2026.PHHC.069754

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(358)

FAO-6013-2019 (O&M)
Date of decision:- 05.05.2026

Ram Parsad and another

...Appellants

Versus

Vijay Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sansar Kundu, Advocate,
for the appellants.

Ms. Tanu Bhatia, Advocate, for
Mr. Nigam K. Bhardwaj, Advocate,
for respondent No.3-Insurance Company.

****

VIKAS BAHL, J. (ORAL)

1. The married son and married daughter have challenged the award dated 02.07.2019 vide which the claim petition was dismissed.

ARGUMENTS ON BEHALF OF THE APPELLANTS

2. Learned counsel for the appellants has submitted that in the present case, issue no.1 was decided in favour of the appellants and under issue no.2, the sole ground given for non-grant of compensation was that the present appellants were the married son and married daughter of the

deceased and thus, were not entitled to compensation. It is submitted that the Tribunal had relied upon a judgment of the Hon'ble Supreme Court in the case titled as "***Manjuri Bera* Versus Oriental Insurance Company Ltd. and another**, ***decided on 30.03.2007 Appeal (Civil) 1702 of 2007***, which judgment was considered by the Hon'ble Supreme Court in the case of "***National Insurance Company Limited*** Versus ***Birender and ors."***, ***reported as 2020(11) SCC 356*** and as per the said judgment even the major, married and earning sons of the deceased, being LRs of the deceased, have the right to apply for compensation and once the said application is filed, it is the bounden duty of the Tribunal to consider the said application irrespective of the fact, whether concerned legal representatives were dependent on the deceased or not. It is submitted that thus the appellants are entitled to compensation.

3. Learned counsel for the appellants has further submitted that in the present case, it has been proved on record that the deceased was an income tax assessee and as per the income tax return for the assessment year 2015-2016 which was submitted on 17.04.2015 i.e. prior to the date of the accident, the income of the deceased was Rs.3,15,680/- and taking the said income into consideration and also the multiplier of '5' as the deceased was 70 years and others aspects, the present appellants should be granted compensation of Rs.11,84,266/-. It is argued that as per settled law, the present appellants are also entitled to an amount of Rs.18,000/- each on accounts of funeral expenses and loss of estate and further an amount of Rs.96,000/- (48,000 x 2) on account of loss of consortium. It is submitted that the enhanced amount of compensation be paid to the appellants along

with interest @ 9% per annum. In support of his arguments, learned counsel for the appellants has referred to a chart, which is reproduced herein below: -

"Ram Parsad and another
...Appellants

Versus

Vijay Kumar and others
..Respondents

Claim Petition filed on 06.07.2015

Date of incident: 30.04.2015

Nature of case: Death Case

Name of Deceased: Balwan

Age of Deceased: 70 years

Claimants: 2 (Son) (Daughter)

The income of deceased was Rs. 3,15,680/- per annum and the same is evident from Ex.P-2 Income Tax Return for the assessment Year 2015-16 (date of filing of ITR 17.04.2015).

DETAILS OF RELIEF GRANTED/CLAIMED

Details	*Before the Tribunal*	*Compensation Claimed as per judgments of Sarla Verma, Pranaya Sethi & General Insurance*
Annual Income	*3,15,680/-*	*3,15,680/-*
Future	*Nil*	*Nil*
Deduction	*1/3*	*1/3 = 3,15,680 – 1,05,226 =*
Multiplier	5	5 = 2,10,453 x 5 = 1,05,226

Funeral Expenses	-----	*18,000/-*
Loss of Estate	-----	*18,000/-*
Consortium/filial/ parental	-----	*48,000/-X 2 = 96,000/-*
Total Granted	-----	*11,84,266/-*
Interest	-----	*7.5%*

CHANDIGARH
DATED 05.05.2026

(SANSAR KUNDU)
P/2465/2007
PH224708
ADVOCATE
COUNSEL FOR THE APPELLANTS"

4. Learned counsel for the appellants has also relied upon the law laid down by the Hon'ble Supreme Court in cases titled as ***Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another*** reported as ***(2009) 6 SCC 121***, ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported as ***(2017) 16 SCC 680***, and ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others*** reported as ***(2018) 18 SCC 130***.

ARGUMENTS ON BEHALF OF RESPONDENT NO.3

5. Learned counsel for respondent No.3, on the other hand, has pointed out that since the accident had taken place in the year 2015, thus, the amounts on accounts of funeral expenses and loss of estate are required to be taken as Rs.15,000/- each and not as Rs.18,000/- each and even on account of loss of consortium, the amount is required to be taken at the rate of Rs.40,000/- each. It is further submitted that the rate of interest which is sought to be claimed by the appellants is highly excessive and at best the interest that can be awarded on the additional compensation is 6% per annum.

ARGUMENTS IN REBUTTAL

6. Learned counsel for the appellants in rebuttal has not disputed the amounts to which the appellants are entitled to on accounts of funeral expenses, loss of estate and loss of consortium as argued on behalf of respondent No.3-insurance company.

ANALYSIS AND FINDINGS

7. This Court has heard learned counsel for the appellants as well as learned counsel for respondent No.3-insurance company and is of the opinion that the appeal filed by the present appellants deserves to be allowed and the award dated 02.07.2019 to the extent that no amount of compensation has been given to the appellants, deserves to be set aside, for the reasons stated herein-after.

8. The Tribunal vide order dated 14.11.2017 had framed the following issues: -

> 1. *Whether Balwan sustained serious injuries into his death in a road side accident on 30.04.2015 by way of rash and negligent driving by Tanker No.HR38H-0966 being driven by respondent no.1? OPP*
> 2. *If issue No.1 proved in favour of petitioners, then as to what amount of compensation and from whom, the petitioners are entitled to receive the same? OPP*
> 3. *Whether respondent no.1 was holding a valid driving licence at the time of accident? OPR*
> 4. *Whether the respondents no.1 and 2 have violated the terms of route permit and fitness certificate? OPR*
> 5. *Relief."*

9. It is not in dispute that issue no.1 was held in favour of the claimants. Under issue no.2, it was observed that as per the income tax

return for the assessment year 2015-2016 (Ex.P2), the annual income of the deceased was Rs.3,15,680/- and the age of the deceased was 70 years. However, after noticing the said fact, no amount was granted to the appellants as compensation on account of the fact that appellant no.1 was the married son and appellant no.2 was the married daughter of the deceased.

10. The finding of the Tribunal to the abovesaid effect is against the law laid by the Hon'ble Supreme Court in the case of ***Birender and other*** ***(supra)*** in which case the judgment of the Hon'ble Supreme Court in case of ***Manjuri Bera*** ***(supra)*** was also taken into consideration. In the said judgment, the Hon’ble Supreme Court of India had observed that in view of the provision of Section 166 (1) (c), the legal representatives of the deceased could move application for compensation and that major, married son, who are earning and not fully dependent on the deceased, would still be covered by the expression “legal representative” of the deceased. It was further observed that it is a matter of settled law that even the major, married and earning sons of the deceased, being legal representatives, have a right to pursue the said application for compensation and it is bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependent on the deceased or not. The said proposition of law has not been disputed on behalf of respondent No.3.

11. In view of the said facts, it cannot be said that the appellants should not be entitled to any compensation and the finding to the said effect is set aside.

12. The next question which arises for consideration before this

Court is as to how much amount the appellants are entitled to. It is not in dispute that the income tax return for the assessment year 2015-2016 was filed on 17.04.2015 which is prior to the date of accident and the same has been duly exhibited as Ex.P-2. The annual income of the deceased has been assessed as Rs.3,15,680/- per annum. Since from the said return, it is proved that the income of the deceased prior to his death was Rs.3,15,680/-, thus, the appellants have rightly in the chart assessed the income as Rs.3,15,680/- per annum. The appellants have fairly stated that since the deceased was 70 years of age, thus, nothing was to be added on account of future prospects and have fairly mentioned deduction to the extent of 1/3rd and have also rightly applied the multiplier of '5', which aspects have not been disputed before this Court. Although, the appellants have claimed funeral expenses, loss of estate as well as loss of consortium to the extent of Rs.18,000/-, Rs.18,000/- and Rs.96,000/- respectively, but learned counsel for respondent No.3 has rightly pointed out that the amount on the said accounts should be Rs.15,000/-, Rs.15,000 and Rs.80,000/- respectively as the accident is of the year 2015.

13. In the said circumstances, the appellants would not be entitled to the amount of Rs.11,84,266/- which has been claimed in the chart but would be entitled to Rs.11,62,266/-. Thus, the appellants are held entitled to an amount of Rs.11,62,266/-. With respect to interest, this Court is consistently awarding rate of interest @ 7.5% per annum on the amount of compensation, which rate of interest is also reasonable in the present case.

14. Keeping in view the abovesaid facts and circumstances, the present appeal is allowed and the impugned award dated 02.07.2019 is

modified and respondent No.3-Insurance Company is directed to pay an amount of compensation to the tune of Rs.11,62,266/- to the appellants/claimants along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of actual payment within a period of two months from today.

May 05, 2026 **(VIKAS BAHL)**
naresh.k **JUDGE**

Whether speaking/reasoned:- Yes
Whether reportable:- Yes