



FAO-4184-2010 (O&M)

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

**IOIN-1-FAO-4184-2010 in
FAO-4184-2010 (O&M)
Date of decision : 08.09.2025**

Sushila and others

...Appellants

Versus

Rajiv Kalia and another

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Abhay Pratap Singh Chauhan, Advocate
and Mr. Deepak Choudhary, Advocate,
for the appellants.

Mr. Aseem Aggarwal, Advocate,
for respondent No.2-National Insurance Company.

HARPREET KAUR JEEWAN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellants aggrieved against the quantum of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal') vide award dated 08.02.2010.

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 reproduced herein for the sake of brevity.

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

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	Rs.11,250/-
2.	Annual income	[Rs.11,250 x 12] = Rs.1,35,000/-
3.	Deduction 1/3 rd	[Rs.1,35,000 – Rs.45,000] = Rs.90,000
4.	Future prospects @ 30%	[Rs.90,000 + 27,000] = Rs.1,17,000/-
5.	Multiplier of '11'	[Rs.1,17,000 x 11] = Rs.12,87,000/-
6.	Funeral expenses	Nil
7.	Loss of estate	Nil



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8.	Loss of consortium	Nil
	Total Compensation	Rs.12,87,000/-
	Interest @ 6% per annum	

4. Learned counsel for the claimant-appellants contends that the monthly income of the deceased has not been properly assessed by the Tribunal, as the allowances, including House Rent Allowance (HRA); City Compensation Allowance (CCA); and Medical Allowance (MA) were not included while determining the income of the deceased. Reference has been made to the decision of the Hon'ble Apex Court in *Sunil Sharma Vs. Bachitar Singh, 2011(2) Apex Court Judgments (SC) 71*, wherein it was held that the deductions made by the Tribunal on account of HRA, CCA and MA are on wrong premise and should have been taken into consideration for calculating the income of the deceased. Learned counsel further contends that there are 04 dependents after the deceased, and as such, deduction at the rate of 1/4th instead of 1/3rd should have been done. Similarly, keeping in view the age of the deceased, multiplier of '14' should have been applied by the Tribunal. It is further pointed out that the Tribunal has not awarded any amount towards 'Loss of Estate', 'Funeral Expenses' and 'Loss of Consortium'. Cites *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. Learned counsel for respondent No.2-Insurance Company has not disputed this fact that allowances (HRA, CCA & MA) have not



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been taken into consideration while determining the monthly income of the deceased. However, it is argued that sufficient amount has already been awarded by the Tribunal and there is no scope for enhancement of the same.

6. I have considered the aforesaid submissions and perused the paper-book.

7. The Tribunal has given reference to the pay-slip, Ex.P-2 in para No.16 of the Award. As per the said pay-slip, the total salary of the deceased was Rs.13,457/-, which also included CCA @ Rs.120/- p.m.; MA @ Rs.250/- p.m. and HRA @ Rs.1,692/- p.m. In view of the decision in *Sunil Sharma (supra)*, the said allowances are to be considered while determining the income of the deceased and as such, the income of the deceased is considered as Rs.13,312/- (Rs.11250/- + Rs.120/- + Rs.250/- + Rs.1,692/-).

8. It is not disputed that 04 claimants are the legal representatives of the deceased. Claimant No.1 is widow; claimant Nos.2 & 3 are the minor children; whereas claimant No.4 mother of the deceased. As such, the deduction of 1/4th of the amount is to be made while calculating the dependency of the claimant-appellants. The Tribunal has considered the age of the deceased as 42 years, as such, multiplier of 14 is applicable. In addition, the claimants are also entitled to Rs.18,000/- towards funeral expenses; Rs.18,000/- towards loss of estate and Rs.1,92,000/- (Rs.48,000/- X 4) towards loss of consortium (spousal, filial and parental).

9. Accordingly, the reworked compensation is as under:-



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Sr. No.	Heads	Compensation Awarded
1.	Monthly income	Rs.13,312/-
2.	Annual income	[Rs.13,312 x 12] = Rs.1,59,744/-
3.	Deduction 1/4 th	[Rs.1,59,744 – Rs.39,936] = Rs.1,19,808/-
4.	Future prospects @ 30%	[Rs.1,19,808 + Rs.35,942] = Rs.1,55,750/-
5.	Multiplier of '14'	[Rs.1,55,750/- x 14] = Rs.21,80,500/-
6.	Funeral expenses	Rs.18,000/-
7.	Loss of estate	Rs.18,000/-
8.	Loss of consortium (spousal, filial and parental)	[Rs.48,000/- x 4] = Rs.1,92,000/-
	Total Compensation	Rs.24,08,500/-
	Interest @ 7.5% per annum	On excess amount

10. The amount in excess of the amount awarded by the Tribunal shall attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the main appeal.

11. In view of the decision by the Hon'ble Supreme Court in *Parminder Singh vs. Honey Goyal & Ors., 2025 INSC 361*, after calculation of the enhanced amount, the same shall be transferred by respondent No.2-Insurance Company in the Bank Accounts of the claimant-appellants within a period of 06 weeks from today. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimant-appellants to respondent No.2-Insurance company within a period of two weeks from today and needful shall be done by respondent No.2-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.



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12. In view of the above discussion, the present appeal is partly allowed and the award passed by the Tribunal is modified accordingly.

13. Pending application(s), if any, as well as IOIN-1-FAO-4184-2010, shall also stand disposed of.

08.09.2025

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**[HARPREET KAUR JEEWAN]
JUDGE**

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No