

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****300****FAO-4140-2023 (O&M)****Date of Decision : 20.05.2025**

Vaishno Kapoor and Others

....Appellants

VERSUS

Kashmir Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mayank Gupta, Advocate for the appellants.

Mr. Nigam K. Bhardwaj, Advocate for respondent No.2.

ALKA SARIN, J. (Oral)**CM-13716-CII-2023**

1. For the reasons stated in the application, the same is allowed. The delay of 155 days in filing the present appeal is condoned. The claimants, however, shall not be entitled to interest for the period of delay.

CM-13715-CII-2023

2. For the reasons stated in the application, the same is allowed. The delay of 167 days in re-filing the present appeal is condoned.

FAO-4140-2023 (O&M)

3. Present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as the 'Tribunal') vide award dated 08.02.2022 on account of death of Kanchan Kapoor (hereinafter referred to as the 'deceased').

4. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹8,542/-
2	Annual income	[₹8,542 x 12] = ₹1,02,504/-
3	Loss of future prospects @ 40%	[₹1,02,504 + 41,002] = ₹1,43,506/-
4	Deduction – 1/3 rd	[₹1,43,506 – 47,835] = ₹95,671/-
5	Multiplier – 15	[₹95,671 x 15] = ₹14,35,065/-
6	Loss of estate	₹15,000/-
7	Funeral expenses	₹15,000/-
8	Loss of consortium	₹40,000/-
	Total compensation	₹15,05,065/-
	Interest	6% per annum

6. Learned counsel for the claimant-appellants would contend that though he does not challenge the deduction, multiplier and the addition towards loss of future prospects as assessed by the Tribunal, however, the income of the deceased, who was a homemaker, was assessed on the lower side as ₹8,542/- per month, which ought to have been assessed on the basis of the minimum wages applicable for a skilled worker at the relevant point of time i.e. ₹10,900/- per month. He has relied upon the judgment of the Hon'ble Supreme Court in the case of **Kirti & Anr. Vs. Oriental Insurance Company Ltd. [2021 (1) RCR (Civil) 478]**. It is further the contention that the amounts awarded under the conventional heads as well as under the head

'loss of consortium' are also 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]**.

7. *Per contra*, the learned counsel for respondent No.2-Insurance Company has contended that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

8. Heard.

9. Since there is no challenge to the deduction, multiplier and the addition towards loss of future prospects as assessed by the Tribunal, the same are maintained. The argument of the learned counsel for the claimant-appellants that the minimum wages as applicable to a skilled worker ought to have been applied while assessing the income of the deceased deserves to be accepted. While emphasizing upon the contribution made by a homemaker and the services rendered by a woman in a household, the Apex Court observed that there can be no exact calculation or formula that can ascertain the actual value provided by an individual gratuitously. Thus, to streamline the calculation of notional income for homemakers and the grant of future prospects with respect to them for the purposes of grant of

compensation, the following principles were laid by Hon'ble Supreme Court in the case of **Kirti** (*supra*):

“42. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarized as follows:

a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.

b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.

c. Various methods can be employed by the Court to fix the notional income of a homemaker,

depending on the facts and circumstances of the case.

d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.”

10. In the present case considering the extensive contribution of the deceased in the household and in the absence of any evidence regarding her exact income, this Court deems it appropriate to take the minimum wages of a skilled worker, which were ₹10,900/- per month, at the relevant point of time, as her notional income

11. Further, the amounts awarded under the conventional heads as well as 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 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. The claimant-appellants, being the husband and the son of the deceased, would also be entitled to ₹48,000/- each (₹40,000 + 20% increase) towards loss of spousal and parental

consortium. Proforma respondent No.3, who was claimant No.2 before the Tribunal, being the daughter of the deceased, would also be entitled to loss of parental consortium to the tune of ₹48,000/-.

12. Accordingly, the reworked compensation is as under :

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹10,900/-
2	Annual Income	₹1,30,800/- [₹10,900 x 12]
3	Deduction - 1/3 rd	₹87,200/- [₹1,30,800 – 43,600]
4	Future Prospects - 40%	₹1,22,080/- [₹87,200 + 34,880]
5	Multiplier - 15	₹18,31,200/- [₹1,22,080 x 15]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 2] (iii) Spousal's	₹96,000/- ₹48,000/- (Total ₹1,44,000/-)
	Total Compensation	₹20,11,200/-

13. 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. However, the claimants shall not be entitled to any interest for the period of delay in filing the appeal.

14. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 : Civil Appeal No.4299 of 2025 arising out of SLP (C) No.4484 of 2020 decided on 18.03.2025]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account of the claimants proportionately within six weeks from today. The particulars of the bank

account alongwith the requisite documents in support thereof shall be furnished by the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

15. In view of the above discussion, the award passed by the Tribunal is modified and the present appeal stands allowed accordingly. Pending applications, if any, also stand disposed off.

20.05.2025
jk

(ALKA SARIN)
JUDGE

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