2026:PHHC:085023

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-7370-2017 (O&M)

1	The date when the judgment was reserved	16.04.2026
2	The date when the judgment is pronounced	29.05.2026
3	The date when the judgment is uploaded on the website	29.05.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment and reasons thereof.	Not applicable

SUKHWINDER KAUR AND ANOTHER …Appellants

Vs.

AJMER SINGH AND OTHERS …Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Gurjit Kaur Sandhu, Advocate
for the appellants.

None for respondent No.2.

Ms. Vanshika Daaria, Advocate
for respondent No.3-Sandeep Kumar.

Mr. Vijay Lath, Advocate
for respondent No.3.

Mr. Punit Jain, Advocate
for respondent No.4-HDFC ERGO Gen. Insurance Co. Ltd.

None for respondent Nos. 5 to 8 despite service.

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<u>HARKESH MANUJA, J.</u>

1. The present appeal has been preferred by the appellants/claimants under Section 173 of the Motor Vehicles Act, 1988, challenging the award dated 28.02.2017 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, "the Tribunal"), whereby compensation to the tune Rs. 4,35,000/- along with interest @ 7.5% per annum was awarded on account of death of Gurcharan Singh in a motor vehicular accident dated 05.04.2014.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the Tribunal, a detailed narration of facts of the case is not reproduced herein for the sake of brevity.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS/CLAIMANTS.

3. Learned counsel for the appellants contended that the compensation awarded by the Tribunal was on the lower side and deserved enhancement. It was argued that the Tribunal gravely erred in assessing the income of deceased at a meager rate on the basis of daily wages. He further submitted that the Tribunal further failed to apply settled principles of law governing computation of compensation, particularly with respect to addition towards future prospects, application of appropriate multiplier, and grant of just compensation under conventional heads such as loss of consortium, loss of estate and funeral expenses. Lastly, it was urged that the rate of interest awarded was equally unjust and contrary to settled judicial precedents, therefore, he prayed that the award of the Tribunal be suitably modified in accordance with law.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No. 4/INSURANCE COMPANY.

4. Per contra, learned counsel representing respondent No. 4/Insurance Company, neither refuted the factum of accident nor even the negligence of the offending vehicle, however submitted that in the facts and circumstances of the present case, the compensation assessed by the learned Tribunal called for no interference.

<u>DISCUSSION AND REASONING</u>

5. I have heard learned counsel for the parties and perused the paper-book of the case. I find substance in the arguments advanced by the learned counsel for the appellants/claimants.

<u>QUEESTION OF INCOME ASSESSED</u>

6. The primary controversy revolves around the determination of the income of the deceased at the time of the accident. Though the claimants asserted that the deceased was working as a Mason earning Rs.20,000/- per month, however, no documentary evidence was brought on record to substantiate the same. Nevertheless, it cannot be lost sight of that the deceased was a skilled labourer/Mason. The Tribunal erred in assessing his income on the basis of minimum wages applicable to a daily wager. A Mason is a skilled worker and judicial notice can safely be taken of the fact that a skilled labourer engaged in masonry work earns substantially more than a daily wager. Even in absence of documentary evidence, the income is required to be assessed on the touchstone of ground realities and nature of avocation.

6.1 In this situation observations made by the Hon'ble Apex Court in ***<u>"Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors."</u>***, reported as ***<u>(2022) 1 SCC 198,</u>*** to the effect that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

> *“…….In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month……”*

6.2 Keeping in view the nature of work of the deceased as Mason, his age, year of accident i.e. 2014 and overall attending circumstances, this Court deems it appropriate to assess the monthly income of the deceased at Rs.9,900/- per month instead of Rs.5,000/- assessed by the Tribunal.

QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES.

7. The deceased was aged 66 years and thus addition towards future prospects to the extent of 10% is liable to be granted in view of judgment of Hon’ble Supreme Court in ***“National Insurance Co. Ltd. v. Pranay Sethi,”*** reported as ***2017 (16) SCC 680.*** Since the deceased left behind six dependents, deduction towards personal expenses is rightly liable to be assessed at 1/4th in terms of judgment of Hon’ble Supreme Court in ***“Sarla Verma v. Delhi Transport Corporation,”*** reported as ***2009 (3) RCR (Civil) 77***. Though the daughters of the deceased have been impleaded as proforma respondents, being legal representatives of the deceased, they are also required to be taken into consideration while assessing the number of dependents for the purpose of deduction towards personal expenses. Thus, the learned Tribunal committed an error while deducting 1/3rd towards personal expenses. The multiplier of '5' applied by the Tribunal is in consonance with law laid down in ***Sarla Verma's case (supra)*** and does not call for interference.

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

8. Furthermore, in view of the judgment of the Hon'ble Apex Court in ***Sarla Verma's case (supra)***, ***Pranay Sethi's case (supra)*** and ***"United India Insurance Co.Ltd. vs. Satinder Kaur",*** reported as ***(2021) 11 SCC 780,*** compensation awarded under conventional heads is also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs. 18,000/- as compensation under funeral head and Rs. 18,000/- towards loss of estate. Loss of Consortium is assessed to the tune of Rs. 2,88,000/- (48,000 x 6) as appellants/claimants being the widow and children are entitled to spousal and parental consortium.

CONCLUSION

9. In view of the discussion made herein above, the appellants/claimants are held entitled for the grant of compensation in the following manner:-

S.No.	Nature	Amount (in Rs.)
1.	Annual Income of deceased	1,18,800/-
2.	Add 10% future prospects	11,880/-
3.	Total Income (Rs. 1,18,800+ Rs. 11,880)	1,30,680/-
4.	Deduction (1/4th)	32,670/-
5.	Net Income (Rs. 1,30,680 – Rs. 32,670)	98,010/-
6.	**Loss of Income after applying multiplier of 5 as per the age of 66 years (Rs. 98,010 x 5)**	**4,90,050/-**
7.	**Loss of Consortium**	**2,88,000/-**
8.	**Funeral expenses**	**18,000/-**
9.	**Loss of estate**	**18,000/-**
	Total compensation	**8,14,050/-**

	Amount Awarded by the Tribunal	**4,35,000/-**
	Enhanced Amount	**3,79,050/-**

Accordingly, appellants/claimants shall be entitled to receive above enhanced compensation in the proportion already determined by the learned Tribunal.

10. The grant of interest @ 7.5% per annum is not equitable and just in view of the observations made by the Hon'ble Supreme Court in ***"Smt. Supe Dei and others vs. National Insurance Company Limited and other,*** reported as ***(2009) (4) SCC 513*** approved in a subsequent judgment titled as ***"Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443,*** thus, the interest is enhanced to 9% per annum on the amount of compensation re-assessed from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

11. In view of the foregoing discussion, the present appeal preferred at the instance of appellants/claimants stand allowed. Pending miscellaneous application(s), if any, shall also stand disposed of.

May 29, 2026 **(HARKESH MANUJA)**
Tejwinder **JUDGE**

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