



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

**116**

**FAO-6527-2023 (O&M)**

**Date of Decision : 07.05.2025**

M/s RELIANCE GENERAL INSURANCE CO.

... Appellant

VERSUS

VEDWATI AND ORS

.... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Sunil Kumar, Advocate for the appellant.

**ALKA SARIN, J. (ORAL)**

**CM-21458-CII-2024**

1. This is an application for condonation of delay of 102 days in filing the application being CM-21459-CII-2024 for restoration of the main appeal which was dismissed for want of prosecution vide order dated 18.07.2024 passed by this Court.

2. For the reasons stated in the application, the same is allowed and the delay of 102 days in filing the application being CM-21459-CII-2024 for restoration of the main appeal is condoned.

**CM-21459-CII-2024**

3. This is an application for restoration of the main appeal which was dismissed for want of prosecution vide order dated 18.07.2024 passed by this Court.

4. For the reasons stated in the application, the same is allowed and the main appeal is restored to its original number and status.

**FAO-6527-2023**

5. The present appeal has been preferred by the appellant-Insurance Company aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Palwal (hereinafter referred to as the 'Tribunal') vide award dated 26.09.2023.

6. 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.

7. The claimants had filed a claim petition for compensation on account of death of Ashok Kumar son of Shri Roop Singh who met with a motor vehicular accident on 13.11.2019. It was averred in the claim petition that the deceased used to sell milk and in this regard register (Ex.P-12) showing delivery of milk to various persons was produced. Photocopies were retained on the record and the originals were seen and returned as is apparent from a copy of the statement of PW-3, namely, Vedwati which has been handed over in Court by the learned counsel for the appellant-Insurance Company. It was claimed that the monthly sale of milk, as shown in the register, was ₹96,912. It was further claimed that 50% was the profit. It was further stated that the deceased was managing 4 Acres of agricultural land as per the jamabandi (Ex.P-11).

8. The Tribunal, on the basis of pleadings and evidence on the record, awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income of Ashok Kumar at the time of his death after adding 25% future prospects of ₹22,500 (₹9,000 + ₹4,500)	₹22,500
2	Annual dependency of ₹2,70,000 for the purpose of awarding compensation (₹22,500 x 12)	₹2,70,000
3	Multiplier of '14' is to be applied in accordance with the age of the deceased, who was in the age group of 41 to 45 years at the time of accident as per Sarla Verma's case (supra) (₹2,70,000 x 14) = ₹37,80,000	₹37,80,000
4	1/5 <sup>th</sup> deduction of ₹7,56,000 towards personal living expenses as per Sarla Verma's case (supra) (₹37,80,000 - ₹7,56,000)	₹30,24,000
5	Loss of estate, loss of consortium, funeral expenses	₹70,000
6	Medical Bill	₹2,94,311
	<b>Total Compensation</b>	<b>₹33,88,311</b>
	<b>Interest</b>	<b>@ 6% per annum</b>

Aggrieved by the same, the present appeal has been preferred by the appellant-Insurance Company.

9. Learned counsel for the appellant-Insurance Company would contend that the Tribunal has erred in assessing the income of the deceased as ₹18,000 per month and that too on a guess work and hence the compensation, as awarded vide the impugned award, is on a higher side.

10. Heard.

11. In the present case the accident took place on 13.11.2019. There is no dispute regarding the factum of the accident. The only argument raised by the learned counsel for the appellant-Insurance Company is qua the

quantum of compensation. PW-3, namely, Vedwati (widow of the deceased) had produced on record the register (Ex.P-12) showing the sale of milk to the tune of ₹96,912 to various persons. As per the statement of this witness, the original was shown and was later returned. A perusal of the statement of Vedwati (PW-3) and the cross-examination conducted by the learned counsel for the appellant-Insurance Company reveals that there is not even a single suggestion regarding the genuineness of register (Ex.P-12). The Tribunal, while applying some amount of guess work, had calculated the income of the deceased as ₹18,000 per month and taken the income as 20% of the sale. It cannot be said that the amount of ₹18,000 per month, as assessed by the Tribunal, is on the higher side.

12. The Hon'ble Supreme Court in the case of **Chandra @ Chanda @ Chandram & Anr. vs. Mukesh Kumar Yadav & Ors. [2021(4) RCR (Civil) 492]** has held 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.*

13. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed being devoid of any merit.

14. Pending applications, if any, also stand disposed off.

**07.05.2025**

*Aman Jain*

NOTE:

*Whether speaking/non-speaking: Speaking*

*Whether reportable: Yes/No*

**(ALKA SARIN)**

**JUDGE**