



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

**FAO-2372-2015 (O&M)
Date of Decision: January 20, 2025**

National Insurance Company Ltd.

...Appellant

VERSUS

Angrejo and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Suvir Dewan, Advocate
for the appellant.

None for respondents No.1 to 4.

Respondent No.5-died.

Mr.Sharmila Singh, Advocate
for respondents No.6 and 7.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-insurance company, insurer of the offending vehicle, thereby, assailing the Award dated 07.07.2014 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted, on account of death of Raj Kumar, in a motor vehicular accident, which took place on 17.06.2012.

On appraisal of the evidence, brought on record, learned Tribunal concluded about deceased Raj Kumar to be working as Mali-cum-Chowkidar in Public Health Department and considering his date of birth, as spelt out from the evidence, to be 10.01.1969, concluded about the deceased



FAO-2372-2015

-2-

to be 43 years old and considering his salary, as evident from the service record, to be Rs.14,008/- per month, from which, conveyance allowance and washing allowance were deducted, the monthly salary was taken as Rs.13,168/-. Upon this, addition of 30% was made, towards 'future prospects', which comes to be Rs.17,118/- (Rs.13168+3950). Considering the same, only widow and father of the deceased were taken to be the dependents of deceased Raj Kumar and thus, 1/3rd was deducted on the count of 'personal expenses' and the monthly loss of dependency was worked upon as Rs.11,412/- (Rs.17118-5706). After application of multiplier of '14', the amount was worked upon as Rs.19,17,216/-. Besides the same, another amount of Rs.50,000/- was granted on the count of 'loss of consortium' and Rs.1,00,000/- for loss of care and guidance for minor children and Rs.10,000/-, on the count of 'transportation and funeral'. Thus, total compensation was worked upon as Rs.20,77,216/-.

Being aggrieved, the insurance company filed the present appeal, to assail the Award, on the quantum of compensation

Solely, the compensation amount has been challenged on the ground of salary being received by the claimants under the **Haryana Compassionate to the Dependents of Deceased Government Employees Rules, 2006**. Considering the same, it is submitted that the requisite amount received by the claimants, ought to have been deducted.

The 'work on' of the compensation, as done aforesaid by learned Tribunal, do call for re-determination, as per prevalent law.

Anyhow, it is not disputed between the parties that deceased was working as Mali-cum-Chowkidar, in Public Health Department. Also,



it stands established from the evidence, brought on record that monthly salary of the deceased was Rs.14,008/-. Though deduction, on two counts i.e. conveyance allowance and washing allowance has been made, but however, the salary has to be considered minus tax component only. Thus, the deduction, ought not to have been made. Taking the monthly salary of the deceased to be Rs.14,008/-, annual thereof, comes to be Rs.1,68,096/-, which fell within the exemption limit of tax slab, prevalent at the time and tax was 'Nil' to the extent of Rs.2,00,000/- per annum. Taking it to be so, considering the age of the deceased to 43 years, as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, addition of 30%, on the count of 'future prospects' has to be made. Thus, the monthly earnings of deceased Raj Kumar, is worked upon as Rs.14008+4202(30%)=Rs.18,210/-.

However, the deduction on the count of 'personal expenses' made by learned Tribunal, is on higher side. Learned Tribunal had only considered widow and father of deceased as dependents. Even though, the children of the deceased are major, but however, suffice to consider that they are also legal heirs and they ought to be considered for the purpose of grant of compensation, on account of death in a motor vehicular accident. Reliance in this regard is placed on *National Insurance Company Limited v. Birender, (2020) 11 SCC 356*.

Thus, considering the number of dependents, as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, the deduction on the count of 'personal expenses' ought to be made to the extent of 1/4th. Thus, after deducting the same, the loss of dependency is worked



FAO-2372-2015

-4-

upon as $Rs.18210-4552(1/4th)=Rs.13,658/-$, annual whereof, comes to be $Rs.1,63,896/-$.

Considering the age of the deceased, as per *Sarla Verma's case (supra)*, the appropriate and suitable multiplier, to be applied is '14', and thus, by applying the same, the loss of dependency, works out to be $Rs.163896 \times 14 = Rs.22,94,544/-$.

Besides the aforesaid, as per '*Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*', each of the appellants-claimants are entitled to 'parental', 'spousal' or 'filial' consortium, as required. As held in *Pranay Sethi's case (supra)*, the compensation payable, at present, on the count of 'loss of consortium is to the extent of $Rs.48,400/-$ i.e. $Rs.48,400 \times 6 = Rs.2,90,400/-$. Likewise, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to appellants-claimants, on account of death of Raj Kumar, is re-computed, as herein given:-

Loss of dependency	:	Rs.22,94,544/-
Loss of consortium	:	Rs.2,90,400/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.26,21,244/-

However, deceased Raj Kumar is established to be a government employee and he died in harness. Therefore, the claimants are entitled to compensation under the **Haryana Compassionate to the Dependents of Deceased Government Employees Rules, 2006**.



Very true, as pointed out by learned counsel for the appellant that no deduction, as such, has been made by learned Tribunal, on the basis of the aforesaid Rules. Suffice to make reference to *CA No.9654 of 2016*, titled as *Reliance General Insurance Co. Ltd. vs. Shashi Sharma and others*, decided on *23.09.2016*, wherein, it was held that the amount so received under the aforesaid Rules, ought to be deducted. Though, it is not coming forth in the evidence, as to how much has been received under the aforesaid requisite Rules, but however, suffice to make reference to the testimony of PW-2 Dharamvir, Establishment Branch, Public Health Engineer, Division No.1, Karnal, who while facing cross-examination had stated that Angrejo is getting salary (last pay), after the death of Raj Kumar and that the same shall be payable, till the retirement age of husband of Angrejo.

Even, it is important to make reference to the testimony of PW-4 Angrejo, who in the cross-examination had stated that she is getting salary of Rs.14,000/- per month, after the death of her husband. However, it is not evident that as to how much had been received, till the date of the impugned Award.

In the light of the aforesaid, no deduction, as such, could be made of lumpsum amount, even for the period for which, the amount had not been received, which, as evident, was received monthly. Thus, before disbursement of the compensation worked upon aforesaid, learned Tribunal shall verify the fact of receipt of extent of amount by the claimants, being beneficiaries under the **Haryana Compassionate to the Dependents of Deceased Government Employees Rules, 2006**, by way of taking affidavits of the claimants and verify the same, at its own level. Upon such



FAO-2372-2015

-6-

verification, the amount so received under the aforesaid Rules, shall be deducted from the compensation, as now worked upon. After doing the needful, the residue amount of compensation to the extent of 50%, shall be disbursed to claimant-Angrejo, whereas, other claimants shall be entitled to residue 50% amount equally.

The claimants shall be entitled to the interest as granted by learned Tribunal, on the total compensation, as now worked upon, from the date of filing of the claim petition, till realization of the enhanced amount of compensation. However, learned Tribunal, as ordered aforesaid, shall work upon the amount so received by the claimants under the requisite Rules and deduct the same with proportionate interest and disburse the residue to the claimants, as ordered aforesaid.

Accordingly, the impugned Award dated 07.07.2014 stands modified, to the extent, as indicated aforesaid.

In view of the above observations, the present appeal stands allowed.

January 20, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No