



FAO No.2945 of 2008 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2945 of 2008 (O&M)

Date of Reserve: 20.08.2025

Date of Decision: 02.09.2025

JARNAIL KAUR & ORS.

.....Appellant(s)

Vs

CHARU RAM AND ORS

...Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. Akash Agarwal, Advocate for
Mr. Rakesh Nagpal, Advocate
for respondent No.2.

Mr. V. Ramswaroop, Advocate
for respondent No.3/Insurance Company.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award 24.03.2008 passed by the learned Motor Accident Claims Tribunal, Patiala (hereinafter to be referred as “the Tribunal”), whereby an amount of Rs.5,20,000/- was awarded as compensation to the appellants/claimants along with interest @ 9% per annum from the date of award till its realization.

Brief facts

[2]. The appellants/claimants being dependents upon the deceased Kesar Singh, filed claim petition before the Tribunal praying for grant of compensation to the tune of Rs.25,00,000/- (Rupees Twenty Five lakhs Only) on account of death of Kesar Singh in a motor vehicular accident which took place on 29.09.2004, alleging rash and negligent driving of respondent No.1/driver.



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[3]. Learned Tribunal, after appraisal of evidence on record, held that the accident occurred due to rash and negligent driving of respondent No.1- driver and after assessing income of deceased @ Rs.5,000/- per month while dealing in the business of Mushroom plants etc. and making deduction of 1/3rd towards his personal expenses, assessed compensation in the following manner:-

S.No	Heads of Claim	Amount (in Rs)
1.	Loss of dependency	Rs.5,14,800/-
2.	Funeral Expenses	Rs.5,200/-
	Total	Rs.5.20,000/-

Further, liability was jointly and severally fastened upon the driver, the owner and the Insurance Company and the compensation amount was ordered to be disbursed in the following manner:-

“1.	Jarnail Kaur (widow)	Rs.3,00,000/-
2.	Devinder Singh (major son)	Rs.70,000/-
3.	Kulwinder Kaur (minor daughter)	Rs.1,50,000/-”

[4]. Being aggrieved against the award dated 24.03.2008 passed by the learned Tribunal, the present appeal was preferred by the appellants/claimants for enhancement of compensation. Facts as specified in the claim petition about the manner of accident and the issue regarding negligence of driver recorded in favour of the appellants/claimants by the learned Tribunal being not assailed, are not repeated here for the sake of brevity.

Arguments

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[5]. Learned Counsel for the appellants assailed the award while submitting that earning of deceased, was to the tune of Rs.20,000/- per month as he was dealing in the business of Mushroom production and was also proprietor of M/s. Durga Gram Udyog at village Kar Kaur. It was further submitted that the above fact was duly proved from the deposition of appellant No. 1 as well as Naresh Kumar, employee in State Bank of Patiala which was not rebutted by the respondents by leading any evidence and therefore, learned Tribunal went wrong while having assessed monthly income @ Rs.5,000/- per month. Furthermore, it was submitted that the deceased was 44 years of age at the time of accident and the multiplier to be applied should be 15 instead of 13 besides funeral expenses has been assessed on the lower side and nothing has been awarded under conventional heads i.e., loss of estate and loss of consortium, therefore, he prayed for the enhancement of compensation as per latest decisions on the subject.

[6]. On the other hand, learned counsel representing respondent No.3- Insurance Company submitted that there was no basis to assess the income of the deceased as Rs.20,000/- per month as no documentary evidence except the bare testimony of PW-2, namely, Jarnail Kaur; copy regarding production of Mushroom as Ex. P4; copy of bank guarantee as Ex. P10; copy of electricity bills Ex. P11 to Ex. P26; copies of bank passbooks as Ex. P27 and Ex. P28 besides copy of statement of account issued by bank as Ex. P29, were available before the Tribunal in support. He thus submitted that the Tribunal, therefore, rightly assessed the income of the decease. He further pointed out that learned Tribunal rightly applied the multiplier of '13' as per age of 44 years. Learned counsel further submitted that in facts and circumstances of the case, appellants/claimants were rightly compensated and, thus the present appeal was liable to be dismissed.

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[7]. Learned counsel for respondent No.2/owner of the offending vehicle submitted that as the income of the deceased was not convincingly proved, learned Tribunal rightly assessed the same @ Rs.5,000/- per month, and thus, the appellants/claimants have been adequately compensated and that the present appeal was liable to be dismissed.

[8]. I have heard learned counsel for the parties and perused the paper book of the case. I find force in the arguments advanced by the learned counsel for the appellants/claimants.

Discussion**Question of Income Assessed**

[9]. In the present case, in view of the statement of Jarnail Kaur (wife of deceased) while deposing as PW-2, it was submitted that the deceased was also proprietor of M/s. Durga Gram Udyog at village Kar Kaur besides dealing in the business of production of mushroom and, thus, was earning Rs.20,000/- 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 @ 5,000/- per month considering him as a businessman. 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 the 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

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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 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.”

[10]. Considering the facts of the present case, wherein Jarnail Kaur (wife of deceased), while deposing as PW-2, stated that her husband was a graduate in Arts and dealing in business of Mushroom production; besides being proprietor of M/s. Durga Gram Udyog at village Kar Kaur and earning Rs.20,000/- per month, it cannot be denied that he was maintaining his family including his wife as well as 2 children and was the only bread winner of his family. In such circumstances, assessing income of deceased as Rs.5,000/- per month would not be appropriate as in the given facts it would be proper in case the income of deceased is assessed Rs.15,000/- per month considering he owned and was proprietor of the factory in which he was running business of mushroom production.

[11]. The Hon'ble Supreme Court in the case of **“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another,”** reported as **2009(3) RCR (Civil) 77**, wherein it was held that in case the number of dependent family members were 2 to 3, 1/3rd would be deducted as personal expenses from the total income. Relevant para of the judgment is culled out as under:-

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“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in *Trilok Chandra*[(1996) 4 SCC 362], the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family member exceeds six.”

Question of Compensation under Conventional Heads

[12]. Furthermore, in view of *Sarla Verma's* case (supra), **“National Insurance Co. Ltd vs Pranay Sethi & others”**, reported as **(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 re-assessed. Appellants/Claimants are held 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.1,44,000/- (Rs.48,000/- x 3) as appellants/claimants being spouse and children of the deceased are also entitled for spousal and parental consortium.

[13]. Now, the question arises how the compensation is to be distributed among the legal heirs. In this regard it may be taken into account that from the material available on record it is evident that appellant No.1- widow did not remarry and she besides her minor children were solely dependent upon the deceased, accordingly appellant No. 1 is held entitled for 60% of the compensation amount whereas appellant No.2 & 3 be granted the remaining 40%. It may be clarified here that the aforementioned ratio of 60:40 would be minus the



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consortium as all the appellants/claimants shall separately/individually be entitled for consortium in their favour.

Conclusion

[14]. 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.15000 x 12)	Rs.1,80,000/-
2.	Add 25% of Future prospects	Rs.45,000/-
3.	Total Income (Rs.180,000/- + Rs.45,000)	Rs.2,25,000/-
4.	Deduction (1/3th)	Rs.75,000/-
5.	Net income after deduction	1,50,000/-
6.	Loss of Income after applying multiplier of 14 as per age of 38 years (Rs.1,50,000/- x 14)	Rs.21,00,000/-
7.	Funeral Expenses	Rs.18,000/-
8.	Loss of Consortium (Rs.48000 x 3)	Rs.1,44,000/-
9.	Loss of Estate	Rs.18,000/-
	Total Compensation	Rs.22,80,000/-
	Amount Awarded by the Tribunal	Rs.5,20,000/-
	Enhanced Amount	Rs.17,60,000/-

Thus, the claimants are entitled for enhanced amount of Rs.17,60,000/-in the manner as discussed in para no.13 of this judgment, as compensation.

[15]. The grant of interest @ 9% per annum is just in view of the facts and circumstances of the present case and as per the observations made by the Hon'ble Supreme Court in Smt. Supe Dei and others Vs. National Insurance Company



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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, on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claimants shall be deducted from the enhanced compensation.

[16]. In view of aforesaid modification of the award, the present appeal stands allowed. Pending miscellaneous application(s) if any, shall also stand disposed of.

September 02, 2025

Atik

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No