

2025:PHHC:126206



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

**FAO-5724-2009 (O&M)
Reserved on: 19.08.2025
Pronounced on: 19.09.2025**

SMT. SUMAN AND ORS.

....Appellants

Vs.

DASHRATH AND ORS.

...Respondents.

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Anil Ghangas, Advocate for the appellants.

Mr. Suvir Dewan, Advocate and Mr. Om Pal Sharma, Advocate
for respondent No. 3- National Insurance Company Ltd.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 27.04.2009 passed by the learned Motor Accident Claims Tribunal, Bhiwani (*for brevity, "the Tribunal"*), whereby an amount of Rs. 4,75,000/- was awarded as compensation to the appellants/claimants along with interest @ 7.5% per annum.

Brief Facts

[2]. A claim petition came to be filed before the Ld. Tribunal, praying for grant of compensation to the tune of Rs. 25,00,000/- (Rupees twenty five lakhs only) along with the interest @ 18% per annum on account of death of Bijender

Singh in a vehicular accident which took place on 11.11.2007 while alleging rash and negligent driving of respondent No. 1-driver.

[3]. Learned Tribunal after appraisal of evidence on record held that the accident occurred due to rash and negligent driving of respondent No.1/driver and assessed income of deceased, who was employed as a Teacher in Government High School, Jarwa, District Mahendergarh @ 9,683/- after deducting GPF, GPF Advance and GIS besides making deductions of 1/3rd towards personal expenses and awarded compensation in the following manner:-

S.No	Heads of Claim	Amount (in Rs.)
1.	Compensation	4,65,000/-
2.	Funeral Expenses	10,000/-
	Total	4,75,000/-

Further, liability was jointly and severally fastened upon the driver, the owner as well as the Insurance Company and the compensation amount was ordered to be disbursed in the following manner:-

Claimant No. 1 (widow of the deceased)	Rs. 1,75,000/-
Claimant No. 2 (minor daughter of deceased)	Rs. 1,00,000/-
Claimant No. 3 (minor son of deceased)	Rs. 1,00,000/-
Claimant No. 4 (father of deceased)	Rs. 50,000/-
Claimant No. 5 (mother of deceased)	Rs. 50,000/-

[4]. Being aggrieved against the award dated 27.04.2009, the present appeal was preferred by the appellants for enhancement of compensation and modifying the impugned award passed by the Ld. Tribunal, as per the latest law.

Facts as specified in the claim petition about the manner of accident and the issue regarding negligence of the driver have been recorded in favour of appellants/claimants by the Ld. Tribunal, are being not under challenge, need not be repeated here for the sake of brevity.

Arguments

[5]. Learned counsel for the appellants assailed the award while submitting that earning of the deceased was to the tune of Rs.13,713/- per month, as he was serving as a Teacher in Government High School, Jarwa, District Mahendergarh and the said fact was corroborated by Vijay Kumar (PW-3), who produced on record salary certificate (Ex.P7) and pay bill (Ex.P8) showing the last salary record drawn by the (deceased) Bijender Singh, thus, Ld. Tribunal erred in taking into account the salary as Rs. 9,683/- after deducting the amount of GPF/GIS which forms part of the salary. He further contended that the deceased was also involved in the cultivation of agricultural land which belonged to his father and was earning more than Rs. 1,00,000/- per annum from agricultural pursuits. Furthermore, it was submitted that the deceased was 37 years of age at the time of accident and the multiplier to be applied should have been 16 instead of 6, besides, funeral expenses been assessed on the lower side and nothing was awarded under conventional heads i.e. loss of estate, loss of consortium, therefore, he prayed for the enhancement of compensation as per latest decisions on the subject.

[6]. On the other hand, learned counsel representing respondent No. 3- Insurance Company neither refuted the factum of accident nor even the negligence of the offending vehicle, however submitted that in the facts of the present case, the compensation assessed by the Ld. Tribunal called for no interference.

[7]. I have heard learned counsels for the parties and perused the paper-book of the case. I find force in the arguments advanced by learned Counsel for the appellants.

Discussion

Question of Income Assessed

[8]. In the present case, in view of the statement of Suman (wife of deceased) and Vijay Kumar while deposing as PW-1 and PW-3 respectively, it was submitted that the deceased was serving as a Teacher in Government High School, Jarwa, District Mahendergarh and was drawing salary @ Rs. 13,715/- per month from there. However, Ld. Tribunal assessed the income of deceased @ Rs.9,783/- per month; nevertheless upon perusal of salary certificate (Ex.P7) and pay bill showing the last drawn salary (Ex.P8) which were proved on record, it is evident that the deceased was receiving salary @ Rs.13,715/- per month and Ld. Tribunal erred while deducting GPF/GIS.

[8.1]. Furthermore, it is an admitted position that the pay scales were revised retrospectively with effect from 01.01.2006, and accordingly, the claimant's pay was refixed @ Rs.19,570/- as per the revised scales as he expired on 11.11.2007. Consequent upon such revision, the dependents of deceased also received arrears of salary in accordance with the revised pay structure. Therefore, for the purpose of computation of compensation, this Court in its humble opinion and in the given facts and circumstances of the present case assesses the income of deceased as Rs. 19,570/- per month in consonance with the records available on file.

[9]. The Hon'ble Supreme Court in the case of **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another,"** reported as **2009(3) RCR**

(Civil) 77, wherein it was held that in case the number of dependent family members were 4 to 6, 1/4th would be deducted as personal expenses from the total income. Relevant para of the judgment is culled out 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[(1996) 4 SCC 362], the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, 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 member exceeds six.”

Question of Compensation under Conventional Heads

[10]. Furthermore, in view of the judgment of the Hon’ble Apex Court in **Smt. Sarla Verma’s case (supra)**, **“National Insurance Co. Ltd. vs. Pranay Sethi and others”** reported as **(2017) 16 SCC 680** and **“United India Insurance Co.Ltd. vs. Satinder Kaur”**, reported as **(2021) 11 SCC 780**, compensation awarded under conventional heads are 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. 2,40,000/- (Rs. 48,000 x 5) as the appellants, being spouse, children and parents of deceased are also entitled for spousal, parental and filial consortium.

[11]. The Apex Court in *New India Assurance Co. Ltd. Vs. Kamlesh and Others* reported as 2025 SCC OnLine SC 1167 held that as per the provisions of the *Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006*, any financial assistance received by the dependents of the deceased government employee under the said Rules is liable to be deducted from the total amount of compensation awarded. The relevant para of the judgment is reproduced hereunder:-

“17. Hence, the loss of income, ideally would have to be computed in the following manner. Obviously since the amounts payable under the Rules of 2006 is the last drawn pay in computing the loss of income under the M.V. Act necessarily the future prospects will have to be added and the multiplier applicable would be 14 since the age of the deceased was 43. The computation hence would be $30,107 \times 12 \times 14 \times 130\% \times 3/4 = \text{Rs. } 49,31,527/-$ from which the amounts payable as financial assistance under the Financial Assistance Rules of 2006 will have to be deducted which is Rs. 43,35,408/-. The additional loss of income payable under the M.V. Act would be Rs. 5,96,019/- to which will be added loss of consortium for the widow and three children at Rs. 1,60,000/- and loss of estate and funeral expenses of Rs. 30,000/-. The total compensation would be Rs. 7,86,119/-. The compensation already paid shall not be refunded.”

[11.1]. Considering the facts of the present case, wherein Som Dutt Choyel (Assistant in the office of District Education Officer Narnaul), while deposing as RW-1, stated that on account of death of Bijender Singh, the

claimant/appellant No.1 would be paid full salary for a period of twelve years upto 11.11.2019, thereafter, she will be paid family pension w.e.f. 12.11.2019 onwards. In such circumstances, the amount payable as financial assistance under the Financial Assistance Rules of 2006 will have to be deducted which is Rs. 28,18,080/- (Rs. 19,570 x 12 x 12). The additional loss of income payable under the M.V. Act would be Rs. 6,76,712/-.

Conclusion

[12]. 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 Rupees)
1.	Annual Income of Deceased (19570x12)	Rs. 2,34,840/-
2.	Add 40% of Future Prospects	Rs. 93,936/-
3.	Total Income (Rs. 2,34,840 + Rs. 93,936)	Rs. 3,28,776/-
4.	Deduction (1/4 th)	Rs. 82,194/-
5.	Loss of Income after applying multiplier of 16 as per age of 37 years (2,46,582 x 16)	Rs. 39,45,312/-
6.	Funeral expenses	Rs. 18,000/-
7.	Loss of Estate	Rs. 18,000/-
8.	Total Compensation	Rs. 39,81,312/-
9.	Amount Awarded by the Tribunal	Rs. 4,75,000/-
	Enhanced Amount	Rs. 35,06,312/-
	Deduction under the Financial Assistance Rules of 2006 (Rs. 34,94,792 – Rs. 28,18,080)	Rs. 6,88,232/-

[13]. Now, the question arises how the compensation is to be distributed among the legal heirs. In this regard it may be taken into account that from the material available on record it is evident that appellant No. 1- widow did not

remarry and she besides her minor children were solely dependent upon the deceased, accordingly appellant No. 1 is held entitled for 50% of the compensation amount payable whereas appellant Nos. 2, 3 and 5 be granted the remaining 50%. It may be clarified here that the aforementioned ratio of 50:50 would be minus the consortium as all the appellants/claimants shall separately/individually be entitled for consortium in their favour.

[13.1]. Thus, the appellant/widow is entitled for Rs. 3,44,116/- and appellant No. 2, 3 & 5 i.e. children and mother of the deceased are entitled for Rs. 3,44,116/- as compensation.

[14]. Similarly, the appellants/claimants shall be entitled for following amount of compensation as consortium:-

S. No.	Name/Appellants No.	Consortium Amount
1.	Suman (widow)	Rs. 48,000/-
2.	Muskan (minor daughter)	Rs. 48,000/-
3.	Vansh (minor son)	Rs. 48,000/-
4.	Sant Lal (father)	Rs. 48,000/-
5.	Bhateri (mother)	Rs.48,000/-

[15]. In the 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,** the claimants/appellants are entitled for grant of interest @ 9% per annum on the amount of compensation awarded from the date of institution of claim petition till its realization. Needless to mention here that the

amount of compensation already paid to the claimants shall be deducted from the enhanced compensation.

[17]. In view of the aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)

JUDGE

19.09.2025

sonika

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