



FAO No.2387 of 2023 (O&M)

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

FAO No.2387 of 2023 (O&M)

Date of Reserve: 08.05.2025

Date of Decision: 24.06.2025

MANITA

.....Appellant(s)

Vs

SMT. KAMLA AND OTHERS

....Respondent(s)

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

Present: Ms. Sunit Shekhawat, Advocate
for the appellant.

Mr. Ashish Gupta, Advocate and
Mr. Shivam, Advocate
for respondent Nos.1 to 4.

Mr. Sanjeev Kodan, Advocate
for respondent No.7/Insurance Company.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 11.04.2023 passed by the learned Motor Accident Claims Tribunal, Nuh (for brevity, "the Tribunal"), whereby an amount of Rs. 20,44,400/- was awarded as compensation to the appellant/claimant along with interest @ 6% per annum.

Brief Facts

[2]. A claim petition came to be filed before the Ld. Tribunal, praying for grant of compensation to the tune of Rs.40,00,000/- (Rupees forty lakhs only) along with the interest @ 24% per annum on account of death of Pawan in a vehicular accident which took place on 16.03.2018 while alleging rash and negligent driving of respondent No.5-driver.

[3]. Learned Tribunal after appraisal of evidence and record held that the accident occurred due to rash and negligent driving of respondent No.5/ driver and



FAO No.2387 of 2023 (O&M)

after assessing income of deceased @ Rs.8,000/- per month being an able-bodied person and making deducting of 1/4th towards personal expenses, awarded compensation in the following manner: -

S.No	Heads of Claim	Amount (in Rs)
1.	Compensation	Rs. 18,14,400
2.	Loss of Estate	Rs. 15,000/-
3.	Funeral Expenses	Rs. 15,000/-
4.	Loss of consortium @ Rs. 40,000/- to each petitioner and performa respondent No. 4	Rs. 2,00,000/-
	Total	Rs. 20,44,400.00

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:-

Petitioner No. 1 (mother of deceased)	Rs. 9,44,400/-
Petitioner No. 2 (brother of deceased)	Rs. 2,00,000/-
Petitioner No. 3 (brother of deceased)	Rs. 2,00,000/-
Petitioner No. 4 (sister of deceased)	Rs. 2,00,000/-
Performa respondent No. 4(widow of deceased)	Rs.5,00,000/-

[4]. Being aggrieved against the award dated 11.04.2023, the present appeal was preferred by the appellant for setting aside the compensation awarded to respondent Nos.1 to 4 and for release of entire compensation in her favour as well as for enhancement. Facts as specified in the claim petition about the manner

**FAO No.2387 of 2023 (O&M)**

of accident and the issue regarding negligence of the driver been recorded in favour of claimants by the Ld. Tribunal, are not being repeated here for the sake of brevity.

Arguments

[5]. Learned counsel for the appellant assailed the award while submitting that earning of the deceased, was to the tune of Rs.30,000/- per month as he was running a shop in the village. It was further submitted that the above fact was duly proved from the deposition of the appellant as well as the mother of the deceased which was not rebutted by the respondent Nos.5 to 7 by leading any evidence and therefore, Ld. Tribunal went wrong while having assessed monthly income @ Rs.8000/- per month. Furthermore, it was submitted that deduction @ 1/4th towards self expenditure by the deceased was on the higher side besides funeral expenses, loss of estate and loss of consortium also been assessed on the lower side. Ld. Counsel also submitted that respondent Nos.2 and 3 being above 35 years of age and residing peacefully with their respective families; earning handsome income from their occupation besides respondent No.4-sister of the deceased, been married and living with her family; they being not dependent on the deceased were thus not entitled for any compensation.

[6]. On the other hand, learned counsel representing respondent No.7-Insurance Company submitted that there was no basis to assess the income of the deceased as Rs.30,000/- per month as no evidence except the bare testimonies of the PW-1, namely, Kamla and RW-1, namely, Manita were available before the Tribunal in support. He thus submitted that the Tribunal, therefore, rightly assessed the income of the deceased. He further pointed out that Ld. Tribunal rightly deducted 1/4th as personal expenses. Learned counsel further submitted that in

**FAO No.2387 of 2023 (O&M)**

facts and circumstances of the case, appellant and claimants were rightly compensated and, thus the present appeal was liable to be dismissed.

[7]. Learned counsel for respondent Nos.1 to 4 submitted that the respondents being mother, brothers and sister of the deceased were dependent upon him and, therefore, Ld. Tribunal rightly assessed the amount of compensation in their favour, thereby calling for no interference in this present appeal.

[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 learned Counsel for the appellant.

Discussion**Question of Income Assessed**

[9]. In the present case, in view of the statements of Manita (wife of deceased) and Kamla (mother of deceased) while deposing as RW-1 and PW-1 respectively, it was submitted that the deceased was running a shop and, thus was earning Rs.30,000/- per month, although no documentary evidence to support the same was placed before the Tribunal in this regard. Accordingly, learned Tribunal assessed the monthly income of deceased @ 8000/- per month considering him as an able-bodied person and as such an unskilled labour. 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 from this judgment is reproduced hereunder:

**FAO No.2387 of 2023 (O&M)**

“7. In a matter of the present nature where the compensation is sought and even in the 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 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 evidence by the High Court is without being sensitive to nature of lis before it.”

[10]. Considering the facts of the present case, Manita (wife of deceased), while deposing as RW-1, stated that her husband was a shopkeeper and earning Rs.30,000/- per month, it cannot be denied he was maintaining his family including his wife as well as aged mother and was the only bread winner of his family. In such circumstances, assessing the income of the deceased as Rs.8000/- per month would not be appropriate as in the given facts it would be proper in case the income of the deceased was assessed as Rs. 12,000/- per month considering him as a skilled labour.

[11]. So far the contention made by Ld. Counsel for the appellant with regards to the deduction of one-fourth of the deceased's income towards personal expenses was on the higher side, however, it seems reasonable and justified in view of law laid down by the Hon'ble Supreme Court in **“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

**FAO No.2387 of 2023 (O&M)**

members were 4 to 6, 1/4th would be deducted as personal expenses from the total income. Relevant para of the judgment is culled out as under: -

“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, the 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 the judgment of the Hon'ble Apex Court in **Smt. 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 are also required to be re-assessed. Appellant and respondent Nos.1 to 4 being claimants are held entitled to Rs.18,000/- as compensation under head of funeral expenses and Rs.18,000/- towards loss of estate. Loss of consortium is assessed to the tune of Rs.48,000 x 5 (Rs. 2,40,000/-) as appellant and respondent Nos.1 to 4/ claimants being spouse, mother and siblings of deceased are also entitled for spousal, parental and siblings consortium.

[13]. Now, the question arises how the compensation is to be distributed among the legal heirs. In this regard it is apt to follow The Hindu Succession Act, 1956 which clearly mentions about distribution of property among heirs in class I of the Schedule. The relevant section is stated hereunder:-

**FAO No.2387 of 2023 (O&M)****“Section 10: Distribution of property among heirs in class I of the Schedule**

The property of an intestate shall be divided among the heirs in class I of the Schedule in accordance with the following rules:—

Rule 1.—The intestates widow, or if there are more widows than one, all the widows together, shall take one share.

Rule 2.—The surviving sons and daughters and the mother of the intestate shall each take one share.

Rule 3.—The heirs in the branch of each pre-deceased son or each pre-deceased daughter of the intestate shall take between them one share.

Rule 4.—The distribution of the share referred to in Rule 3

(i) among the heirs in the branch of the pre-deceased son shall be so made that his widow (or widows together) and the surviving sons and daughters get equal portions; and the branch of his pre-deceased sons gets the same portion;

(ii) among the heirs in the branch of the pre-deceased daughter shall be so made that the surviving sons and daughters get equal portions.”

[14]. In this regard it may be taken into account that from the material available on record it is evident that the appellant/widow did not remarry and had been residing in her parental house and, thus in such circumstances wherein she is solely dependent upon her parents in comparison to the mother of the deceased i.e. respondent No.1 who still has two other son to look upon for maintenance; accordingly the appellant/widow is held entitled for 60% of the compensation amount whereas the respondent No.1 mother be granted the remaining 40%. It may be clarified here that the aforementioned ratio of 60:40 would be minus the consortium as all the claimants i.e. the appellant/widow as well as respondent Nos. 1 to 4 shall separately/individually be entitled for consortium in their favour. Especially, in the circumstances wherein respondent Nos.2 and 3 are major, having



FAO No.2387 of 2023 (O&M)

their own independent source of livelihood besides that respondent No.4 also being married and living happily and peacefully along with her husband.

Conclusion

[15]. In view of the discussion made herein above, the appellant/claimant and respondent No.1 are held entitled for the grant of compensation in the following manner:-

Sr.No.	Nature	Amount in Rupees
1.	Annual Income of Deceased	Rs. 1,44,000/-
2.	Add 40% of Future prospects	Rs.57,600/-
3.	Total Income (Rs. 1,44,000 + Rs. 57,600)	Rs. 2,01,600/-
4.	Deduction (1/4)	Rs.50,400/-
5.	Loss of Income after applying multiplier of 18 as per age of 25 years (1,51,200 x 18).	Rs.27,21,600/-
6.	Funeral Expenses	Rs.18,000/-
7.	Loss of Estate	Rs. 18,000/-
8.	Total Compensation	Rs.27,57,600/-
9.	Amount Awarded by the Tribunal	Rs.20,44,400/-
	Enhanced Amount	Rs.7,13,200/-

Thus, the appellant/widow is entitled for Rs.16,54,560/- and Respondent No.1 i.e. Kamla, mother of deceased is entitled for Rs.11,03,040/- as compensation.



FAO No.2387 of 2023 (O&M)

[16]. Similarly, the appellant/widow and respondent Nos. 1 to 4 shall be entitled for following amount of compensation as consortium:-

Sr.No.	Name/ Respondent No.	Consortium Amount
1	Manita (widow)/Appellant	Rs. 48,000/-
2	Kamla (mother)/1	Rs. 48,000/-
3	Yashwant (brother)/2	Rs. 48,000/-
4	Surender (brother)/3	Rs. 48,000/-
5	Geeta (sister)/4	Rs. 48,000/-

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

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

June 24, 2025

Atik

**(HARKESH MANUJA)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No