



FAO-1734-2018 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-1734-2018 (O&M)

ORIENTAL INSURANCE CO. LTD.

.....Appellant

vs.

SARLA DEVI AND ORS.

.....Respondents

Reserved on:- 30.01.2026

Pronounced on:- 25.02.2026

Uploaded on:- 06.03.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. D.P. Gupta, Advocate for the appellant.

Mr. Manjit Singh Gahlawat, Advocate
for respondents No.1 and 2.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 01.12.2017 passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein the appellant-Insurance company was fastened with the liability to pay the compensation of Rs.41,65,432/- to the claimants along with interest @ 7.5 % per annum from the date of filing of claim petition till recovery.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 08.12.2015 deceased Mahavir Singh son of Chanda Ram, who after retirement from Army was serving as



Laboratory Technician in Guru Jambheshwar University, Hisar accompanied by his nephews Sunil Kumar son of Kehar Singh, Dinesh son of Mohar Singh, resident of village Jeetpura, Tehsil Hansi District Hisar and some other persons was waiting for Bus at Bus Stand, Jeetpura for going to Hansi. At about 9.30 AM when Mahavir Singh (now deceased) after urinating had come on the road, in the meantime, a Haryana Roadways Bus of Hisar Depot came from village Bhatol side, which was being driven at a high speed, in careless and negligent manner and without blowing any horn came towards Bus Stand, Jeetpura and Mahavir Singh (now deceased) gave signal with his hand to the driver to stop the Bus and the side of the front side window of the moving bus struck against Mahavir Singh, as a result of which, he had fallen on the road and the back side couple of tyres of the Bus run over his head and the Bus was stopped at about a distance of 50 feet ahead of Bus Stand, Jeetpura. The registration number of the Bus was noted as HR39B/0083 of Hisar Depot. Both Sunil and Dinesh nephews of Mahavir Singh and other passengers standing at Bus Stand, came on the spot and found that head and face of Mahavir Singh was badly insured, while there were injuries on his right hand, mouth, head, ear, forehead and the blood was oozing. Due to injuries, he died at the spot. After causing accident, the driver of the Bus ran away from the spot. FIR No. 455 dated 08.12.2015 under section 279 and 304-A of Indian Penal Code was lodged with Police Station, Sadar Hansi. It was asserted that deceased was 53 years old. Deceased was an Ex-serviceman and was serving as Laboratory Technician with G.J.U. Hisar. He was getting Rs.32,934/- per month as salary from GJU, Hisar and Rs.13,000/- as pension from Army Authorities. That due to untimely death of deceased, claimants have been



deprived of income, love, affection and society of deceased Mahavir Singh. Claimants have accordingly sought compensation of ₹ 1,00,00,000/- (Rs.One Crore only).

3. Upon notice of the claim petition, respondents therein appeared and contested the claim petition by filing separate written statement denying the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

“1. Whether the mishap in question was the direct result of rash driving of Haryana Roadways Bus bearing registration no. HR39B-0083 on the part of respondent No.1 Ram Bhagat son of Shri Suraj Bhan which had resulted into death of Mahavir Singh ? OPP

2. Whether the petitioners are entitled to receive the compensation amount for the death of Mahavir Singh ? If so, how much and from whom ?OPP

3. Whether respondent No.1 Ram Bhagat did not possess a valid driving licence at the time of the mishap and the insured had violated the terms and conditions of the insurance policy and the insurance company is not liable to indemnify by insured? OPR-3.

4. Relief.”

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondents. However, the appellant/Insurance Company was held liable to pay compensation. Hence, the present appeal.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES**

7. Learned counsel for the appellant–Insurance Company contends that the learned Tribunal has erred in holding that the accident in question took place due to the rash and negligent driving of the driver of the offending vehicle. He submits that the finding so recorded is contrary to the evidence available on record. It is further contended that, in fact, the deceased himself was negligent, as he was allegedly standing on the road without observing due care and caution, and thus contributed to the occurrence. On this premise, it is argued that the conclusion on negligence is legally unsustainable.

8. He further contends that the learned Tribunal committed an error in adding the family pension of ₹12,194/–, received by the claimant–widow of deceased Mahavir Singh, while computing the loss of dependency.

9. He further contends that the learned Tribunal has erred in not deducting the amount received by the dependents of the deceased under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006. On the strength of the aforesaid submissions, learned counsel prays that the present appeal be allowed and the impugned award be set aside or suitably modified.

10. *Per contra*, learned counsel for the respondents No.1 and 2, however, contends that learned Tribunal has rightly held accident occurred due to rash and negligent driving of offending vehicle. He further contends that compensation awarded by learned Tribunal is on the lower side. Therefore, he prays for dismissal of the present appeal

11. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.



12. Before proceeding further it is apposite to reproduce the relevant portion of the award. The relevant portion is reproduced as under:-

“ISSUE NO.1

9. To prove that the accident dated 08.12.2015 was the result of rash and negligent driving of respondent No. 1 while driving offending Haryana Roadways Bus bearing No. HR-39B-0083, claimants have placed reliance upon the testimony of eye witness and author of FIR No. 455 dated 08.12.2015 i.e. PW-2 -Sunil. PW-2 Sunil vide his affidavit Ex. PW-2/A asserted that on 08.12.2015, his uncle deceased Mahavir Singh, who after retirement from Army was serving as Laboratory Attendant in Guru Jambheshwar University, Hisar accompanied by him and his cousin Dinesh was present at Bus stand, Jeetpura at about 9:30 AM. They were waiting for a bus for going to Hansi. His uncle Mahavir Singh after urinating at the Bus Stand had come on the road, in the meantime, offending Haryana Roadways Bus bearing No. HR-39B-0083 being driven by respondent No. 1 at high speed, in careless and negligent manner and without blowing any horn came towards Bus Stand Jeetpura and his uncle Mahavir Singh gave signal with his hand to the driver to stop the bus and the side of the front side window of the moving bus struck against Mahavir Singh as a result of which he had fallen on the road and the back side couple of tyres of the bus run over his head. The driver stopped the bus at a distance of about 50 feet ahead of Bus Stand, Jeetpura. He along with his cousin Dinesh and other passengers reached at the spot and found that head and face of Mahavir Singh was badly injured and there were also injuries on other body parts. Due to injuries he died at the spot. He further stated that he along with cousin Dinesh and other persons took the dead body of his uncle Mahavir Singh to General Hospital,



Hansi, where post mortem was conducted on his dead body.

10. FIR No. 455 dated 08.12.2015 was placed on record as Ex. P-7 along with report Ex. P-6 under section 173 Cr.P.C. by learned counsel for the petitioners against respondent No. 1 to corroborate assertions made by PW-2 Sunil Kumar and to show that it is respondent No. 1 who is facing trial for causing accident and death on account of his rash and negligent driving.

11. In motor accident claim cases standard of proof is 'preponderance of probabilities'. The evidence of PW-2 has to be appreciated keeping in view above noted standard required by law. The assertions of PW-2 in present case finds corroboration in the shape of FIR which was lodged on the very day of occurrence in which manner of accident, number of offending Bus were duly disclosed. The factum of death is duly established by PMR Ex. P-15 dated 08.12.2015. Perusal of FIR No. 455 dated 08.12.2015 shows that the number of offending Bus was duly mentioned by PW-2 at the time of registration of FIR. PW-2 was subjected to lengthy cross-examination. However, nothing could be highlighted from his cross-examination so as to raise any doubt over his testimony. The evidence of PW-2 has therefore gone unchallenged and un-rebutted and inspires confidence. The accident was denied in totality by respondent No.1 while appearing as RW1, however, the respondent no.1 has not filed any application before the higher authorities regarding his false implication in the present case. In judgment titled as Gurdeep Kaur Vs. Tarsem Singh, 2008 (2) RCR (Civil) 774 it was held that if the driver of offending vehicle is facing trial for causing accident in rash and negligent manner, it is prima facie proof of concluding negligence of offending driver in motor vehicular accident claim case. If the oral



testimony of PW-2 is read with FIR Ex. P-7, report under section 173 Cr. P.C. Ex. P-6, and PMR Ex. P-15 and the fact that respondent No. 1 had never protested against lodging of FIR and that it is respondent No. 1 who is facing trial for causing accident, the only conclusion which can be drawn is that deceased Mahavir Singh had died in accident dated 08.12.2015 caused by respondent No. 1 due to his rash and negligent driving while driving Haryana Roadways Bus No. HR-39B-0083. In view of failure on the part of respondents to rebut trustworthy evidence led by claimants, issue No. 1 is decided in favour of petitioners and against respondents.

ISSUES NO. 2 & 3:

12. Both these issues are being taken up together as the same are inter-connected. Onus to prove issue no.2 is upon the petitioners while onus to prove issue no. 3 is upon respondent no.4.

13. In the present case wife and son of deceased Mahavir Singh have sought compensation of Rs.1,00,00,000/-. Claimant No. 1 while appearing as PW-1 in her affidavit Ex. PW-1/A had asserted that deceased was an Ex-serviceman and was serving as Laboratory Attendant with G.J.U. Hisar. He was getting Rs.33,000/- per month as salary and Rs.16,000/- as pension from Army Authorities. She also stated that they spent Rs.1 Lac on the transportation of his dead body as well as on the performance of his last rites etc. She further stated that the petitioners were fully dependent upon deceased. PW-3 Sandeep Jhuria, Clerk G.J.U has proved the documents i.e. notification of 7th pay commission Ex.P1, details of payments made to deceased Mahavir Singh Ex.P2, salary certificate for the month of November, 2015 Ex.P3 and notification Ex.P4. PW4 Pardeep Yadav, Assistant, State Bank of India has proved the account statement of



deceased Mahavir Singh Ex.P5. Perusal of salary certificate Ex. P3 goes to show that total amount payable to deceased was Rs.32,934/- and he received Rs.28,345/- after deduction of GPF, Income Tax, Marriage Loan, Wheat Loan and Union Fund. Therefore, the income of deceased is taken as Rs.28,345/- as depicted in Ex. P3-. It is not disputed that the deceased was an Ex-serviceman and getting pension of Rs.12,194/- as is clear from statement of account Ex.P5. Contrary to it respondents have failed to adduce any evidence to deny the claim of the petitioners. Thus, the total annual income of the deceased Mahavir is assessed as Rs.28,345/- + Rs.12,194/- = Rs.40,539/- per month.

14. As far as future prospects are concerned, the larger bench of Hon'ble Supreme Court of India in a case of National Insurance Company Limited Versus Pranay Sethi and Ors. Special Leave Petition(CIVIL) No.25590 of 2014 decided on 31.10.2017 after discussing the cases of Sarla Verma and others V. Delhi Transport Corporation and another (2009) 6 SCC 121, Reshma Kumari and others V. Madan Mohan and another (2013) 9 SCC 65, Rajesh and others Vs Rajbir Singh and others (2013) 9 SCC 54, National Insurance Company Limited V. Pushpa and others (2015) 9 SCC 166, Santosh Devi V. National Insurance Company Limited and others (2012) 6 SCC 421, Munna Lal Jain and another V. Vipin Kumar Sharma and others (2015) 6 SCC 347 and number of another judgments delivered by the Hon'ble Supreme Court of India and other High Courts, held that even in case of government employee, if the deceased victim was between the age of 50 to 60 years, the addition should be 15% while computing future prospects. The larger Bench of Hon'ble Supreme Court of India in para no.60 of judgment has given the following observation:-



60. *The controversy does not end here. The question still remains whether there should be no addition where the age of the deceased is more than 50 years. Sarla Verma thinks it appropriate not to add any amount and the same has been approved in Reshma Kumari. Judicial notice can be taken of the fact that salary does not remain the same. When a person is in a permanent job, there is always an enhancement due to one reason or the other. To lay down as a thumb rule that there will be no addition after 50 years will be an unacceptable concept. We are disposed to think, there should be an addition of 15% if the deceased is between the age of 50 to 60 years and there should be no addition thereafter. Similarly, in case of self employed or person on fixed salary, the addition should be 10% between the age of 50 to 60 years. The aforesaid yardstick has been fixed so that there can be consistency in the approach by the tribunals and the Courts.*

Thus, following the latest law laid down by Hon'ble Supreme court, a sum of Rs. 6,000/- has to be added to the income of the deceased towards future prospects for assessing his monthly income which takes his income to Rs. 46,539/- per month (Rs.40,539/- + Rs.6,000/-). Thus, his annual income comes to $46,539 \times 12 = \text{Rs. } 5,58,468/-$.

15. *As far as the question of determination of the multiplicand, the deduction for personal and living expenses, is concerned, the larger bench of Hon'ble Supreme Court of India in the latest judgment as discussed above has given the observation that the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma's Case (Supra). In the present case the deceased has left behind two dependents and one third of income has to be deducted towards personal expenses of deceased in*



view of law laid down in Smt. Sarla Verma and others Vs. Delhi Transport Corporation and anr. 2009(3) RCR (Civil) 77 and annual loss of dependency comes to Rs.3,72,312/- (Rs.5,58,468 – Rs.1,86,156 = Rs.3,72,312/-).

16. As far as the multiplier is concerned, the larger bench of Hon'ble Supreme Court of India in the latest judgment as discussed above has given the observation that the age of the deceased should be the basis for applying the multiplier and selection of multiplier shall be taken as indicated in the table provided in Sarla Verma's case (Supra). In the present case the petitioners have alleged that deceased was 53 years of age. In death certificate (Ex. P16) age of deceased is shown to be 53 years. Thus, from the evidence led by petitioners, age of deceased is taken as 53 years. No evidence to prove to the contrary has been led by respondents and accordingly age as mentioned in death certificate (Ex.P16) is taken to be correct. Taking the age of deceased as 53 years, multiplier of 11 has to be applied in view of Sarla Verma's case (Supra) as well as the latest law laid down in National Insurance Company Limited Vs Pranay Sethi and others (Supra), which takes the compensation to $\text{Rs.3,72,312/-} \times 11 = \text{Rs.40,95,432/-}$.

17. As far as grant of loss of estate and funeral expenses are concerned, in view of the latest law laid down in National Insurance Company Limited Vs Pranay Sethi and others (Supra), the petitioners are further granted a sum of Rs.15,000/- towards expenses, which must have been incurred on funeral ceremony of deceased Mahavir Singh and Rs.40,000/- towards compensation for loss of consortium of the husband to the claimant no.1. In this case, petitioner no.2 is the major son of deceased Mahavir Singh, aged 30 years and he is married and his own family. In her deposition, the claimant no.1 while appearing as PW1 during her cross examination has admitted that



earlier she along with her son i.e. petitioner no.2 was living together. She further admitted that petitioner no.2 is employed in G.J.U. Hisar since last eight years. Thus, it is clear that petitioner no.2 was not dependent upon the deceased Mahavir Singh. Hence, he is entitled for compensation only on account of loss of estate.

18 In this way, petitioners are entitled to compensation of Rs.4,095,432/-+15,000/-+40,000/-+15,000/-= Rs.41,65,432/-.

19. Now question arises that who is liable to pay compensation. Admittedly, respondents no.1 is the driver of the offending vehicle and as per his driving license Ex.R6, he was competent to drive the offending vehicle and said driving license is valid up to 08.04.2017. As per insurance policy Ex.R2, the offending vehicle was insured with the insurance company respondent no.4 at the time of alleged accident. Respondent no.4 has failed to establish that the driving license in question is fake or illegal or to show that insurance company is not liable to pay compensation on account of any violation on the part of the respondents no.1 to 3.

20. As far as the contention of learned counsel for the respondent no.4 that the offending vehicle was not plied on the prescribed route i.e. Hansi-Julana route as per route permit Ex.R5 and thus the same is violation of the insurance policy, is concerned, it is pertinent to mention here that admittedly the route permit Ex.R5 reveals that the route to the offending was allotted from Hansi to Julana, however, the alleged accident had taken place at Bus Stand, Jeetpura. The allotting of route to the Roadways Bus is the internal arrangement of the Transport Authority and same may be changed from time to time as per the requirement of passengers. Furthermore, a perusal of registration certificate Ex.R3 reveals that the token tax has been paid up to 31.03.2016 pertaining to the offending



Bus. Mere saying that the offending vehicle was not plying on the prescribed route does not deny the claim of the claimants.

21. Hence, respondent no.1 being driver, respondents no.2 & 3 being owners and respondent no.4 being insurer of the offending vehicle, are jointly and severally liable to pay the amount of compensation. As discussed above that the vehicle in question was insured with the respondent no.4 and there is no violation of terms and conditions of the insurance company, hence, the respondent no.4 is liable to pay the amount of compensation. Accordingly, issue no. 2 is decided in favour of the petitioners and issue no. 3 is decided against respondent no. 4.”

13. A perusal of the impugned award reveals that the learned Tribunal has meticulously appreciated the entire oral as well as documentary evidence available on record and has returned a well-reasoned finding that the accident in question occurred on account of the rash and negligent driving of respondent No.3, the driver of the offending vehicle.

14. It transpires from the record that PW-2, the eye-witness to the occurrence and the author of FIR (Ex. P-7), has given a cogent and consistent account of the sequence of events leading to the accident. He unequivocally attributed negligence to the driver of the offending vehicle. Though subjected to searching and lengthy cross-examination, nothing material could be elicited to discredit his testimony or to create any dent in his credibility. His deposition, therefore, inspires confidence and rightly stood accepted by the learned Tribunal.

15. It is further borne out from the record that respondent No.3 is facing criminal trial arising out of the same accident. It is well settled that



registration of the FIR and the prosecution of the driver constitute a strong *prima facie* circumstance indicative of negligence, particularly when read in conjunction with reliable ocular testimony and contemporaneous documentary evidence.

16. The learned Tribunal has also correctly kept in view the settled principle that proceedings before the Motor Accident Claims Tribunal are summary in nature and the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt. In the present case, the claimants/respondents No.1 and 2 have successfully discharged the said burden by leading trustworthy and unrebutted evidence.

17. In view of the aforesaid discussion, this Court finds no perversity, illegality, or material irregularity in the findings recorded by the learned Tribunal on the issue of rash and negligent driving. The conclusions drawn are based on proper appreciation of evidence and settled principles of law. Accordingly, the findings on the issue of negligence are affirmed.

18. Adverting now to the second limb of argument advanced on behalf of the appellant–Insurance Company, that the learned Tribunal erred in not deducting the amount received by the dependents of the deceased under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, the said contention merits acceptance.

19. This Court, in **FAO-1558-2012, titled as “Balwan Singh and others Vs. Jagbir and others”, decided on 15.10.2025**, has had the occasion to consider an identical issue and has categorically held that the financial assistance extended to the dependents of a deceased Government employee under the Haryana Compassionate Assistance to the Dependents of Deceased



Government Employees Rules, 2006 is liable to be taken into account and deducted while computing compensation under the Motor Vehicles Act. The relevant extract of the said judgment is reproduced as under:

“11. Coming to the contention of the claimants regarding the amount deducted from the total compensation on the account of the amount received by the dependents of the deceased under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, from the total compensation awarded. This contention of the claimants have no bearing in the eyes of law as it is settled principle of law that deductions can be made in the compensation to avoid double benefit to the claimants.

*12. The Hon’ble Supreme Court in **Reliance General Insurance Co. Ltd. v. Shashi Sharma, 2016(9) SCC 627** held that the dependents of the deceased already benefitted by the compensatory amount received from the employer under Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, will not be entitled to the same amount under 1988 Act.*

13. The relevant portion of the judgment is reproduced as under:

“15. Be that as it may, the term compensation has not been defined in the Act of 1988. By interpretative process, it has been understood to mean to recompense the claimants for the possible loss suffered or likely to be suffered due to sudden and untimely death of their family member as a result of motor accident. Two cardinal principles run through the provisions of



the Motor Vehicles Act of 1988 in the matter of determination of compensation. Firstly, the measure of compensation must be just and adequate; and secondly, no double benefit should be passed on to the claimants in the matter of award of compensation. Section 168 of the Act of 1988 makes the first principle explicit. Sub-section (1) of that provision makes it clear that the amount of compensation must be just. The word "just" means - fair, adequate, and reasonable. It has been derived from the Latin word "justus", connoting right and fair. In para 7 of State of Haryana & Anr. v. Jasbir Kaur & Ors., 2003(4) RCR (Civil) 140 : (2003) 7 SCC 484, it has been held that expression "just" denotes that the amount must be equitable, fair, reasonable and not arbitrary. In para 16 of Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., 2009(3) RCR (Civil) 77 : 2009(3) Recent Apex Judgments (R.A.J.) 373 : (2009) 6 SCC 121, this Court has observed that the compensation "is not intended to be a bonanza, largesse or source of profit". That however may depend upon facts and circumstances of each case, as to what amount would be a just compensation.



16. The principle discernable from the exposition in Helen C. Rebello's case (supra) is that if the amount "would be due to the dependants of the deceased even otherwise", the same shall not be deductible from the compensation amount payable under the Act of 1988. At the same time, it must be borne in mind that loss of income is a significant head under which compensation is claimed in terms of the Act of 1988. The component of quantum of "loss of income", inter alia, can be "pay and wages" which otherwise would have been earned by the deceased employee if he had survived the injury caused to him due to motor accident. If the dependents of the deceased employee, however, were to be compensated by the employer in that behalf, as is predicated by the Rules of 2006 - to grant compassionate assistance by way of ex-gratia financial assistance on compassionate grounds to the dependents of the deceased Government employee who dies in harness, it is unfathomable that the dependents can still be permitted to claim the same amount as a possible or likely loss of income to be suffered by them to maintain a claim for compensation under the Act of 1988."



14. The same principle is reiterated in the latest judgment passed by Apex Court in **Krishna and others Vs. Tek Chand and others, 2025(2) PLR 95.**

Relevant paragraphs of the **Krishna's case (supra)** are extracted hereinbelow:

“6. We find that the observations of this Court in *Sebastiani Lakra (supra)* distinguishing the case of *Shashi Sharma (supra)* clearly applies to the case in hand. It is observed that the amount of Rs. 31,37,665/- (Rupees Thirty One Lakhs, Thirty Seven Thousand and Six Hundred and Sixty Five only) was paid to the dependents of the deceased-employee who are the petitioners herein under the aforesaid Rules since the said Rule was by way of compassionate assistance owing to the sudden death of the employee in harness for any reason whatsoever including as a result of a road traffic accident. This is in order to compensate the loss of the bread earner of the family who dies in harness.

In the case of a motor vehicle accidents, when negligence is proved, loss of dependency is compensated for the very same reason. In our view, there cannot be a duplication in payments or a windfall owing to a misfortune. In another words, on the death of the person in harness, owing to a road traffic accident the dependents of a deceased cannot be doubly



benefited as opposed to those who are dependents of a deceased who dies owing to illness or any other reason under the Rules formulated by the Haryana Government.”

15. In light of the aforesaid authoritative pronouncements, the deduction made by the learned Tribunal towards the compassionate assistance is liable to be upheld. Consequently, the claimants are entitled to the compensation amount only to the extent of enhancement made by this Court.”

20. In the present case, it has come on record, particularly from Ex. P-2, that the claimant–widow of deceased Mahavir Singh has been receiving financial assistance under the aforesaid Rules for the period from 09.12.2015 till 31.01.2022, i.e. the date on which the deceased would have attained the age of superannuation, at the rate of ₹29,605/- per month.

21. The learned Tribunal, by omitting to deduct the said amount, has failed to apply the settled legal position. Accordingly, the compensation awarded is liable to be recalculated after deducting the financial assistance received by the claimant under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 for the aforesaid period.

22. So far as the contention raised by the appellant–Insurance Company that the learned Tribunal committed an error in adding the family pension of ₹12,194/–, received by the claimant–widow of deceased Mahavir Singh, while computing the loss of dependency is concerned, the same is devoid of merit and deserves to be rejected.



23. This Court, in **FAO-4272-2018, titled as “Chameli Devi and others Vs. Sanjeev Kumar and others”, decided on 28.01.2026**, has had the occasion to examine an identical question and has categorically held that family pension received by the dependents of a deceased employee cannot be deducted from, nor excluded while assessing, the compensation payable under the Motor Vehicles Act. The relevant extract of the said judgment reads as under:

*“11. The pivotal question that thus arises for consideration is **whether the family pension being received by the widow can be taken into account while computing the loss of dependency.***

*12. This aspect was considered in the case of **Mrs. Helen C. Rebello & Ors. v. Maharashtra State Road Transport Corpn. & Anr. AIR, 1998 SC 3191** wherein it was observed that while calculating the compensation on account of death, the pecuniary advantage accruing under the Act, had to be deciphered by co-relating it with the accidental death. The compensation payable under the Motor Vehicles Act is on account of the pecuniary loss to the claimant by accidental injury or death **and not other forms of death.** The pecuniary advantage cannot be interpreted and co-related to any other source/form of death such as natural death or death by suicide, serious illness, including even death by accident, through train, air flight not involving motor vehicle because the same would dilute all possible benefits conferred on the Claimant and would be contrary to the spirit of law. If the pecuniary advantage resulting from death was to include all forms of amounts whether by way of inheritance, succession or any other manner, then it could obliterate both, all possible conferment of economic security to the claimant by the*



deceased and the intention of the legislature. By such an interpretation, the tortfeasor, despite his wrongful act or negligence which contributed to the death of the victim, would have in many cases no or meagre liability and would benefit from the same. Thus, any amount which the Claimants received on account of other forms of death, would not be included while considering the loss of pecuniary benefit in case of accidental amount. Any amount receivable or received not on account of accidental death but would have in any case be received by the Claimant, cannot be construed as a "pecuniary advantage" liable for deduction.

13. *With specific reference to deduction of "pensionary benefits", it was further explained that a person becomes entitled to pension on account of the services rendered in the Department during the tenure of his service. The employee or his heirs are entitled to this amount irrespective of the accidental death. Similarly, family pension is also earned by an employee for the benefit of his family in the form of contribution of his services in terms of service conditions, which becomes receivable by the heirs on his demise. **There is no co-relation between the family pension, which in any case the family would have got and the amount which is paid on account of accidental death.***

14. *Helen C. Rebello (supra) was referred to by the Apex Court in the Case of **United India Insurance Co. Ltd. etc. v. Patrica Jean Mahajan & Ors., 2002 (6) SCC 281** wherein it was endorsed that there is no co-relation between the compensation payable on account of accidental death and the amounts receivable irrespective of such accidental death which otherwise in the normal course one would be entitled to receive. It was further*



highlighted an amount receivable under a statute has no co-relation with an amount earned by an individual.

15. *In the case of **Lal Dei & Ors. v. Himachal Road Transport, (2007) 8 SCC 319**, the Apex Court set-aside the Impugned Order of deduction of the family pension, by observing that the **family pension** is earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death and is receivable even otherwise than the accidental death. There is no co-relation between the two and **therefore, the family pension amount paid to the family cannot be deducted while calculating the compensation awarded to the claimants.***

16. *In **Vimal Kanwar & Ors. v. Kishore Dan & Ors., AIR 2013 SC 3830**, the issue arose before the Hon'ble Apex Court that "whether Provident Fund, **Pension** and Insurance receivable by claimants come within the periphery of the Motor Vehicles Act to be termed as "Pecuniary Advantage" liable for deduction." While relying on the judgment of Mrs. Helen C. Rebello (supra) it was concluded that Provident Fund, **Pension**, Insurance and similarly any Cash, Bank Balance, Shares, Fixed Deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death, but all these have no correlation with the amount receivable under a Statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. It was also held that salary receivable by the claimant on compassionate appointment, may have nexus with the death of an employee while in service but it has no co-relation with the accidental death and hence, not liable to be deducted.*



17. *Similar observations have been made in the Case of **Sebastiani Lakra v. National Insurance Company Ltd., AIR 2018 SC 5034** wherein it was observed that **deductions cannot be allowed** from the amount of compensation either on account of insurance, **or on account of pensionary benefits** or gratuity or grant of employment to a kin of the deceased, because these amounts are earned by the deceased on account of contractual relations entered into by him with others and do not accrue to the heirs on account of his death in a motor vehicle accident. It was further explained that **amounts of pension and gratuity** are paid on account of the service rendered by the deceased to his employer and are more like the property of the deceased. Since these amounts are also payable on death, irrespective of the form or cause of the death, the same is not liable to be deducted. **If the deduction towards the family pension is permitted, it would amount to a tort fissure being given the benefit of munificence or gratuity of others.***

18. *More recently, the Hon'ble Supreme Court in **Hanumantharaju B (Dead) by LRs v. M. Akram Pasha & Anr. 2025 INSC 682**, has once again reaffirmed the settled legal position. The relevant extract of the judgment passed in **Hanumantharaju B's case (supra)** is reproduced as under:-*

“19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident.



Hence, pensionary benefit could not have been treated as “pecuniary advantage” liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.

*For this proposition of law, we may refer to the decision in **Vimal Kanwar & Ors. v. Kishore Dan & Ors. (2013) 7 SCC 476**, wherein this Court, by referring to the earlier decision in **Helen C. Rebello v. Maharashtra SRTC (1999) 1 SCC 90**, held as follows:-*

*“19. The aforesaid issue fell for consideration before this Court in **Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90: 1999 SCC (Cri) 197]**. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a “pecuniary advantage” receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as “pecuniary advantage” liable for deduction. The following was the observation and finding of this Court: (SCC pp. 111-12, para 35)*

“35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This



amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No correlation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all

Page 13 of 20 a



pecuniary advantage receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any correlation. The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the



amount receivable under the life insurance policy is contractual.”

*Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in **Reliance General Insurance Co. Ltd. v. Shashi Sharma & Ors. (2016) 9 SCC 627 and National Insurance Company Ltd. v. Birender & Ors. (2020) 11 SCC 356.**”*

20. Keeping the aforesaid legal position in mind, we shall examine the issues at hand.

21. As regards computing the loss of income, in the light of the above referred decisions, it would not be permissible to deduct the pensionary amount of Rs. 15,247/- from the salary of Rs. 36,231/- as was done by the High Court. Hence, for the purpose of computing the loss of earning, the said monthly salary of Rs. 36,231/- has to be accepted without deducting the pension amount. ”

24. A perusal of the record further reveals that the learned Tribunal has rightly taken into consideration the amount of family pension while determining the loss of dependency. However, it is equally borne out from the record that the learned Tribunal erred in assessing the monthly salary of the deceased from Guru Jambheshwar University, Hisar, at ₹28,345/- after deducting amounts towards T.A., H.R.A., Provident Fund, etc. Such an approach runs contrary to the settled law laid down by the Hon’ble Supreme Court in **Vijay Kumar Rastogi v. U.P. State Road Transport Corporation, 2018 SCC OnLine SC 193**, wherein it has been categorically held that while



computing loss of dependency, deductions on account of allowances such as HRA and other emoluments, which form part of the gross salary, are impermissible. Only statutory deductions like income tax, where applicable, can be made.

25. In view of the aforesaid legal position, the gross monthly salary of the deceased from Guru Jambheshwar University is required to be taken as ₹32,934/-. Adding thereto the monthly family pension of ₹12,194/–, the total monthly income of the deceased for the purpose of computation of compensation is assessed at ₹45,128/– (₹32,934 + ₹12,194).

26. The compensation shall, accordingly, be recalculated on the basis of the aforesaid monthly income. A perusal of the award further reveals that compensation awarded under the heads of loss of consortium is on the lower side and deserved to be enhanced.

27. In view of the aforesaid discussion, the compensation is liable to be recalculated as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.45,128/-
2	Future Prospects @ 15%	Rs.6,769/- (15% of 45,128)
3	Deduction towards personal expenditure 1/3	Rs.17,299/- (51897 X 1/3)
4	Total Income	Rs.34,598/- (51897 – 17,299)
5	Multiplier	11
6	Annual Dependency	Rs.45,66,936/- (34,598 X 12 X 11)
	Loss of estate	Rs.15,000/-
7	Funeral Expenses	Rs.15,000/-
8	Loss of Consortium Parental : 1 X Rs.40,000 Spousal : 1 X Rs.40,000	Rs.80,000/-



9	Total Compensation	Rs.46,76,936/-
10	Deduction Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006	Rs.21,90,770/-
11	Final amount	Rs.24,86,166/- (46,76,936-21,90,770)

28. So far as the interest part is concerned, as held by Hon’ble Supreme Court in *Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma* 2019 ACJ 3176 and *R.Valli and Others VS. Tamil Nandu State Transport Corporation (2022) 5 Supreme Court Cases 107*, the claimants/respondents are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

29. Consequently, respondent–claimants are held entitled to a total compensation of ₹24,86,166/- along with interest @ 9% per annum from the date of filing of the claim petition till realization.

30. Accordingly, the appellant–Insurance Company is directed to deposit the amount of compensation as awarded by this Court after adjusting the amount, if any, already paid to the respondent-claimants, before the Tribunal within a period of two months from the date of receipt of certified copy of this judgment. Upon such deposit, the Tribunal shall release the amount to the respondent–claimants as per ratio settled in award dated 01.12.2017. The claimants/respondents are directed to furnish their bank account details to the Tribunal.

31. Pending application(s), if any, also stand disposed of.

25.02.2026

Ayub

(SUDEEPTI SHARMA)

JUDGE

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes