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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1126-2022 (O&M)
Date of Decision : 09.02.2026

Cholamandalam MS General Insurance Company Limited ... Appellant

Versus

Suman Devi and Others ... Respondents

273-1 **FAO-5261-2022 (O&M)**

Suman Devi and Others ... Appellants

Versus

Afjal Ahmad and Others ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Punit Jain, Advocate
for the appellant in FAO-1126-2022 and
for respondent No.3 in FAO-5261-2022.

Mr. Vinod Gupta, Advocate
for the appellants in FAO-5261-2022 and
for respondent Nos.1 to 4 in FAO-1126-2022.

Mr. Parveen Sharma, Advocate
for respondent Nos.5 and 6 in FAO-1126-2022 and
for respondent Nos.1 and 2 in FAO-5261-2022.

ALKA SARIN, J. (Oral)

1. Present order shall dispose off the above-captioned appeals. The appeal being FAO-1126-2022 has been filed by the Insurance Company while the appeal being FAO-5261-2022 has been filed by the claimants, both aggrieved by the quantum of compensation awarded vide the impugned award dated 19.08.2021 passed by the Motor Accident Claims Tribunal, Karnal

(hereinafter referred to as 'Tribunal') on account of death of Naresh Kumar (hereinafter referred to as the 'deceased'). The parties are being referred to as the Insurance Company and the claimants for the sake of clarity.

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

3. The Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded	
1	Monthly Income	₹35,087/-	
2	Annual Income	₹4,21,044/-	[₹35,087 x 12]
3	Future Prospects - 50%	₹6,31,566/-	[₹4,21,044 + ₹2,10,522]
4	Deduction - 1/3rd	₹4,21,044/-	[₹6,31,566 - ₹2,10,522]
5	Multiplier - 16	₹67,36,704/-	[₹4,21,044 x 16]
6	Loss of estate	₹15,000/-	
7	Funeral expenses	₹15,000/-	
8	Loss of consortium	₹40,000/-	
	Total Compensation	**₹68,06,704/-**	
	Interest	**6% per annum**	

4. Learned counsel for the Insurance Company would contend that the Tribunal has assessed the income of the deceased without deducting the income tax.

5. *Per contra* learned counsel for the claimants has contended that though he does not challenge the income and the future prospects as applied by the Tribunal however, he has contended that the Tribunal has wrongly applied a deduction of 1/3rd which ought to have been 1/4th keeping in view the fact that there are four dependents in the present case. Further, 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 support of his contention, he has relied upon the judgments of 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]**.

6. Heard.

7. In the present case, admittedly the deceased was in a permanent job in the Uttar Haryana Bijli Vitran Nigam Limited. The claimants have examined Rattan Singh as PW-3 from the employer Department of the deceased. This witness deposed that the deceased was drawing a gross salary of ₹35,087/- per month. The Tribunal has assessed the same as monthly income of the deceased without deducting income tax hence the argument of learned counsel for the Insurance Company that requisite income tax was required to be deducted from the annual income of the deceased deserves to be accepted. A perusal of the pay slip produced on record by the claimants as Ex.PW3/A reveals that the gross salary of the deceased was ₹35,087/- per month and his annual salary comes out to be ₹4,21,044/-. At the relevant point of time, the Income Tax Slab for the Assessment Year 2017-18 reads as under :

INCOME SLABS	INCOME TAX RATES
Upto ₹2,50,000	NIL
₹2,50,000 to ₹5,00,000	10% of the amount exceeding ₹2,50,000

Accordingly, the income tax payable by the deceased was ₹17,104/- per annum (i.e. 10% of ₹1,71,044/-). Thus, the annual income of the deceased comes out to be ₹4,03,940/-. [₹4,21,044 – ₹17,104 (income tax)]. Hence, the annual income of the deceased is assessed as ₹4,03,940/-.

8. Further, the argument of learned counsel for the claimants that the Tribunal has wrongly applied a deduction of 1/3rd, deserves to be rejected inasmuch as the claimants examined PW-4 Veena Sachdeva, Assistant, Indian

Agriculture Research Institute, Karnal who deposed that the claimant – Bhagwan Dass – father of the deceased was their employee as Jeep Driver and was getting gross salary of ₹54,336/- per month. Thus, Bhagwan Dass cannot be said to be dependent upon his deceased son hence the Tribunal has rightly applied a deduction of 1/3rd.

9. Further, the compensation awarded under the conventional heads as well as 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 claimant-appellants would be entitled to ₹18,000/- (₹15,000 + 20% increase) towards loss of estate and ₹18,000/- (₹15,000 + 20% increase) towards funeral expenses as also to ₹48,000/- each (₹40,000 + 20% increase) towards loss of consortium. Since there is no challenge to the multiplier and the future prospects as applied by the Tribunal, the same are accordingly maintained.

10. Accordingly, the reworked compensation is as under :

Sr.No.	**Heads**	**Compensation Awarded**
1	Annual Income	₹4,03,940/-
3	Deduction - 1/3rd	₹2,69,293/- [₹4,03,940 - ₹1,34,647]
4	Future Prospects - 50%	₹4,03,940/- [₹2,69,293 + ₹1,34,647]
5	Multiplier - 16	₹64,63,040/- [₹4,03,940 x 16]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 1] (ii) Filial [₹48,000/- x 2] (iii) Spousal	 ₹48,000/- ₹96,000/- ₹48,000/- (Total ₹1,92,000/-)
	Total Compensation	**₹66,91,040/-**

11. In view of the above discussion, the appeal being **FAO-1126-2022** filed by the Insurance Company and the appeal being **FAO-5261-2022** filed by the claimants are disposed off. The impugned award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

09.02.2026 **(ALKA SARIN)**
jk **JUDGE**

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