2026:PHHC:037769

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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1. FAO-174-2018(O&M)

IFFCO TOKIO General Insurance Co. Ltd. ... Appellant

Versus

Swaroop Chand and others ... Respondents

2. FAO-5507-2018(O&M)

Swaroop Chand and another ... Appellants

Versus

Yogender and others ... Respondents

Date of decision : 11.03.2026.

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sanjeev Kodan, Advocate
for the appellant in FAO-174-2018 and
for respondent no.3 in FAO-5507-2018.

Mr.Naveen Upadhyay, Advocate
for the appellants in FAO-5507-2018 and
respondents no.1 and 2 in FAO-174-2018.

<u>VIKAS BAHL, J.(ORAL)</u>

1. The present order would dispose of two appeals in which challenge is to the same award dated 23.10.2017. The first appeal has been filed by the insurance company i.e., FAO-174-2018 in which prayer has been made for reduction of the amount awarded and a plea has been raised that the insurance company is not liable to pay the compensation as the driving licence produced by the claimants as Ex.P3 is fake. The second

appeal i.e., FAO-5507-2018 has been filed by the claimants, who are the parents of deceased Ravinder and are seeking enhancement of compensation.

2. The claimants have been awarded Rs.10,49,000/- by the Tribunal along with interest on account of death of Ravinder, which had occurred in a motor vehicle accident. The aspect that the accident had taken place on account of rash and negligent driving of the driver has not been disputed before this Court and only two questions arise for consideration in the present two appeals which are, whether the amount of compensation awarded by the Tribunal is to be enhanced or to be reduced and whether the driver was holding a valid, effective driving licence and thus, the contest is only to issues no.2 and 3 and not to issue no.1.

3. Learned counsel appearing for the claimants has submitted that in the present case, the Tribunal has not given the benefit of future prospects and since the deceased was 25 years of age, thus, additional 40% of the salary assessed should have been taken into consideration for the purpose of future prospects. It is submitted that the Tribunal had applied the multiplier of 11 by taking into consideration the age of the parents, whereas it is a matter of settled law that it is the age of the deceased which is to be taken into consideration for the purpose of applying multiplier and thus, multiplier of 18 should have been applied. It is submitted that as per settled law, amount on accounts of funeral expenses and loss of estate should be Rs.18,000/- each and on account of loss of consortium should be

Rs.96,000/- (Rs.48,000 x 2) as there are two claimants. It is argued that even the salary which has been assessed by the Tribunal to the extent of Rs.14,000/- is inadequate, as it is proved beyond doubt that the deceased had appeared in final semester examination of three year diploma course in mechanical engineering and the certificate, certifying the said fact, issued by Shree Shyam Polytechnic, Narnaul was duly exhibited as Ex.P7. It is submitted that it was the case of the claimants that the deceased was Junior Engineer in Sanko Gosei JRG Automative India Private Ltd., Plot no.16, Sector 5, HSIDC, Bawal, District Rewari and in the said circumstances, the salary of the deceased should have been assessed as Rs.25,000/- per month and in support of his arguments, learned counsel for the claimants has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Kandasami & Ors. vs. Lindabriyal & Anr.*** reported as ***2023 ACJ 1653.***

4. Learned counsel for the insurance company, on the other hand, has submitted that even as per the case set up by the claimants, it was stated that the deceased was earning an amount of Rs.19,000/- per month on account of his working as a Junior Engineer in Sanko Gosei JRG Automative India Private Ltd. It is submitted that thus, the claimants cannot claim more than the said amount. It is further argued that no document has been produced on record to show that the said deceased was working. It is also submitted that the judgment of the Hon'ble Supreme Court of India relied upon by the claimants is not applicable in the facts and circumstances of the present case, inasmuch as, in the said case, the deceased therein had

completed B.Tech course and had also done a course in computer applications, whereas in the present case the deceased is stated to have done diploma course in mechanical engineering, which cannot be compared to B.Tech course as well as course in computer applications. It is submitted that at any rate, the claimants themselves had claimed Rs.19,000/- per month. It is further argued that under issue no.3, it has been adversely observed by the Tribunal that the driving licence Ex.P3 is not fake, even though the licencing authority had sent a letter to the Tribunal, in which it was stated that the original record has been misplaced and the said fact shows that the licence is fake.

5. Learned counsel for the claimants, in rebuttal, has submitted that in the case of ***Kandasami & Ors. (supra)***, the accident had taken place on 28.09.2008 and the deceased therein was 28 years, whereas in the present case, the deceased was 25 years of age and the accident had taken place on 11.10.2015 and thus, the case of the claimants herein is higher than the case of claimants therein.

6. During the course of arguments, after taking into consideration the arguments raised on behalf of the claimants and the insurance company and also the judgment of the Hon'ble Supreme Court of India in the case of ***Kandasami & Ors. (supra)*** as well as the observations made by the Tribunal in paragraph 17 of the judgment, in which it has been recorded that the certificate Ex.P7 from Shree Shyam Polytechnic, Narnaul shows that the deceased had appeared in the final semester examination of three year

diploma course in mechanical engineering, a very fair stand has been taken by the learned counsel for the insurance company as well as learned counsel for the claimants and it is jointly submitted that the salary in the present case be taken as Rs.19,000/- per month. This Court is also of the opinion that in the facts and circumstances of the case and keeping in view all the abovesaid aspects, the salary of the deceased should be taken as Rs.19,000/- per month.

7. By taking the salary of the deceased as Rs.19,000/- per month, learned counsel for the claimants has submitted a revised chart which is reproduced hereinbelow:-

"Salary ₹ 19000/-			
Future prospect		*40%*	
New total	*-*	*₹26600/-*	
Deduction	*-*	*50%*	
New Compensation	*-*	*₹13300/-*	
13000 x 18 x 12		*=*	*2872800/-*
Funeral expenses		*-*	*18,000/-*
Loss of estate		*-*	*18,000/-*
Consortium		*-*	*96,000/-*
			30,04,800/-
			10,49,000
			19,55,800"

8. Learned counsel for the claimants has submitted that the aspect of future prospects to the extent of 40% is also required to be taken into consideration as per settled law and keeping in view the age of the deceased i.e., 25 years, the multiplier which is to be applied is 18 and even the amounts on accounts of funeral expenses and loss of estate and loss of

consortium are required to be taken as Rs.18,000/-, Rs.18,000/- and Rs.96,000/- (Rs.48,000 x 2). It is submitted that the appellants in the said circumstances would be entitled to an enhanced compensation of Rs.19,55,800/-. The aspects as mentioned in the abovesaid chart are in accordance with law and in accordance with the law laid down by the Hon'ble Supreme Court in the case of ***Kandasami & Ors. (supra)*** and the same is not disputed before this Court. Accordingly, the claimants are entitled to additional compensation of Rs.19,55,800/-. With respect to the rate of interest, this Court is consistently awarding the rate of interest at the rate of 7.5% per annum, which rate of interest is also reasonable in the present case.

9. The only issue that now survives for consideration is whether the driving licence of the driver was valid or not and whether the insurance company would be liable to pay the amount or not. Regarding the same, issue no.3 had been framed which is reproduced hereinbelow:-

> *"3. Whether the respondent no.1 was holding a valid and effective driving licence at the time of accident? if so its effect? OPR*

10. Under issue no.3, the Tribunal had observed that the driving licence which was possessed by the driver had been duly exhibited as Ex.P3, and the same was a valid driving licence. It was observed that the reliance placed upon the letter issued by the Licensing Authority did not show that the licence was fake, inasmuch as, there was no endorsement of the Licensing Authority to say that the licence was fake and it was only

stated that the record had been misplaced and it was observed that the fact that record had been misplaced would not mean that the licence was fake.

11. This Court is of the opinion that once the licence had been duly exhibited as Ex.P3, then, onus was on the insurance company to show that the same was fake and forged and there was no such evidence to show that the said licence was fake and forged. It could not be disputed before this Court that even the letter written by the Licensing Authority did not state that the licence was fake and only stated that the record had been misplaced and thus, the Tribunal was right in observing that merely because the record had been misplaced, it cannot be stated that licence was fake. The findings of the Tribunal on the said issue are upheld. Accordingly, the insurance company cannot avoid its liability to pay compensation.

12. Accordingly, the appeal filed by the insurance company i.e., FAO-174-2018 is dismissed and the appeal filed by the claimants i.e., FAO-5507-2018 is partly allowed and the award dated 23.10.2017 is modified to the extent that IFFCO TOKIO General Insurance Company Limited is directed to pay additional compensation of Rs.19,55,800/- to the claimants along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation within a period of six weeks from today.

(VIKAS BAHL)
JUDGE

March 11, 2026.
Davinder Kumar

Whether speaking / reasoned Yes/No
Whether reportable Yes/No