

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****201****FAO-5216-2023(O&M)****Date of decision: 25.08.2025****Oriental Insurance Company Limited****...Appellant(s)****Vs.****Renu Singh & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Harsh Aggarwal, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate
for respondents No.1 to 4.

NIDHI GUPTA, J.

Present appeal has been filed by the Insurance Company against the Award dated 05.07.2023 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter 'the learned Tribunal') whereby Claim Petition bearing MACT Case No.388 dated 06.10.2020 filed under Section 166 of the Motor Vehicles Act, 1988 by the claimants/respondents No.1 to 4 herein, has been allowed and the claimants have been awarded compensation of Rs.92,65,628/- along with interest @ 9% per annum. The 4 claimants are the widow, 2 sons and mother of deceased Sujit Kumar.



2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the deceased Sujit Kumar had died due to the injuries suffered by him in the motor vehicular accident that took place on 25.05.2020, due to the rash and negligent driving of truck bearing registration No.UP-64AT-7791 (hereinafter “the offending vehicle”) by respondent No.5. The offending vehicle was owned by respondent No.6 and insured by the appellant.

3. Learned counsel for the appellant-Insurance Company submits that in awarding an exorbitant amount of compensation to the claimants, the learned Tribunal has lost sight of the fact that the claimants were receiving Family Pension. Accordingly, deduction ought to have been made on account of the Family Pension being paid to the claimants. The widow is receiving family pension @ Rs.30,000/- p.m. which was liable to be deducted while calculating the loss of income. It will give the double benefit to the respondents-claimants against the law laid down by Hon'ble Supreme Court. The Ld. Tribunal has lost the sight of the fact that the claimants were entitled to the benefit of difference of pension and family pension for computing the loss of dependency as held in various judgments passed by this Court.

4. It is further submitted that the Ld. Tribunal has also lost the sight of the fact that no independent witness was examined by the respondents-claimants to prove the manner of accident or negligence of offending vehicle.



Avanish Singh (PW-1) is an interested witness being a nephew of the deceased. Moreover, Avanish Singh (PW-1) appears to be a planted witness and his presence at the spot is highly doubtful as he has failed to give suitable account of rash and negligent driving of the Truck driver. Learned counsel accordingly prays for setting aside of the impugned Award.

5. No other argument is made on behalf of the appellant.

6. I have heard learned counsel and perused the case file in detail.

I find no merit whatsoever in the submissions of the appellant.

7. The pleaded case of the claimants before the learned Tribunal as recorded in para two of the impugned Award, is as under:-

“2. The version of the claimants, in nutshell, is that on 25.05.2020, deceased Sujit Kumar Singh along with Avinash Singh was going from Jaunpur to Lucknow while driving Car at slow speed on left side of the road. At about 7.00 AM, when they were on National Highway of Pratapgarh-Raebareli near Rajkali Vidyalaya Gadiana, a truck bearing No.UP-64AT-7791 coming at fast speed from the opposite direction struck against their car while coming on the wrong side of the road. As a result, the deceased received serious injuries and died at the spot whereas Avnish Singh survived but received serious injuries. The accident in question took place solely due to rash and negligent driving of truck by respondent No.1.

It is further averred that deceased was 43 years of age at the time of accident. He was posted as Naik Subedar in Indian Army and getting salary of Rs.70,000/- per month. Claimants were totally dependent upon his earnings as he was the sole bread



winner of the family. Claimants suffered loss of consortium, loss of love and affection, dependency, estate and also for the expenses incurred upon his last rites. Therefore, a prayer has been made for grant of Rs.2,00,00,000/- as compensation along with interest at the rate of 12% per annum.”

8. The admitted fact is that the deceased was working in the Indian Army as Naik Subedar and was drawing salary of Rs.65,826/- per month after making necessary deductions. Accordingly, annual income of the deceased came to be Rs.7,46,425/-. The deceased was proven to be 43 years on the basis of his PAN Card where his date of birth is mentioned as 01.02.1977. Accordingly, addition of 30% was correctly made towards future prospects. As there were 4 claimants, therefore, deduction of 1/4th was correctly made towards personal expenses. Multiplier of 14 was also correctly applied. Accordingly, compensation was awarded in following manner: -

Head	Amount
Annual income	Rs.7,46,425/-
Future prospects (30%)	Rs.2,23,928/-
Total income	Rs.9,70,353/-
Deduction of personal expenses (1/4 th)	Rs.2,42,588/-
Multiplicand	Rs.7,27,765/-
Loss of dependency i.e. multiplicand x multiplier (Rs.7,27,765/- x 14)	Rs.1,01,88,710/-
Loss of estate	Rs.16,500/-
Funeral expenses	Rs.16,500/-
Consortium (Rs.44,000/- x 4)	Rs.1,76,000/-
Total amount of compensation	Rs.1,03,97,710/-



9. The argument of the appellant that Family Pension being paid to the claimants on death of Sujit Kumar is liable to be deducted, is rejected in view of recent judgment of Hon'ble Supreme Court in **Pramod Kumar Tiwari v. Premlal Gautam, (SC) : Law Finder Doc ID # 2732865**, wherein it is held that:-

“Family pension or insurance cannot be deducted from compensation under Motor Vehicles Act, 1988 as it does not have a correlation with compensation arising from accidental death.”

10. Further, the presence of Avinash Singh (PW1) at the place of accident cannot be doubted as he had himself received multiple fractures in his right arm and other multiple injuries in the accident in question, which was proved from his Discharge Slip (Ex.P2).

11. In view of the above, present appeal is **dismissed**.

12. Pending application(s) if any also stand(s) disposed of.

25.08.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No