

2025:PHHC:104731



107-1

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

FAO-6640-2017 (O&M)

Date of Decision : 12.08.2025

NATIONAL INSURANCE COMPANY LTD Appellant

VERSUS

RAGHUBIR SINGH AND ORS Respondents

AND

FAO-8608-2017 (O&M)

RAGHUBIR SINGH AND ANR. Appellants

VERSUS

JAI SINGH AND ORS Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Harjinder Singh, Advocate
for the appellant in FAO-6640-2017
for respondent No.3 in FAO-8608-2017.

Mr. Lakhan Paul Garg, Advocate for
Mr. J.S. Gill, Advocate
for respondents No.1 and 2 in FAO-6640-2017 and
for the appellants in FAO-8608-2017.

ALKA SARIN, J. (ORAL)

1. The present order shall dispose off the above noted two appeals being FAO-6640-2017 preferred by the Insurance Company and FAO-8608-2017 preferred by the claimants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sirsa vide impugned award dated 30.05.2017 (hereinafter referred to as 'the Tribunal'). The parties are

being referred to as the 'claimants', the 'Insurance Company' and the 'owner' and the 'driver' of the offending vehicle for the sake of clarity.

2. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.

3. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹6,500
2.	Annual income	[₹6,500 x 12] = ₹78,000
3.	Deduction 1/2	[₹78,000 - ₹39,000] = ₹39,000
4.	Future prospects @ 50%	[₹39,000 + ₹19,500] = ₹58,500
5.	Multiplier of 18	[₹58,500 x 18] = ₹10,53,000
6.	Funeral expenses	₹25,000
7.	Love and affection	₹1,00,000
	Total Compensation	₹11,78,000
	Interest	@ 9% per annum

4. Learned counsel for the claimants would contend that the income of the deceased has been assessed as ₹6,500 per month as per the minimum wages applicable to an unskilled worker though in the present case the deceased was a skilled Painter of motor vehicles and an agriculturist also. It is further the contention of the learned counsel for the claimants that the amounts awarded under the head 'loss of consortium' and under the conventional heads are not in consonance of the judgments laid down by 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].

5. *Per contra*, learned counsel for the Insurance Company would contend that the income of the deceased had rightly been assessed as ₹6,500 per month. It is further the contention of the learned counsel for the Insurance Company that an addition of 50% has been made towards future prospects which ought to have been 40% keeping in view the age of the deceased being 23 years at the time of accident and as per the law laid down in **Pranay Sethi's** case (*supra*).

6. Heard.

7. In the present case the father of the deceased stepped into the witness box as PW-5 and had deposed that the deceased was a skilled painter of motor vehicles besides being an agriculturist. This witness also proved on record the educational qualification certificates of the deceased and other documents Ex.P-38 to Ex.P-47. The deceased was a student of BA 3rd Year at the time of his death as is apparent from certificate Ex.P-42. The admit card Ex.P-45 also reveals that the deceased had qualified the physical efficiency and measurement test for the post of Constable (Wireless Operator) in Chandigarh Police. Thus, the above documents proved that the deceased was a well-qualified person. The respondents did not lead any evidence to falsify the above documents. No suggestion was put to PW-5 that the deceased was not a student of BA 3rd Year and had not qualified the physical efficiency and measurement test for the post of Constable (Wireless Operator) in Chandigarh Police or that the claimants were not dependent upon him. Hon'ble Supreme

Court in the case of **Chandra @ Chanda @ Chandraram & Anr. vs. Mukesh Kumar Yadav & Ors. [2021(4) RCR (Civil) 492]** has held that a certain amount of guesswork can be done in motor accident claim cases while assessing the income when there is no definite proof regarding income. Para 10 of the said judgment reads as under :

“10. It is the specific case of the claimants that the deceased was possessing heavy vehicle driving licence and was earning Rs.15000/- per month. Possessing such licence and driving of heavy vehicle on the date of accident is proved from the evidence on record. Though the wife of the deceased has categorically deposed as AW-1 that her husband Shivpal was earning Rs.15000/- per month, same was not considered only on the ground that salary certificate was not filed. The Tribunal has fixed the monthly income of the deceased by adopting minimum wage notified for the skilled labour in the year 2016. In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary

evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs.15000/- per month. In the case of Minu Rout & Anr. v. Satya Pradyumna Mohapatra & Ors., (2013) 10 SCC 695 this Court while dealing with the claim relating to an accident which occurred on 08.11.2004 has taken the salary of the driver of light motor vehicle at Rs.6000/- per month. In this case the accident was on 27.02.2016 and it is clearly proved that the deceased was in possession of heavy vehicle driving licence and was driving such vehicle on the day of accident. Keeping in mind the enormous growth of vehicle population and demand for good drivers and by considering oral evidence on record we may take the income of the deceased at Rs.8000/- per month for the purpose of loss of dependency. Deceased was aged about 32 years on the date of the accident and as he was on fixed salary, 40% enhancement is to be made towards loss of future prospects. At the same time deduction of 1/3rd is to be made from the income of the deceased towards his personal expenses. Accordingly the income of the deceased can be arrived at Rs.7467/- per month. By

applying the multiplier of '16' the claimants are entitled for compensation of Rs.14,33,664/-. As an amount of Rs.10,99,700/- is already paid towards the loss of dependency the appellant-parents are entitled for differential compensation of Rs.3,33,964/-. Further in view of the judgment of this Court in the case of Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram & Ors., 2018 SCC OnLine SC 1546 = (2018) 18 SCC 130 the appellants are also entitled for parental consortium of Rs.40,000/-each. The finding of the Tribunal that parents cannot be treated as dependents runs contrary to the judgment of this Court in the case of Sarla Verma (Smt). & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121. The judgment in the case of Kirti & Anr. v. Oriental Insurance Company Limited, (2021) 2 SCC 166 relied on by the counsel for the respondent would not render any assistance in support of his case having regard to facts of the case and the evidence on record.”

8. Minimum wages is only a yardstick and it is not necessary that the income has to be assessed only in terms of the minimum wages applicable. Keeping in view the above qualifications of the deceased and his age at the time of his death, the deceased can be considered as a highly skilled worker. The accident had taken place on 16.01.2015 and at that time the minimum

wages applicable for a highly skilled worker in the State of Haryana were ₹7,440 per month. Therefore, this Court deems it appropriate to apply a certain amount of guesswork keeping in view the educational qualifications in the absence of any proof of income. The income is accordingly assessed as ₹10,000 per month.

9. The argument of the learned counsel for the Insurance Company that an addition of 50% has been made towards future prospects which ought to have been 40% deserves to be accepted. Hence, as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition is made towards future prospects. Since there is no challenge to the multiplier of '18' as applied and the deduction of 1/2 as made by the Tribunal, the same are maintained.

10. Further, the amounts awarded under the conventional heads and under the head 'loss of consortium' are 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 claimants would be entitled to ₹18,000/- (₹15,000 + 20% increase) towards loss of estate and ₹18,000/- (₹15,000 + 20% increase) towards funeral expenses. The claimants, being father and sister of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium.

11. Accordingly, the reworked compensation, to which the claimants are held entitled to, is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹10,000
2.	Annual income	[₹10,000 x 12] = ₹1,20,000
3.	Deduction 1/2	[₹1,20,000 - ₹60,000] = ₹60,000
4.	Future prospects @ 40%	[₹60,000 + ₹24,000] = ₹84,000
5.	Multiplier of '18'	[₹84,000 x 18] = ₹15,12,000
6.	Funeral expenses	₹18,000
7.	Loss of estate	₹18,000
8.	Loss of consortium:- (i) Filial	[₹48,000 x 2] = ₹96,000
	Total Compensation	₹16,44,000

12. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5 % per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimants as directed by the Tribunal.

13. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 = AIR 2025 SC 1713]** after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within a period of six weeks from today. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimants to the Insurance Company within a period of two weeks from today and needful shall be done by the Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

14. In view of the above discussion, both the appeals being FAO-6640-2017 preferred by the Insurance Company and FAO-8608-2017

preferred by the claimants are disposed off and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

12.08.2025

Aman Jain

NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No

(ALKA SARIN)

JUDGE