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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3672-2018 (O&M)
Date of Decision : 06.02.2026

The New India Assurance Company Ltd. ... Appellant

Versus

Kamaljit Kaur and Others. ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. K.P.S. Virk, Advocate for the appellant.
(through hybrid mode).

Mr. Lakshay Bector, Advocate for respondent Nos.1 to 3.

Service of respondent No.6 dispensed with
vide order dated 07.04.2022.

<u>ALKA SARIN, J.</u> (Oral)

1. Present appeal has been filed by the Insurance Company challenging the award dated 03.04.2018 passed by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the 'Tribunal').

2. The matter has been pending for service of respondent Nos.4 and 5. Since Mr. Lakshay Bector, Advocate is already representing respondent Nos.1 to 3 and the claim petition was jointly filed by respondent Nos.1 to 5, therefore their interest is adequately safeguarded and represented. In view thereof, there would be no requirement to further adjourn the matter as the present appeal pertains to the year 2018.

3. Present appeal has been preferred by the Insurance Company only on the ground that quantum of compensation awarded is highly excessive.

4. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

5. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹21,000/-
2	Income on addition of ₹3,150/- towards future prospects @ 15%	₹24,150/-
3	Income after deduction of ₹4,900/-	₹19,250/-
4	Annual income	₹2,31,000/-
5	Annual income after applying the multiplier of '9'	₹20,79,000/- [₹2,31,000 x 9]
6	Funeral expenses	₹10,000/-
7	Loss of consortium	₹15,000/-
8	Loss of love and affection	₹15,000/-
	Total Compensation	**₹21,19,000/-**
	Interest	**7.5% per annum**

6. Learned counsel for the appellant-Insurance Company would contend that the Tribunal has made an addition of 15% towards loss of future prospects, which ought to have been 10% as the deceased was not in a permanent job. It is further the contention that while assessing the income of the deceased, the allowances payable to the deceased have also been taken into account.

7. *Per contra* learned counsel for respondent Nos.1 to 3/claimants, relying on the judgment of the Hon'ble Supreme Court dated 11.07.2024 in the case of **National Insurance Company Ltd. vs. Nalini & Ors. [2024 (2) PLR 671]** would contend that the allowances under the heads of transport allowance, house rent allowance, provident fund loan, provident fund, special allowance and leave encashment ought to be added while considering the

basic salary of the victim/deceased to arrive at the dependency factor. Learned counsel for respondent Nos.1 to 3/claimants has further contended that though no appeal has been preferred by the claimants however this Court under Order XLI Rule 33 of the Code of Civil Procedure, 1908 is empowered to make or pass any such order as required notwithstanding whether an appeal or cross-objections has been preferred by the claimants or not. It has further been contended that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law laid down by 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]**.

8. Heard.

9. In the present case, the argument of learned counsel for the appellant-Insurance Company that while assessing the income of the deceased the allowances ought not to have been added deserves to be rejected in view of the law laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Nalini & Ors.** *(supra),* wherein it has been held as under :

> *"2. The aforesaid aspect is no longer res integra inasmuch as a three Judges Bench of this Court in Vijay Kumar Rastogi Vs. Uttar Pradesh State Roadways Transport Corporation1 has clearly held as follows:*
>
> > *"11. Strikingly, the High Court noted the taxable income disclosed in tax return of the appellant for*

the relevant period as Rs.77,480/- (rounded off) and tax deduction of Rs.4,496/-, yet proceeded to hold that the net income of the appellant has been rightly taken into consideration by the Tribunal. It is unfathomable that the High Court, despite having accepted the claim of the appellant founded on his tax return for the relevant period, disclosing the taxable income of the appellant as Rs.77,480/- (rounded off) and deduction of tax of Rs.4,496/- could have affirmed the conclusion of the Tribunal that the net annual income of the appellant was Rs. 44,511/-. It ought to have reckoned the taxable income for computing the head towards loss of income. This, in our opinion, is the manifest error committed by the High Court. The appellant is justified in relying upon the decisions of this Court which have taken the view that loss of taxable earning should be reckoned for the purpose of determining just compensation as enunciated in National Insurance Co. Ltd. v. Indira Srivastava2 , which has been followed in Oriental Insurance Company Limited v. Jashuben3 , and Kavita v. Deepak4 . It has been held that the "income" should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or *professional tax, although some elements thereof may, or may not be taxable due to the exemption conferred thereupon under the statute."*

[emphasis added]

3. It is apparent from the observations made in the aforesaid decision that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, which are described by learned counsel for the petitioner-Insurance Company as personal to him to arrive at the dependency factor, ought to be included irrespective of whether they are taxable or not."

10. The argument of learned counsel for the appellant-Insurance Company that an addition of 10% ought to have been made towards future prospects instead of 15%, deserves to be accepted. The deceased in the present case was not in a permanent job hence as per the law laid down by Hon'ble Supreme Court in case of **Pranay Sethi** (supra), an addition of 10% would have to be made towards loss of future prospects.

11. The Motor Vehicles Act, 1988 is a beneficial piece of legislation. Hon'ble Supreme Court in the case of **Surekha & Ors. vs. Santosh & Ors. [2021(1) PLR 795]** has held as under :

"3. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants".

12. In view of the order in the case of **Surekha** (supra) and by invoking the provisions of Order XLI Rule 33 CPC, the argument of the learned counsel for respondent Nos.1 to 3/claimants that the compensation awarded under the head 'loss of consortium' and under the conventional head is on the lower side is accepted. The amount awarded under the conventional heads and under the head 'loss of consortium' is not as per 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)*. Hence, the claimants would be entitled to ₹18,000 (₹15,000 + 20% increase) towards loss of estate and ₹18,000 (₹15,000 + 20% increase) towards funeral expenses. The claimants being wife, children and parents of the deceased would also be entitled to ₹48,000/- each (₹40,000 + 20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹21,000/-
2	Monthly income after deduction as assessed by the Tribunal	₹16,100/- [₹21,000 – ₹4,900]
3	Annual Income	₹1,93,200/- [₹16,100 x 12]
4	Future Prospects - 10%	₹2,12,520/- [₹1,93,200 + ₹ 19,320]
5	Multiplier - 9	₹19,12,680/- [₹2,12,520 x 9]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 2] (ii) Filial [₹48,000/- x 1] (iii) Spousal	 ₹96,000/- ₹48,000/- ₹48,000/- (Total ₹1,92,000/-)
	Total Compensation	**₹21,40,680/-**

13. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of

filing of the claim petition till the realization of the entire amount.

14. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the percentage directed by the Tribunal. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

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

06.02.2026 **(ALKA SARIN)**
jk **JUDGE**

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