2026:PHHC:003979

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2125-2018 (O&M)
Date of Decision: January 14, 2026

Sunita Devi and others

...Appellants

VERSUS

Kanwar Pal and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Viransh Kumar Ghawari, Advocate, for the appellants.

Mr.Ashish Sanghi, Advocate for respondent No.2.

Mr.Ajay Singla, Advocate for respondent No.3.

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Mahabir Singh, in a motor vehicular accident.

Suffice to consider that the accident had taken place on 19.10.2016. On appraisal of the evidence, brought on record, it was concluded by learned Tribunal that accident had taken place, due to rash and negligent driving of the Bolero bearing registration No.HR-45B-2212, driven by respondent No.1-Kanwar Pal. Mahabir Singh, who was the pillion rider of the motorcycle driven by Rupesh, had sustained fatal injuries and died instantaneously. Rupesh, who was driving the ill-fated motorcycle, had also sustained injuries in the accident in question. Two separate claim petitions were filed. MACT No.77 of 2016 was filed by widow and children of deceased Mahabir Singh, for seeking compensation, on account of death of Mahabir Singh. In the said petition, parents of deceased Mahabir Singh were also impleaded as proforma respondents No.4 and 5. The other petition i.e. MACT No.76 of 2016 was filed by Rupesh, for seeking compensation, on account of injuries sustained by him. Both the aforesaid petitions were allowed vide impugned Award dated 06.11.2017.

Further, on appraisal of the evidence, brought on record, it was held by learned Tribunal that deceased Mahabir Singh was 52 years old, at the relevant time and he was working as JE in Electricity Department and that monthly earnings of the deceased, after the revision of the pay scale, as per 7th Pay Commission, were Rs.55,934/-.

So far as age of the deceased and working as JE in the Electricity Department is concerned, the same stands amply established from the evidence, brought on record. Suffice to consider the official record proved by PW-4 Parmod Kumar, LDC and Aadhaar Card, which reflects about the date of birth of Mahabir Singh to be 26.03.1964. Also, the salary certificate Ex.P39, reflects that in view of 7th Pay Commission, the revised salary of the deceased was Rs.55,934/- p.m.

Taking it to be so, learned Tribunal had taken into consideration financial assistance granted to the widow of the deceased, as per **Haryana Compassionate Assistance to the Dependents of Deceased Government**

Employees Rules, 2006, which has been proved as Ex.R1, which was to be paid upto 31.03.2022 and after deducting the same, from the monthly salary, the loss of earning was taken as Rs.9691/- per month. To the said amount, 15% addition was made, on the count of 'future prospects' and the loss of dependency was worked upon as Rs.11,145/- per month. Deduction to the extent of 1/3rd was made, on the count of 'personal expenses' and the residue monthly loss of dependency was assessed as Rs.7430/-, annual whereof is Rs.89,160/-. Multiplier of '11' was applied and the compensation was worked upon as Rs.9,80,760/-.

Besides the aforesaid, another amount of Rs.40,000/- was awarded to Sunita Devi, widow of deceased, on the count of 'loss of consortium' and an amount of Rs.15,000/- each under the heads of 'loss of estate' and 'funeral expenses' was granted. Thus, the compensation worked upon by learned Tribunal, in the tabular form, is as herein given:-

1.	Loss of future income due to death of deceased Mahavir Singh	Rs.9,80,760/-
2.	Funeral and conveyance expenses	Rs.15,000/-
3.	Loss of estate	Rs.15,000/-
4.	Loss of consortium to petitioner no.1	Rs.40,000/-
	Total	**Rs.10,50,960/-**

Out of the aforesaid compensation, appellant-claimant No.1 was entitled to Rs.3,50,760/-, whereas appellants-claimants No.2 and 3 were held entitled Rs.2,00,000/- each. Proforma respondent No.4-mother of the deceased was held entitled to Rs.2,00,000/- and proforma respondent No.5-father of the deceased was held entitled to Rs.1,00,000/-.

However, the compensation worked upon aforesaid, is not in consonance with the prevalent law and is palpably erroneous.

So far as, extent of monthly earnings as Rs.55,934/- is concerned, the same, in view of the salary certificate Ex.P39, has been appropriately taken. However, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, for the purpose of 'work on' of the compensation, actual salary ought to be taken minus tax component. Considering the same, the tax was required to be deducted as per the tax slab, prevailing at the relevant time. In the case in hand, the earnings of the deceased, does fall within the taxable limits, as per prevalent tax slab for the period 2016-2017. The monthly earnings of deceased were Rs.55,934/-, the annual whereof is Rs.6,71,208/-. As per prevalent tax slab, income tax was 'Nil' upto Rs.2,50,000/-. However, from the income bracket of Rs.2,50,000-5,00,000/-, income tax payable was 10%, which is to the extent of Rs.25,000/-. Furthermore, for the income bracket of Rs.5,00,000-10,00,000/-, the tax payable was 20%. After deduction of Rs.5,00,000/-, the residue taxable amount works out to be Rs.6,71,208-5,00,000=Rs.1,71,208/- and therefore, working upon the tax on this amount @ 20%, it comes to be Rs.34,242/-. Thus, the total tax payable, comes to be **Rs.59,242/-**. After making deduction of the aforesaid extent of income tax amount, the residue annual income, comes out to be Rs.6,71,208-59,242=**Rs.6,11,966/-**.

Considering the age of the deceased to be 52 years, addition of 15% ought to be made, on the count of 'future prospects', which comes to be Rs.91,794/-. After making such addition, the annual earnings of the deceased, comes to be Rs.7,03,760/-.

Deduction, on the count of 'personal expenses' ought to be made 1/4th, instead of 1/3rd, as done by learned Tribunal, as besides the claimants, who are widow and children of the deceased, even the parents of the deceased had been impleaded as proforma respondents and compensation had also been awarded to both mother and father of the deceased by learned Tribunal, which fact, has not been disputed or questioned by learned counsel for the insurance company. Considering the same, 1/4th ought to be deducted, on the count of 'personal expenses' and the residue earnings comes to be Rs.5,27,820/-.

Taking the age of the deceased, as observed aforesaid, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the appropriate multiplier to be applied is '**11**' as applied by learned Tribunal. Thus, by applying the same, the loss of dependency comes to be Rs.5,27,820x11=**Rs.58,06,020/-**.

Besides the aforesaid, under the conventional heads also, more specifically, on the count of 'loss of consortium', the amount ought to be enhanced. An amount of Rs.40,000/- has been awarded only to appellant-claimant No.1. However, as per ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***, all the dependents are entitled to compensation, on the count of 'loss of consortium, be it 'filial', 'spousal' or 'parental', which also comprehends 'loss of love and affection'. As per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, the minimum amount payable is Rs.40,000/-. While applying enhancement clause to the extent of 10%, after every three years of passing of the judgment, the compensation payable to each dependent is Rs.48,400/-. Thus, appellants-claimants No.1 to 3 as well as proforma respondents No.4 and 5 are also entitled to compensation, on the count of 'loss of consortium' to the extent of Rs.48,400/- i.e. Rs.48,400x5=**Rs.2,42,000/-**. Even, on the count of 'loss of estate' and 'funeral expenses', the amount now payable is **Rs.18,150/-** on each count.

Considering the same, the compensation payable to appellants-claimants and proforma respondents No.4 and 5, on account of death of Mahabir Singh is re-computed, as herein given:-

Loss of dependency	:	**Rs.58,06,020/-**
Loss of consortium	:	**Rs.2,42,000/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.60,84,320/-**

As such, the appellants-claimants are held entitled to the compensation to the extent of **Rs.60,84,320/-**. On the aforesaid amount of the compensation, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till realization of the amount of compensation. Out of the compensation, as now worked upon aforesaid, appellant-claimant No.1 is held entitled to **Rs.40,84,320/-**, whereas, appellants-claimants No.2 and 3 and proforma respondents No.4 and 5 are held entitled to **Rs.5,00,000/-** each.

Certainly, from the evidence, brought on record, it stands amply established that Sunita Devi, widow of the deceased, was paid financial assistance, as per **Haryana Compassionate Assistance to the Dependents**

of Deceased Government Employees Rules, 2006. Suffice to consider the testimony of the appellant-claimant No.1 herself, who stepped into witness box as PW-2, wherein, she has categorically admitted that she is getting Rs.46,239/- as financial assistance. Even, PW-4 Parmod Kumar, LDC, while facing cross-examination, has stated that wife of deceased Mahabir Singh is being paid financial assistance to the extent of Rs.46,243/- and he also proved the certificate in this regard, which is Ex.R1. He also stated about the said financial assistance to be paid upto 31.03.2022.

However, from the evidence adduced, it does not stand established, as to exact amount, which has been received by widow of the deceased. So far as, deduction to be made, vis-a-vis, amount received by the widow of Mahabir Singh, as per **Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006**, is concerned, suffice to make reference ***Reliance General Insurance Co. Ltd. vs. Shashi Sharma and others, 2016(4) RCR (Civil) 569***, wherein, the Hon'ble Supreme Court had observed, as herein given:-

> *"22. Indeed, similar statutory exclusion of claim receivable under the Rules of 2006 is absent. That, however, does not mean that the Claims Tribunal should remain oblivious to the fact that the claim towards loss of Pay and wages of the deceased has already been or will be compensated by the employer in the form of ex-gratia financial assistance on compassionate grounds under Rule 5 (1). 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 dependents/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's case, 1999 ACJ 10 (SC) and Patricia Jean Mahajan's case, 2002 ACJ 1441 (SC).*

Furthermore, in ***National Insurance Company Limited vs. Birender and others, 2020(1) RCR (Civil) 694***, it was held by the Hon'ble Supreme Court that amount received under the Financial Assistance Rules 2006, ought to be deducted, in the event, the application pending (at that time) is allowed and the amount becomes payable under the Financial Assistance Rules.

However, the deduction made by learned Tribunal, on this count, is palpably erroneous. The Award was passed on 06.11.2017 and learned Tribunal had considered the total amount to be received by Sunita Devi upto 31.03.2022 and made the deduction, which ought not to have been done. The amount, which has not been received, at the time of passing of the Award, as such, could not be deducted, prior to receipt of the same.

In the light of the same, it is hereby directed that the 'work on' of the compensation shall be given effect to by the learned Executing Court, only after ensuring about the extent of financial assistance received by the widow or parents or children of the deceased, by way of filing of an affidavit-cum-declaration before the Executing Court, thereby, giving the details of the amount received by them towards financial assistance under the Rules 2006. Thereupon, learned Executing Court shall also verify about the payment made to widow or parents or children of the deceased (if any), under the aforesaid Rules and further, release the residue amount, after making requisite deductions, from the amounts, so received under the aforesaid Rules.

Accordingly, the impugned Award dated 06.11.2017 stands modified, to the extent, as indicated aforesaid.

In view of the aforesaid observations, the present appeal stands allowed.

January 14, 2026 **(ARCHANA PURI)**
Vgulati **JUDGE**

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