



FAO Nos.3463 & 3137 of 2024 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Reserve:02.09.2025
Date of Decision: 16.09.2025

1. FAO No.3463 of 2024 (O&M)
NARESH KUMAR AND ORS.Appellant(s)

Vs

THE NEW INDIA ASSURANCE CO. LTD. AND ANR....Respondent(s)

2. FAO No.3137 of 2024 (O&M)
THE NEW INDIA ASSURANCE CO. LTD.Appellant(s)

Vs

NARESH KUMAR AND OTHERSRespondent(s)

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sagar Dangi, Advocate
for the appellants in FAO No.3463 of 2024 and
for respondent Nos.1 to 4 in FAO No.3137 of 2024.

Mr. Vinod K. Kanwal, Advocate
for the appellant /Insurance Company in FAO No.3137 of 2024 and
for respondent No.1/Insurance Company in FAO No.3463 of 2024.

HARKESH MANUJA, J.

CM Nos.12516-CII & 12517-CII of 2024 in FAO No.3463 of 2024

There is delay of 14 days in re-filing and 24 days in filing the present appeal.

Notice in both the applications.

Learned counsel appearing on behalf of respondent No.1/Insurance Company accepts notice and raises no objection to the prayer made in both the applications.

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Upon hearing learned counsel for the parties and considering the averments made in the applications, which is duly supported by affidavit of learned counsel, the prayers made in both the applications are allowed. The delay of 14 days in re-filing and 24 days in filing the present appeal is condoned.

CM No.11259-CII of 2024 in FAO No.3137 of 2024

There is delay of 51 days in filing the present appeal.

Learned counsel appearing on behalf of respondent Nos.1 to 4 does not oppose the prayer made in the application.

Upon hearing learned counsel for the parties and considering the averments made in the application, which is duly supported by an affidavit, the same is allowed. The delay of 51 days in filing the present appeal is condoned.

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[1]. Vide this common judgment, the FAO Nos.3463 and 3137 of 2024 are being decided of as both the appeals lay challenge to the common Award dated 05.02.2024 passed by the learned Motor Vehicle Accident Claim Tribunal, Jhajjar (hereinafter referred to as “the Tribunal”), whereby an amount of Rs. 25,69,400/- was awarded as compensation to the appellants/claimants in FAO No.3463 of 2024 along with interest @ 6% per annum. However, facts are being culled out from FAO No.3463 of 2024 for reference.

[2]. A claim petition came to be filed at the instance of appellants/claimants before the learned Tribunal, praying for grant of compensation to the tune of Rs.80,00,000/- (Rupees Eighty Lakhs only) along with interest @ 18% per annum on account of death of Nirutma in a vehicular accident



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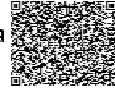
which took place on 17.01.2021 while alleging rash and negligent driving of respondent No.2-driver.

[3]. Learned Tribunal after appraisal of evidence on record held that the accident occurred due to rash and negligent driving of respondent No.2/driver and after assessing income of deceased @ Rs.11,240/- per month in accordance with minimum wages of a skilled workman in the year 2021, awarded compensation in the following manner:-

<i>S.No</i>	<i>Head of claim amount</i>	<i>Amounts</i>
1.	<i>Income of deceased Nirutma</i>	<i>Rs. 11,240/- per month</i>
2.	<i>Annual Dependency</i>	<i>Rs. 1,34,880/-(Rs. 11,240 x 12)</i>
3.	<i>Add 25% of future prospects</i>	<i>Rs. 1,68,600/- (Rs.1,34,880/- + Rs.33,720/-)</i>
4.	<i>Multiplier</i>	<i>14</i>
5.	<i>Loss of Dependency</i>	<i>Rs. 23,60,400/- (Rs.1,68,600/- x 14)</i>
6.	<i>Loss of Estate</i>	<i>Rs. 16,500/-</i>
7.	<i>Funeral Expenses</i>	<i>Rs. 16,500/-</i>
8.	<i>Loss of Consortium</i>	<i>Rs. 44,000/-</i>
9.	<i>Loss of Parental Consortium</i>	<i>Rs. 1,32,000/-</i>
	<i>Total</i>	<i>Rs. 25,69,400/-</i>

Further, liability was fastened upon the driver-cum-owner and the Insurer of the offending car jointly and severally, but was to be indemnified by the Insurance Company and the compensation amount was ordered to be disbursed in equal proportions.

[4]. Being aggrieved of the Award dated 05.02.2024 passed by the learned Tribunal, the present appeals were preferred by the appellants-claimants for setting



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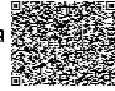
aside the Award as well as for enhancement of compensation and by the appellant-respondent/Insurance Company for reduction of compensation. Facts as specified in the claim petition about the manner of accident and the issue regarding negligence of the driver have been recorded in favour of appellants/claimants by the learned Tribunal, the same not being under challenge; need not be repeated here for the sake of brevity.

Arguments

[5]. Learned counsel for the appellants/claimants contended that keeping in view of the fact that the deceased apart from being a homemaker was also running a stitching center for imparting training of stitching and tailoring, besides selling milk, the learned Tribunal arbitrarily assessed her income on the lower side as Rs.11,240/- per month while considering her services to the family as well as stitching center, her monthly income should have been assessed at least @ Rs.30,000/- per month. He further submitted that compensation awarded under conventional heads i.e. loss of estate, funeral expenses and loss of consortium was also assessed on the lower side.

[6]. Per contra, learned counsel representing the appellant-respondent/Insurance Company, vehemently argued that the compensation awarded by the learned Tribunal was highly excessive and contended that the learned Tribunal fell in error while awarding a whopping sum of Rs.25,69,400/- as compensation and as such the same was liable to be set aside.

[7]. I have heard learned counsel for the parties and gone through the paper book of the case as well as the records of the learned Tribunal. I find force in the arguments raised on behalf of learned counsel for the appellants/claimants.



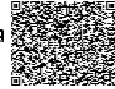
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Discussion

Question of Income Assessed

[8]. In the present case, as per the statement of Naresh Kumar (husband of deceased) while deposing as PW-1, it was submitted that the deceased was 43 years of age and was also running a stitching-cum-training center besides maintaining a dairy, and, thus, was earning Rs.50,000/- per month, although no documentary evidence to support the income of the deceased was placed before the Tribunal. Accordingly, learned Tribunal assessed the monthly income of deceased @ Rs.11,240/- per month as equated with that of a skilled workman being a homemaker. In this regard observations made by the Hon'ble Apex Court in "Kubra Bibi vs. Oriental Insurance Co. Ltd.", reported as 2023 (3) Apex Court Judgments (SC) 23, to the effect that in the absence of definite proof of income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and notional income in any event is required to be taken into consideration may help the cause of the appellant. Relevant para of this judgment is reproduced hereunder:-

"7. In a matter of the present nature where the compensation is sought and even in absence of definite proof of the income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and the notional income in any event is required to be taken into consideration. The fact that the deceased had three dependents to be cared for and had claimed that he was working as a mechanic, the amount payable to an unskilled labour, cannot be the basis and in that circumstance when he was a skilled person, the daily income at Rs. 200 per day in any event could have been taken even if the income from jeep transport business was



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discarded for want of documents. More so in a circumstance, where the MACT had referred to the evidence available on record and then arrived at its conclusion, the re-appreciation of the evidence by the High Court is without being sensitive to nature of lis before it.”

[8.1]. Furthermore, in the present case, deceased was a homemaker and her income was assessed as Rs.11,240/- per month, which appears to be on lower side. In case of “*Laxmidhar Nayak v. Jugal Kishore Behera*”, reported as *(2018) 1 SCC 746*, notional income of house wife-cum-agricultural labour, who died in the year 1991 was considered as Rs.4500/- per month. (Due to passage of so many years, there would be substantial hike in the minimum wages of ordinary labours).

[8.2]. Similarly in the case of “*Mohni Devi Thakur vs Manjit Singh*”, reported as *2021(1) RCR CIVIL 737*, this Court assessed the notional income of housewife @ Rs.7500/- per month while awarding compensation in relation to an accident dated 24.05.2013.

[8.3]. Even in the case of “*National Insurance Co Ltd vs Dhan Singh*”, reported as *2019(3) PLR 301*, notional income of housewife was assessed @ Rs.11000/- per month by this Court while awarding compensation in relation to an accident dated 20.09.2017.

[8.4]. Therefore, the notional income of housewives needs to be considered keeping in mind multifarious services rendered by her for the family; the expenses for cook service, maid servant service, housekeeping expenses and keeping in mind the savings accrued due to all these services. Even the invaluable emotional support and the contribution of house wife to her husband, children and in-laws, cannot be assessed in terms of money. Thus, keeping in mind the above considerations, notional income of the deceased as housewife-cum-seamstress is



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assessed @ Rs.18,000/- per month against an accident which took place on 17.01.2021.

[9]. Further, relying upon decision rendered by a co-ordinate Bench of this Court in case of “Gurmej Singh vs Gurnaib Singh” bearing FAO No.1093 of 2019, no deduction is liable to be made from notional income of a housewife. Furthermore, future prospects are required to be added to a homemaker’s notional income in view of the decision rendered by the Hon’ble Supreme Court in case of “Rajendra Singh and Others vs National Insurance Company Limited and Others”, reported as 2020(3) R.C.R (Civil) 26, whereby it was held that in case of death of housewife claimants are liable to be granted such benefit. Relevant excerpt thereof is reproduced hereunder: -

“11.If the deceased had survived, in view of observations in Lata Wadhwa (supra), her skills as a matured and skilled housewife in contributing to the welfare and care of the family and in the upbringing of the children would have only been enhanced by time and for which reason we hold that the appellants shall be entitled to future prospects.....”

[10]. In view of judgment of Hon’ble Apex Court in Smt. Sarla Verma & Ors. Vs Delhi Transport Corporation & Anr., (2009) 6 SCC 121, National Insurance Company Ltd. vs. Pranay Sethi & Ors. (2017) 16 SCC 680 and United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur, reported as (2021) 11 SCC 780, compensation awarded under conventional heads is also required to be reassessed. Accordingly, claimants are entitled for Rs.18,000/- as compensation under the head of funeral expenses and Rs.18,000/- towards loss of estate. Loss of consortium is to be awarded to the tune of Rs.1,92,000/-(48,000/- x 4) as appellants/claimants are entitled for spousal and parental consortium; but



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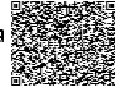
simultaneously, appellants/claimants are not entitled for compensation on account of loss of love and affection.

Conclusion

[11]. In view of what has been discussed hereinabove, the appellants/claimants shall be entitled for the grant of compensation in the following manner:-

Sr.No.	Nature	Amount in Rupees
1.	Annual Income of deceased (Rs.18000 x12)	Rs.2,16,000/-
2.	Add 25% of Future prospects	Rs.54,000/-
3	Net Income (Rs.2,16,000/- + Rs.54,000)	Rs.2,70,000 /-
4.	Multiplier of 14 as per age of 43 years (Rs.2,70,000 /- X 14)	Rs.37,80,000/-
5.	Funeral Expenses	Rs.18,000/-
6.	Loss of Estate	Rs.18,000/-
7.	Loss of Consortium (Rs.48000x4)	Rs.1,92,000/-
	Total Compensation	Rs.40,08,000/-
	Amount Awarded by the Tribunal	Rs.25,69,400/-
	Enhanced Amount	Rs.14,38,600/-

[12]. The grant of interest @ 6% per annum is not equitable and just in view of the observations made by the Hon'ble Supreme Court in Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (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, thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. Needless

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

[13]. Accordingly, the appeal filed at the instance of appellant/respondent-Insurance Company is dismissed and the appeal filed at the instance of appellants/claimants is disposed of with the aforesaid modification of the Award passed by the learned Tribunal.

[14]. Pending miscellaneous application(s) if any, shall also stand disposed of.

September 16, 2025

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(HARKESH MANUJA)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No