



FAO-4781-2025 (O&M)

-1-

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

FAO-4781-2025 (O&M)

TATA AIG GENERAL INSURANCE CO. LTD.

.....Appellant

vs.

SEEMA RANI AND ORS.

.....Respondents

Reserved on:- 06.02.2026

Pronounced on:- 10.03.2026

Uploaded on:- 12.03.2026

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. Sanjeev Kodan, Advocate for the appellant.

Mr. Gurinder Singh Brar, Advocate
for respondents No.1 to 5.

None for respondent Nos. 6 and 7.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 29.04.2025 passed by the learned Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short, 'the Tribunal') wherein, the appellant/insurance company was held liable to pay the compensation to the claimants/respondent Nos. 1 to 5 to the tune of Rs.85,27,827/- along with interest @ 7.5% per annum, on the ground of quantum of compensation to be on higher side.
2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed



narration of the facts of the case is not required to be reproduced here for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

3. Learned counsel for the appellant contends that the learned Tribunal committed an error in adding the family pension of ₹37888/–, received by the claimant–widow of deceased Budh Ram, while computing the loss of dependency. He, therefore, prays that the present appeal be allowed.

4. *Per contra*, learned counsel for respondents No.1 to 5/claimants, however, contends that learned Tribunal has rightly added family pension while assessing dependency. Therefore, he prays for dismissal of the present appeal

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

6. So far as the contention raised by the appellant–Insurance Company that the learned Tribunal committed an error in adding the family pension of ₹37,888/–, received by the claimant–widow of deceased Budh Ram, while computing the loss of dependency is concerned, the same is devoid of merit and deserves to be rejected.

7. 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 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 co-relation. 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. ”*

8. A perusal of the record reveals that the learned Tribunal has rightly taken into consideration the amount of family pension while determining the loss of dependency.

9. In view of the above settled position of law, no ground is made out to interfere in the findings of the learned Tribunal.

10. Accordingly, the present appeal is dismissed being devoid of any merits.

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

(SUDEEPTI SHARMA)
JUDGE

10.03.2026

Gaurav Arora

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes