000/-. Keeping in view the number of dependents, 1/4th deducted, on the count of 'personal expenses' and the loss of dependency was worked upon as Rs.58,500/-. Deceased Prabhu Ram was 28 years old, at the relevant time. Multiplier of '17' was applied and the compensation, on the count of loss of dependency was worked upon as Rs.58,500x17=Rs.9,94,500/-.

Rs.20,000/- was awarded to the widow of deceased, on the count of 'loss of consortium'. Besides the same, another amount of Rs.20,000/- was awarded, on the count of 'funeral expenses'. In total, compensation to the extent of Rs.10,34,500/- was awarded.

The liability of the respondents, i.e. driver, owner and insurer of the offending vehicle, was held to be joint and several.

Being aggrieved by the extent of compensation awarded, the



insurance company has solely filed the appeals to assail the Award on the quantum. However, it is pertinent to mention that the respondents-claimants, as such, have not filed any appeal to assail the Award, on any count.

Considering the 'work on' of the compensation, as detailed aforesaid, it is pertinent to mention that the amount of earnings as assessed, though, are alleged to be on higher side, but however, it is not so. It is the pleaded case of claimant Surender Kumar as well as legal heirs of Prabhu Ram that they were indulging in sale and purchase of fruits and vegetables. Though, as pointed by counsel for the appellant that no partnership record, as such, has been brought on record, but however, the version, as put forth by Surender Kumar, while deposing in witness box as PW-1 and also considering the testimony of Sunita, widow of deceased Prabhu Ram, the indulgence of both the claimant as well as deceased, in the said source of earning, as such, ought to be taken into consideration.

Considering the minimum wages, prevalent at the relevant time to be Rs.4502.98, rounded off as Rs.4600/-, the extent of earnings, as taken by learned Tribunal, cannot be said to be on higher side and therefore, the consequential work on of the compensation, as such, cannot be said to be on higher side. Though, as per prevalent law, the extent of compensation awarded on the count of 'loss of estate' and 'funeral expenses' and also considering the compensation payable under the count of 'loss of consortium', may be adjusted, but however, the extent of compensation awarded by learned Tribunal, in any case, do not call for reduction.

However, this Court is not re-opening the compensation as worked upon by learned Tribunal, as no appeal, as such, has been filed by the



FAO-459-2013 and connected case

respondents-claimants. But anyhow, there is no scope for reduction of the compensation, already awarded.

That being so, both the appeals filed by the insurance company are bereft of merits and consequently, the same are hereby dismissed.

March 30, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes