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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5645-2016 (O&M)
Date of Decision : 22.01.2026

National Insurance Company Ltd. ... Appellant(s)

Versus

Jasbir Kaur @ Jasveer Kaur & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajeesh Malhotra, Advocate for the appellant.

Mr. Vipul Sharma, Advocate and
Mr. Ashwani Arora, Advocate for respondent Nos.1 to 5.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the appellant-Insurance Company aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter referred to as 'Tribunal') vide the impugned award dated 29.03.2016 in a motor vehicle accident which occurred on 14.03.2015.

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	₹2,18,119/-
2	Future Prospects - 50%	₹3,27,179/- [₹2,18,119 + ₹1,09,060]
3	Deduction - 1/4th	₹2,45,384/- [₹3,27,179 - ₹81,795]
4	Multiplier - 17	₹41,71,528/- [₹2,45,384 x 17]
5	Loss of estate	₹25,000/-

6	Funeral expenses	₹25,000/-
7	Loss of consortium	₹1,00,000/-
8	Love and affection	₹2,00,000/- (₹50,000 x 4)
9	**Total Compensation**	**₹45,21,528/-**
	Interest	**6%**

4. Learned counsel for the appellant-Insurance Company would contend that the income of the deceased, as assessed by the Tribunal, is on the higher side. Learned counsel would further contend that the Tribunal has wrongly made an addition of 50% towards future prospects which ought to have been 40% keeping in view the age of the deceased as 30 years. Learned counsel would further contend that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is also excessive. In support of his contentions, he 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*, learned counsel for the claimant-respondent Nos.1 to 5 would contend that the income of the deceased as assessed by the Tribunal is on the lower side inasmuch as the Tribunal instead of taking the average amount of the Income Tax Returns ought to have taken the highest amount of the same, which was ₹2,37,580/- per annum for the Assessment Year 2014-15. In support of his contentions, he has relied upon the judgment of the Hon'ble Supreme Court in the case of **Rupali Kailas Mamode & Ors. Vs. National Insurance Company Ltd. & Ors. [2023 ACJ 327]**. Learned counsel would further contend that the Tribunal has rightly made an addition

of future prospects @ 50% and has rightly awarded the compensation under the conventional heads as well as under the head 'loss of consortium'.

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

7. In the present case, in order to prove the income of the deceased, the claimant-respondent Nos.1 to 5 have examined Sh. Kaushal Jha, Inspector from the office of Income Tax Department, SAS Nagar, Mohali as PW3. This witness proved on record the Income Tax Returns of the deceased and deposed that the annual income of the deceased for the Assessment Year 2012-13 was ₹1,92,523/-; for the Assessment Year 2013-14 as ₹2,24,255/- (after deducting income tax of ₹972/-) and for the Assessment Year 2014-15 as ₹2,37,580/- and accordingly, in the fitness of things to assess the annual income of the deceased, the Tribunal has taken the average amount of the Income Tax Returns for the above assessment years and assessed the annual income of the deceased as ₹2,18,119/-.

8. A perusal of the annual incomes reflected in the Income Tax Returns of the deceased, as noticed by the Tribunal, reveals that there was no steep increase in the annual income of the deceased in the ITRs for three different assessment years. Hon'ble Supreme Court in a recent judgment in the case of **Nidhi Bhargava & Ors. Vs. National Insurance Company Ltd. & Ors. [2025 SCC Online SC 872]** has held as under :

> *"15. The High Court interfered and reduced the compensation as awarded by the Tribunal only on the ground that Return for the Assessment Year 2008-2009 had to be excluded from consideration. It is not in dispute that the deceased was a businessman. The relevance of the Income Tax Return stems, in the context of the Act, for the period which it relates to i.e., the Financial Year*

> *concerned, and not on the date on which it is filed with the Income Tax Department. <u>When faced with Returns for different Assessment Years, it would be upto the Tribunal concerned to adopt either the average income therefrom or choose an Assessment Year to rely upon. There is good reason to leave judicial discretion on the Tribunal to adopt one of the afore-noted two courses of action, bearing in nature the social purpose and object behind the Act, which is a beneficial legislation</u>. It is quite unfortunate that the High Court in the present case has dealt with the matter in such a casual and superficial way where the rightful claim of the appellants under a welfare legislation has been drastically reduced without any cogent reason on a very tenuous ground, which we find to be totally unjustified. As pointed out in Shivaleela v. Divisional Manager, United India Insurance Co. Ltd., 2025 SCC OnLine SC 563:*
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> > *'13. ... In K Ramya v. National Insurance Co. Ltd., 2022 SCC OnLine SC 1338, after taking note of, inter alia, Ningamma v. United India Insurance Co. Ltd., (2009) 13 SCC 710, the Court held that the '... Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future. ...'*
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> *(underlined in original)"*

9. Admittedly, the claimant-respondent Nos.1 to 5 have not preferred any appeal against the impugned award. The judgment in the case

of **Rupali Kailas Mamode** (supra) relied upon by the learned counsel for the claimant-respondent Nos.1 to 5 is distinguishable inasmuch as in that case there was a steep increase in the income of the deceased and keeping in view that aspect, the income of the deceased was assessed according to the higher ITR. In the opinion of this Court, in view of the judgment of the Hon'ble Supreme Court in the case of **Nidhi Bhargava** (supra), the Tribunal has rightly exercised its judicial discretion to assess the income of the deceased as the average amount of ITRs. Accordingly, the arguments of both the learned counsel for the claimants and Insurance Company, in this regard, stands rejected.

10. The argument of the learned counsel for the appellant-Insurance Company that the addition of 40% ought to have been made towards future prospects instead of 50%, deserves to be accepted keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra). Hence, an addition of 40% is made towards future prospects keeping view the age of the deceased as 30 years at the time of the accident.

11. The argument of the learned counsel for the appellant-Insurance Company that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is excessive also deserves to be accepted keeping in view 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). Accordingly, the claimant-respondent Nos.1 to 5 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, two children and parents of the deceased)

would be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium.

12. Since there is no challenge to the deduction as well as to the multiplier, the same are accordingly maintained. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual Income	₹2,18,119/-
2	Deduction - 1/4th	₹1,63,589/- [₹2,18,119 - ₹54,530]
3	Future Prospects - 40%	₹2,29,024/- [₹1,63,589 + ₹65,435]
4	Multiplier - 17	₹38,93,408/- [₹2,29,024 x 17]
5	Loss of estate	₹18,000/-
6	Funeral expenses	₹18,000/-
7	Loss of consortium (i) Parental [₹48,000/- x 2] (ii) Filial [₹48,000/- x 2] (iii) Spousal	 ₹96,000/- ₹96,000/- ₹48,000/- (Total ₹2,40,000/-)
	Total Compensation	**₹41,69,408/-**

13. In view of the above discussion, the award passed by the Tribunal stands modified and the present appeal is disposed off accordingly. Pending applications, if any, also stand disposed off.

22.01.2026 **(ALKA SARIN)**
Yogesh Sharma **JUDGE**

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