IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision : 13.01.2026

1. FAO-1980-2016 (O&M)

Vibha Gaur and others ...... Appellants

versus

Jagir Singh and others ...... Respondents

2. FAO-2562-2016 (O&M)

Oriental Insurance Company Limited ...... Appellant

versus

Vibha Gaur and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Dr. Naresh Kaushik, Advocate
for the appellants in FAO-1980-2016 and
for respondents No.1 to 4 in FAO-2562-2016

Mr. Ashwani Talwar, Senior Advocate with
Mr. Nikhil Sehrawat, Advocate and
Mr. Deepak Goyat, Advocate
for the appellant in FAO-2562-2016 and
for respondent No.3 in FAO-1980-2016.

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PANKAJ JAIN, J. (Oral)

1. These are cross appeals directed against award dated 09.10.2015 passed by MACT, Panchkula.

2. Insurance company is appellant in FAO No.2562 of 2016 seeking deduction of the amount already received by the claimants under relevant rules as financial assistance from the state. Reliance is being placed upon ***New India Assurance Co. Ltd. vs. Kamlesh and others 2025 All SCR 1540, National Insurance Company Limited vs. Birender and***

others 2020 SCC OnLine SC 28, Reliance General Insurance Co. Ltd. vs. Shashi Sharma and others 2016(9) SCC 627 and Shashi Kanta and others vs. Naveen Kumar 2025 NCPHHC 132664.

3. Claimants are in FAO No.1980 of 2016 seeking enhancement of compensation. Their grievance is qua 1/3rd deduction, multiplier and the compensation awarded under conventional heads.

4. Counsels are *ad idem* that the issue qua deduction of the financial assistance received by the dependents of the deceased from the employer under relevant rules already stands decided by Supreme Court in the case of ***Reliance General Insurance Co. Ltd. vs. Shashi Sharma and others*** observing as under:-

> "22. xx xx xx The Claims Tribunal has to adjudicate the claim and determine the amount of compensation which appears to it to be just. The amount receivable by the dependants/claimants towards the head of pay and allowances in the form of ex-gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, that the Rules of 2006 would come into play if the Government employee dies in harness even due to natural death. At the same time, the Rules of 2006 do not expressly enable the dependents of the deceased Government employee to claim similar amount from the tortfeasor or Insurance Company because of the accidental death of the deceased Government employee. The harmonious approach for determining a just compensation payable under the Act of 1988, therefore, is to exclude the amount received or receivable by the dependents of the deceased Government employee under the Rules of 2006 towards the head financial assistance equivalent to "pay and other allowances" that was last drawn by the deceased Government employee in the normal course. This is not to say that the amount or payment receivable by the dependents of the deceased Government employee under Rule 5 (1) of the Rules, is the total entitlement under the head of "loss of income". So far as the claim towards loss of future escalation of income and other benefits, if the deceased Government employee had survived the

accident can still be pursued by them in their claim under the Act of 1988. For, it is not covered by the Rules of 2006. Similarly, other benefits extended to the dependents of the deceased Government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, Life Insurance, Provident Fund etc., that must remain unaffected and cannot be allowed to be deducted, which, any way would be paid to the dependents of the deceased Government employee, applying the principle expounded in Helen C.Rebello and Patricia Jean Mahajan's cases (supra).

23. A Priori, appellants must succeed only to the extent of amount receivable by the dependents of the deceased Government employee in terms of Rule 5(1) of the Rules 2006, towards financial assistance equivalent to the loss of pay and wages of the deceased employee for the period specified."

5. Counsel representing insurance company does not dispute that the deduction applied by the Tribunal needs modification and 1/4th needs to be deducted instead of 1/3rd to calculate the dependency. Further keeping in view the ratio of law laid down by Supreme Court in ***'National Insurance Company Limited vs. Pranay Sethi and others', (2017) 16 SCC 680 and 'Smt. Sarla Verma & others vs. Delhi Transport Corporation & another' (2009) 6 SCC 121 and Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018 decided on 18.09.2018***, the impugned award is modified as under:-

Income (Monthly)	Rs.36,200/- per month
Future Prospects	30% (36,200 + 10,860) = 47,060/-
Deduction	1/4 (47,060 – 11,765 = 35,295/-)
Multiplier	12
Funeral Expenses	18,000/-
Loss of estate	18,000/-
Consortium	48,400 x 4 = 1,93,600/-
Deduction of Ex-gratia Financial Assistance	127 months x 36,200 = 41,40,200/-
Interest	6%

6. Dispose off, accordingly.

7. A photocopy of this order be placed on the file of other connected case.

8. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

13.01.2026
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No