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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1033-2020 (O&M)
with XOBJC-32-2023 (O&M)

SMT. SUNITA DEVI AND ORS.

.. APPELLANTS

VERSUS

SH. NARINDER KUMAR AND ORS.

..RESPONDENTS

1	The date when the judgment was reserved	19.11.2025
2	The date when the judgment is pronounced	16.01.2026
3	The date when the judgment is uploaded on the website	16.01.2026
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

CORAM: HON’BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Yogesh Gupta, Advocate
for the non-applicants/appellants.

Mr Punit Jain, Advocate
for the applicant-respondent no. 3.

HARKESH MANUJA, J.

CM-5019-CII-2023 IN XOBJC-32-2023

Prayer in the present application moved on behalf of Respondent
No.3/cross objector under section 5 of Limitation Act is for condonation of delay
of 129 days in filing of the present cross objection.

Notice of the application.

Counsel for the appellants accepts notice and waives filing of reply.

I have heard ld. Counsel for the parties and have gone through the contents of the application.

A perusal thereof shows that sufficient cause is made out to condone the delay in filing of cross objections. Accordingly, the prayer is allowed. Delay condoned.

CM-5023-CII-2023 in XOBJC-32-2023

Prayer in the present application moved on behalf of Respondent No. 3/cross objector under Order XLI Rule 22 read with Section 151 of the Code of Civil Procedure for placing on record cross objections.

Notice of the application.

Counsel for the appellants accepts notice and does not oppose the prayer made therein.

The same is allowed for the reasons stated therein.

MAIN CASE

1. By way of present appeal, claimants no. 1 to 4/appellants sought enhancement of the compensation granted vide award dated 08.11.2019 passed by the learned Motor Accident Claims Tribunal, S.A.S. Nagar, Mohali (hereinafter referred to as “the Tribunal”), whereby a sum of Rs.67,04,800/- was awarded along with interest at the rate of 9% per annum. In the present appeal, cross objections under Order 41, Rule 22 read with section 151 CPC have also been filed at the instance of Respondent No. 3 Insurance Company/ cross objectors seeking setting aside of the impugned award.

2. Briefly stating, claimants no. 1 to 4 /appellants being dependents of

the deceased, filed claim petition before the Tribunal praying for grant of compensation to the tune of Rs. 1.25 crore on account of death of Nirmal Singh @ Nirmal Singh Pathania (aged 56 years at the time of death) in a motor vehicular accident that occurred on 27.02.2019, while alleging rash and negligent driving of respondent no. 1.

3. Learned Tribunal after appraisal of evidence and record arrived at the conclusion that the accident occurred due to rash and negligent driving of the respondent no. 1/ Driver and awarded compensation in the following manner:-

Heads of Claim	Amount (in Rs)
Monthly Income (after deducting income tax and allowances)	Rs.80,000/-
Deduction	1/3
Future Prospects	15%
Multiplier	9
Loss of Estate	Rs.15,000/-
Funeral Expenses	Rs. 15,000/-
Loss of Consortium	Rs. 40,000/-
Total Compensation	Rs. 67,04,800/-
Interest	9% p.a. from the date of filing of claim petition

4. Being aggrieved of the award dated 8.11.2019, the present appeal has been preferred by the claimants no. 1 to 4/ appellants seeking enhancement, in which cross objections have also been filed by the Respondent no. 3- Insurance company/ cross objector. Facts as specified in the claim petition about the factum of motor vehicular accident and the issue regarding negligence of the driver have been held by the Tribunal in favor of claimants no. 1 to 4, therefore, for the sake of brevity, are not being repeated here.

ARGUMENTS

5. Ld. Counsel for the claimants/appellants No.1 to 4 submitted that the deceased was a retired armed forces veteran and was serving as a Principal of

Government school, Bhandal, Tehsil Saloni, District Chamba under Education Department of Himachal Pradesh, thereby earning Rs.1,16,885/- per month (Rs.27,113 as pension and Rs. 89,772/- as salary) whereas the Id. Tribunal erred in not granting any compensation towards loss of income on account of loss of pension. It was further submitted that the family pension of Rs 21,639/- per month being received by the widow of the deceased Nirmal Singh @ Nirmal Singh Pathania was also not liable to be deducted from the pension income of the deceased. Learned counsel further contended that the learned Tribunal wrongly deducted one-third of the income towards personal expenses, whereas the appropriate deduction should have been one-fourth. It was also argued that the learned Tribunal failed to award compensation towards loss of consortium to claimants/appellants No. 2 to 4 and further erred in deducting an excessive amount towards the income tax liability of the deceased. On the said grounds, reassessment and enhancement of compensation was prayed.

6. Per contra, learned counsel representing respondent no.3/ cross objector contended that the Tribunal wrongly assessed the income of the deceased while including the family pension which was being disbursed to the widow of the deceased. It was further argued that respondent no. 2 and 3 being major sons of the deceased could not be treated as the dependents, and therefore Id. Tribunal erred in applying deduction of 1/3rd towards personal expenses. Ld. Counsel additionally assailed the award on the grounds that the grant of future prospects; the multiplier applied as well as the rate of annual interest awarded was also towards the higher side and thus, prayed that the compensation awarded was liable to be reduced.

7. I have heard learned counsel for the parties and perused the paper

book of the case. I find force in the arguments advanced by the learned representing appellants/claimants 1 to 4.

QUESTION OF INCOME ASSESSED

8. In the present case, deceased was a retired veteran of armed forces and was working as a Principal of Government school, Bhandal, Tehsil Saloni, District Chamba. Upon perusal of pension order and other related documents Ex. P23 to Ex. P26, it is evident that the deceased was receiving a monthly pension of Rs. 26,113/- (and the same was wrongly assessed by the Ld. Tribunal as Rs. 27,113/-). Further on examining the latest salary statement Ex. P17, it was clear that the deceased was also getting a salary of Rs. 89,772/- per month and after application of statutory deductions, the net pay came out to be Rs. 55,437/-. The Hon'ble Apex Court in the case of "***Sarla Verma and Ors. v. Delhi Transport Corporation and Anr***" reported as (2009) 6 SCC 121, held that for calculating compensation, the income of the victim less the income tax should be treated as the actual income. The relevant excerpt therefrom is reproduced hereunder:-

"10. Generally the actual income of the deceased less income tax should be the starting point for calculating the compensation....."

Therefore, in light of the aforementioned settled law and the evidence available on record the monthly salary of the deceased is taken to be at Rs. 55,437/- after applying income tax deductions.

9. Furthermore, in the case of **Kirosata Devi and Ors. v. Ram Ji Lal SLP(C) No. 25497/2025**, Hon'ble Apex Court reiterated that while calculating the loss of income, the pension amount as receivable by the deceased at the time

of the accident is also to be considered. Relevant excerpt therefrom is reproduced hereunder:-

*“10. What flows from **Hanumantharaju B. (supra)** is that pension being a recurring and assured source of income arising from the past service of the deceased constitutes an integral part of his pecuniary benefits. Hence, while determining the loss of dependency, the pension amount cannot be excluded or deducted, as it forms a legitimate and continuing component of the income which the dependents would have otherwise received, and hence the pension amount as receivable at the time of the accident, by the deceased has to be considered while calculating the loss of income and hence in the present case as the deceased was receiving a pension of Rs.5,839/- per month, and accordingly the same has to be added to the salary as received by the deceased from his private job. As far as the income from the private service is concerned, the Courts below have made certain unwarranted deductions in calculating the income. We therefore fix the income of the deceased from his private service at Rs.32,673/- per month, and as a result, the total monthly income of the deceased is re-fixed at Rs.38,512/- for the computation of compensation. The claimant-appellant(s) are also entitled to compensation under other heads in accordance with the settled principles of law.”*

10. Further, it was deposed by Rakesh Mahana (CPPC, Panchkula) who appeared as PW-4 that claimant no. 1 (widow of the deceased) was getting family pension of Rs 21,639/-. The Hon'ble Supreme Court in case of "**National Insurance Company Limited v. Birender and Ors.** " reported as **2020 (11) SCC 356**, held that family pension received by the widow of the deceased is her own right and the same could not be taken into consideration while assessing the income. Relevant excerpt thereof is reproduced hereunder: -

"21. Be that as it may, the Tribunal, for excluding the amount received by the deceased as family pension due to demise of her husband, had noted in paragraph 26, as under:-

"26. Learned counsel for the claimants further requested that the family pension being drawn by the deceased also be calculated for the purpose of assessing the compensation. This contention and assertion of learned counsel for the claimants does not carry any conviction with the Tribunal because the deceased was getting family pension in her own right as the widow of the deceased and cannot be termed as

her income for the purpose of computing the amount of compensation."

The High Court, without reversing the said finding, proceeded to include the amount of Rs. 7,000 - per month received by the deceased as pension amount after demise of her husband. We are in agreement with the view taken by the Tribunal and for the same reason, have to reverse the conclusion recorded by the High Court to include the said amount as loss of dependency. That could not have been taken into account, as the same was payable only to the deceased being widow and not her income as such for the purpose of computing the amount of compensation . "

Therefore, in view of the discussion made hereinabove, this Court deems it appropriate to assess the monthly income of the deceased as Rs. 81,550/-(Rs.26,113/- as pension and Rs.55,437/- salary).

QUESTION OF FUTURE PROSPECTS

11. In view of the law laid down in the case of ***“National Insurance Company Ltd. v. Pranav Sethi and others*** reported as ***2017(4) RCR(Civil) 1009***, Id. Tribunal has rightly assessed 15% of income of deceased to be added towards future prospects.

QUESTION OF DEDUCTION

12. The Hon'ble Supreme Court in case of ***"Smt. Maniuri Bera v. The Oriental Insurance Company Ltd. and Anr."*** reported as ***2007 (10) SCC 643***. held that while computing loss of dependency it is immaterial if the claimants are married and not actually dependent on deceased rather all legal heirs are to be considered while assessing compensation. Relevant excerpts thereof are reproduced hereunder: -

*"12. As observed by this Court in **Custodian of Branches of BANCO National Ultramarino v. Nalini Bai Naique**, (AIR 1989 SC 1589) the definition contained in Section 2(11) Civil Procedure Code is inclusive in character and its scope is wide, it is not confined to legal heirs only. Instead, it stipulates that a person who may or may not be legal heir*

*competent to inherit the property of the deceased can represent the estate of the deceased person. It includes heirs as well as persons who represent the estate even without title either as executors or administrators in possession of the estate of the deceased. All such persons would be covered by the expression 'legal representative'. As observed in **Gujarat State Road Transport Corporation v. Ramanbhai Prabhatbhai and Anr., (AIR 1987 SC 1690)** a legal representative is one who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent and child.*

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15. Judged in that background where a legal representative who is not dependant files an application for compensation, the quantum cannot be less than the liability referable to Section 140 of the Act. Therefore, even if there is no loss of dependency the claimant if he or she is a legal representative will be entitled to compensation, the quantum of which shall be not less than the liability flowing from Section 140 of the Act "

This view of the Hon'ble Apex Court was even further strengthened in **Birender's case (supra)**. Therefore, considering the fact that deceased was survived by four claimants, the deduction of 1/4th is to be made towards personal expenses.

QUESTION OF CONVENTION HEADS

13. In view of judgments of the Hon'ble Apex Court in "**Smt. Sarla Verma and others v. Delhi Transport Corporation and another** reported as **2009 (3) RCR (Civil) 77, Pranay Sethi's case (supra)** and "**United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur**". reported as **(2021) 11 SCC 780**, the compensation awarded under conventional heads is also required to be re-assessed. Thus, the claimants no. 1 to 4/appellants are held entitled to Rs. 18,000/- as compensation under the head of funeral expenses and Rs. 18,000/- towards loss of estate. Loss of consortium is to be awarded to the tune of Rs. 1,92,000/- (Rs. 48,000/- x 4) to the appellants, they being closely related

to the deceased; however, they are not entitled for compensation on account of loss of love and affection.

14. In view of discussion made hereinabove, claimants no. 1 to 4/appellants shall be entitled for the grant of compensation in the following manner:-

Sr. No.	Nature	Amount in Rupees
1.	Annual Income of the deceased (Rs. 81,550/- x 12)	Rs. 9,78,600/-
2.	Future Prospects (15%)	Rs. 1,46,790/-
3.	Total Income (Rs. 9,78,600/- + Rs. 1,46,790)	Rs. 11,25,390/-
4.	Deduction (1/4)	Rs. 2,81,347.5/-
5.	Net income after deduction	Rs 8,44,042.5/-
6.	Income after applying multiplier of 9 as per age of 56 years (Rs. 8,44,042.5/-x 9)	Rs. 75,96,382.5/-
7.	Funeral Expenses	Rs. 18,000/-
8.	Loss of Estate	Rs. 18,000/-
9.	Loss of Consortium (Rs 48,000/- x 4)	Rs. 1,92,000/-
10.	Total Compensation	Rs 78,24,382.5/-
11.	Amount awarded by the Tribunal	Rs. 67,04,800/-
12.	Enhanced Amount	Rs. 11,19,582.5/-

15. The grant of interest @ 9% interest per annum from the date of institution of claim petition is 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. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the date of expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimants shall be deducted from the enhanced compensation.

16. Accordingly, the appeal filed at the instance of claimants no. 1 to 4/appellants is hereby partly allowed and the cross objections filed at the instance of respondent no.3/insurance company are disposed of in view of aforesaid modification of the award passed by the Tribunal. Pending miscellaneous application(s) if any, shall also so stand disposed of.

January 16, 2026
sonika

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No