IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-5239-2017 (O&M) &
XOBJC-140-CII-2018

Iffco Tokio General Insurance Company Ltd. ....Appellant

Vs.

Sanjana Devi and others ....Respondents

Reserved on : 15.01.2026
Date of Pronouncement: 18 .02.2026
Uploaded on : 20.02.2026

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. Ajay Singla, Advocate,
for the appellant-Insurance Company (in FAO No. 5239-2017).

Mr. Rao Ajender Singh, Advocate,
for the cross-objector/respondents No.1 and 2
(in FAO No. 5239-2017)

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SUDEEPTI SHARMA, J.

FAO-5239-2017 (O&M)

1. The present appeal has been preferred by the appellant-Insurance Company for setting aside the award dated 16.02.2017 passed by the learned Motor Accident Claims Tribunal, Rewari, (for short, 'Tribunal') under Section 166 of the Motor Vehicles Act, 1988 in MACT Case No.

79/2014, whereby, the claimants/respondents No.1 and 2 were awarded a compensation of Rs.11,11,000/- along with interest @ 7.5% per annum on account of death of Shri Niwas (deceased) and the appellant-Insurance Company and owner were held liable to pay the compensation, jointly and severally.

XOBJC-140-CII-2018

2. The present cross-objections have been preferred by cross-objectors/claimants (respondents No.1 and 2 herein) against the award dated 16.02.2017 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Tribunal, for enhancement of compensation, granted to the cross-objectors/claimants to the tune of Rs.11,11,000/- along with interest @ 7.5% per annum on account of death of Shri Niwas (deceased).

3. Since the appeal filed by the Insurance Company and the cross-objections filed by the claimants/cross-objectors are arising out of the same award dated 16.02.2017 passed by the learned Tribunal, therefore, **FAO-5239-2017** and **XOBJC-140-CII-2018** are decided vide this common judgment.

FACTS NOT IN DISPUTE

4. Brief facts of the case are that on the night of 15/16.8.2016 Shri Niwas deceased alongwith Pawan son of Raghbir, Dharmender son of Hansraj and another person were coming towards Rewari on Tata 407 no.

RJ-18GA-0042. The vehicle was loaded with goats and sheep. It was being driven by Pawan Kumar in a rash and negligent manner. The occupants of the vehicle asked driver Pawan Kumar to drive the vehicle at a moderate speed but he did not listen to them. At about 12.00 mid night, when they reached near village Majra, Pawan Kumar caused accident of vehicle with Rajasthan roadways bus no. RJ-07-PA-6270 coming from the opposite side which was being driven by respondent no.3 Raj Kumar. The driver of Tata 407 no. RJ-18GA-0042 namely Pawan Kumar and another unknown person sitting in the vehicle died at the spot. Shri Niwas also received fatal injuries. He was taken to General Hospital, Rewari, where he was declared dead.

5. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

6. From the pleadings of the parties, the Tribunal framed the following issues:-

> *"1.. Whether deceased Shri Niwas son of Jai Ram died in a motor vehicle accident occurred on the night of 15/16.08.2014 due to rash and negligent driving of Rajasthan Roadways Bus No. RJ07 PA 6270 by driver respondent no. 3 and TATA no. RJ18 GA 0042 driven by Pawan son of Raghubir Singh resident of Village Gaud Tehsil Narnaul? OPP*
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> *1A Whether Raj Kumar suffered injuries in an accident that took place on the night of 15/16.8.2014 due to rash and negligent*

driving of Rajasthan Roadways Bus no. RJ-07PA 6270 by driver respondent no.3 and Tata no. RJ-18GA-0042 driven by Pawan son of Raghbir Singh resident of village Gaud Tehsil Narnaual?OPP

2. Whether the petitioners suffered damage due to death of 30 sheep and goats loaded in Tata no. RJ18 GA 0042 on account of accident that took place on the night of 15/16.08.2014 due to rash and negligent driving of Rajasthan Roadways Bus No. RJ07 PA 6270 by driver respondent no. 3 and TATA no. RJ18 GA 0042 driven by Pawan son of Raghubir Singh resident of Village Gaud Tehsil Narnaul? OPP

3. Whether the petitioners are entitled to get compensation, if so to what amount and from whom?OPP

4. Whether the drivers of TATA no. RJ18 GA 0042 and Rajasthan Roadways Bus No. RJ07 PA 6270 were not holding valid and effective driving licenses on the date of alleged accident, if so its effect? OPR

5. Relief."

7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal has awarded compensation to the tune of Rs.11,11,000/- along with interest at the rate of 7.5% per annum on account of death of *Shri Niwas* and the appellant-Insurance Company as well as

respondent No.3 (owner of the offending vehicle) were held liable to pay the compensation jointly and severally. Hence, the Insurance Company filed the present appeal.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

8. Learned counsel for the appellant–Insurance Company submits that the Tribunal erred in fastening liability upon the insurer. He further contends that the deceased was travelling in the offending truck as a gratuitous passenger and not as the owner of the goats and sheep. He, therefore, prays that the appeal be allowed and the liability imposed upon the Insurance Company be set aside.

9. Per contra, learned counsel appearing for the respondent–claimants submits that the Tribunal has rightly fastened liability upon the appellant–Insurance Company. He further contends that the deceased was not a gratuitous passenger, but was travelling in the vehicle in connection with the transportation of goats and sheep for the purpose of their care and supervision. In such circumstances, he cannot be treated as a gratuitous passenger so as to absolve the insurer of liability. He further contends that the compensation awarded by the learned Tribunal is on the lower side and X-Objection has been preferred by the claimants seeking enhancement of compensation. He, therefore, prays that the present appeal be allowed.

10. I have heard learned counsel for the parties and perused the whole record of this case.

11. It would be apposite to reproduce relevant portion of the award. The same is reproduced as under:-

> *"24. This issue is taken up firstly for disposal. The petitioner Raj Kumar has produced on record his driving licence Ex. P13 issued by DTO Jhujhunu which shows that he was duly authorized and competent to drive bus no. RJ-07-PA-6270 at the time of accident. The petitioners have also produced on record the photo copy of driving licence Ex. PM of Pawan Kumar (deceased), the driver of offending TATA 407 no. RJ18GA-0042 issued by the licencing authority Narnual. There is nothing on record to show that the driver of both the vehicles involved in the accident were not holding a valid or effective driving licences at the time of accident. The contention of respondent/insurance company to the effect that the drivers of TATA 407 no. RJ18GA-0042 and Rajasthan Roadways bus no. RJ-07-PA-6270 were not holding valid and effective licences thus cannot be accepted.*
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> *25. The certificate of fitness and permit of TATA 407 no. RJ18GA-0042 have also been produced on file as Ex. R1*

and Ex. R2 respectively. So, the contention of learned counsel for respondent-insurance company to the effect that the offending vehicle was being driven without permit also cannot be accepted. Further the contention of learned counsel for insurance company to the effect that Shri Niwas deceased was travelling in the offending vehicle as a gratuitous passenger and so petitioners are not entitled to file the present claim petition also cannot be accepted in view of the law laid down by Hon'ble Supreme Court of India in Rani Gupta Vs. M/s. United India Insurance Company Ltd. 2009(2) RCR(C) 908, wherein it has been observed that gratuitous passenger falls within the meaning of third party and is covered by statutory policy under section 147. The respondent no.1 being the registered owner and respondent no.2 being the insurer of offending vehicle i.e TATA 407 no. RJ18GA-0042 are thus held jointly and severely liable to compensate the petitioners Sajna Devi and Vikram for the death of Shri Niwas and petitioner Raj Kumar for the injuries sustained by him in the accident. Therefore, finding on this issue are recorded in favour of the petitioners and against the respondent/Insurance Company.

12. A bare perusal of the impugned award shows that the contention advanced by the appellant–Insurance Company is devoid of merit.

13. From the record, it is evident that the First Information Report specifically records that approximately 60 goats and sheep were loaded in the offending truck (Tata 407 no. RJ-18GA-0042), and that the deceased was accompanying the livestock for the purpose of taking them to the market for sale. This version stands corroborated by the testimony of the eyewitness (PW-1), who has categorically deposed that the goats and sheep were being transported for sale and that the deceased was travelling in connection therewith.

14. The aforesaid material clearly establishes that the deceased was not a gratuitous passenger, but was travelling in the goods vehicle in relation to the transportation of livestock. In such circumstances, the Tribunal has rightly concluded that the insurer cannot evade liability on the plea that the deceased was an unauthorised passenger.

15. In view of the above discussion, this Court finds no infirmity in the findings recorded by the Tribunal. The appeal (FAO No.5239-2017) , being devoid of merit, is accordingly dismissed.

XOBJC-140-2018

16. Adverting now to the cross-objections filed by the claimants/cross-objectors seeking enhancement of compensation.

17. A perusal of the record reveals that the deceased was stated to be earning Rs.20,000/- per month by doing business of sale and purchase of goat and sheep etc. No documentary evidence qua the alleged income was placed on record by the claimants. Therefore, the learned Tribunal has assessed the notional income of the deceased as Rs.9000/- per month. However, the income so assessed by the learned Tribunal appears to be on the lower side. Therefore, considering the facts and circumstances of the case, age, profession of the deceased, his monthly income is re-assessed as Rs.9800/- in the interest of justice. Further nothing has been awarded for future prospects & loss of estate. A perusal of the record further reveals that the learned Tribunal has not awarded loss of compensation under the head of loss of consortium. Therefore, the award requires indulgence of this Court.

SETTLED LAW ON COMPENSATION

18. Hon'ble Supreme Court in the case of ***Sarla Verma Vs. Delhi Transport Corporation and Another*** **[(2009) 6 Supreme Court Cases 121]**, laid down the law on assessment of compensation and the relevant paras of the same are as under:-

> "***30***. *Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards*

personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

***31**. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.*

***32**. Thus even if the deceased is survived by parents and siblings, only d the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living* *expenses may be restricted to one-third and contribution to the family will be taken as two-third.*

* * * * * *

42. *We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas[3], Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.*

19. Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*** **[(2017) 16 SCC 680]** has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

(A) Deduction of personal and living expenses to determine multiplicand;

(B) Selection of multiplier depending on age of deceased;

(C) Age of deceased on basis for applying multiplier;

(D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;

(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

> "***52.*** *As far as the* ***conventional heads*** *are concerned, we find it difficult to agree with the view expressed in Rajesh[2]. It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on*

conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

* * * * *

***59.3**. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*

***59.4**. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of* *computation. The established income means the income minus the tax component.*

***59.5**. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma which we have reproduced hereinbefore.*

***59.6.** The selection of multiplier shall be as indicated in the Table in Sarla Verma[1] read with para 42 of that judgment.*

***59.7**. The age of the deceased should be the basis for applying the multiplier.*

***59.8**. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."*

20. Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma(supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

*"**21**. A Constitution Bench of this Court in Pranay Sethi[2] dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial*

consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

21.1. ***Spousal consortium*** *is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

21.2. ***Parental consortium*** *is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

21.3. ***Filial consortium*** *is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

22*. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of*

> *consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.*
>
> ***23**. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*
>
> ***24**. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi[2]. In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.*

CONCLUSION

21. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the appeal filed by the Insurance Company is **dismissed** being devoid of any merits, whereas cross-objections filed by the cross-objectors/respondents No.1 to 2 are **allowed**. The award dated 16.02.2017 is modified accordingly. The cross-objectors/respondents No.1

to 2 are held entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.9800/-
2	Future prospects @ 25%	Rs.2450/- (25% of 9800)
3	Deduction towards personal expenditure 1/3	Rs.4088/- {(9800 + 2450) X 1/3}
4	Total Income	Rs.8167/- (12250 – 4083)
5	Multiplier	13
6	Annual Dependency	Rs.12,74,052/- (8167 X 12 X 13)
7	Loss of Estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000/-
9	Loss of Consortium Spousal : Rs.40000 x 1 Filial : Rs. 40,000 x 1	Rs.1,60,000/-
	Total Compensation	**Rs.13,84,052/-**
	Amount Awarded by the Tribunal	**Rs.11,11,000/-**
	Enhanced amount	**Rs.2,73,052/-** **(Rs.76,24,000 - 36,91,665)**

22. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma*** **2019 ACJ 3176** and ***R.Valli and Others VS. Tamil Nadu State Transport Corporation*** **(2022) 5 Supreme Court Cases 107,** the cross-objectors/ claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

23. The Insurance Company is directed to deposit the enhanced amount of compensation with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the amount of compensation along with interest in the account of cross-objectors/respondents No.1 to 2 as per award. The cross-objectors/ respondents No.1 to 2 are directed to furnish their bank account details to the Tribunal.

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

18.02.2026 **(SUDEEPTI SHARMA)**
Gaurav Arora **JUDGE**

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