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

**FAO-3076-2009 (O&M)**

**Date of Decision : 11.03.2025**

Poonam Devi & Ors

... Appellant(s)

Versus

Mahender Singh & Ors

... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Atul Yadav, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

**ALKA SARIN, J. (Oral)**

1. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'Tribunal') vide the impugned award dated 02.02.2009 in a motor vehicle accident which occurred on 10.11.2007.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹3,600/-
2	Deduction 1/3 <sup>rd</sup>	[₹3,600 – 1,200] = ₹2,400/-
3	Annual income	[₹2,400 x 12] = ₹28,800/-
4	Multiplier of 16	[₹28,800 x 16] = ₹4,60,800/-
5	Funeral expenses	₹10,000/-
	<b>Total Compensation</b>	<b>₹4,70,800/-</b>
	<b>Interest</b>	<b>7.5% per annum</b>

4. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been assessed as ₹3,600/- per month inasmuch as the documents (Ex.P29 to Ex.P34) were produced on record by PW4-Amit Kumar Jha, Field Officer, Vijayant Security Services Pvt. Ltd., to show the salary of the deceased who joined the Company a month prior to the accident. However, the same had totally been ignored by the Tribunal and treating the deceased as a casual labourer, his income has been assessed. It is further the contention of the learned counsel that the salary certificate (Ex.P32) shows the income of the deceased as ₹8,500/- per month. The learned counsel would further contend that though the deduction of 1/3<sup>rd</sup> has rightly been applied by the Tribunal, however, the multiplier of '16' has wrongly been applied by the Tribunal which ought to have been '18' as the deceased was 24 years of age at the time of the accident. It is further the contention that no addition has been made towards future prospects as well as under the head 'loss of consortium' and further that the amount awarded under the conventional heads is also on the lower side. In support of his contentions, he has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, **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]**. The learned counsel for the claimant-appellants has pointed out that mother of the deceased (appellant No.3 herein) has since died.

5. *Per contra*, the learned counsel for respondent No.3-Insurance Company would contend that there is no evidence on the record to show that the Company with whom the deceased was alleged to be working was really in existence. It is further the contention of the learned counsel that merely the photocopies of Ex.P29 to Ex.P34 were placed on the record and, hence, the same have rightly been disbelieved by the Tribunal. It is further the contention of the learned counsel that sufficient amount has already been awarded as compensation in the present case and that there is no further scope of any enhancement.

6. I have heard the learned counsel for the parties.

7. In the present case, Sh. Amit Kumar Jha had stepped into the witness box as PW4, who was working as a Field Officer with Vijayant Security Services Pvt. Ltd. where the deceased was also stated to have been working. He brought the original record pertaining to the deceased and photocopies of which were tendered in evidence as Ex.P29 to Ex.P34. A perusal of the statement of PW4 reveals that it has clearly been stated therein that the original record was seen and returned by the Tribunal. The argument of the learned counsel for the Insurance Company that there is not a single document on the record to show the existence of the Company is liable to be rejected as no such suggestion was put to the said witness (PW4) that the Company itself was not in existence. The documents (Ex.P29 to Ex.P34) clearly reveal that the income of the deceased was ₹8,500/- per month. There is no evidence brought on record by the Insurance Company to disprove the documents (Ex.P29 to Ex.P34).

8. It is trite that the cases under the Motor Vehicles Act, 1988 are

to be decided on the touchstone of preponderance of probabilities. Hon'ble Supreme Court in the case of **Anita Sharma & Ors. vs. The New India Assurance Co. Ltd. & Anr.** [2021 (1) RCR (Civil) 200] has held as under :

*“22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eye-witnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in *Dulcina Fernandes v. Joaquim Xavier Cruz* (2013) 10 SCC 646, wherein this Court reiterated that :*

*“7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (*Bimla Devi v. Himachal RTC* [(2009) 13 SCC 530: (2009) 5 SCC (Civ) 189: (2010) 1 SCC (Cri) 1101]).”*

In view thereof, the argument of the learned counsel for the Insurance Company stands rejected and the income of the deceased is assessed as ₹8,500/- per month.

9. The Tribunal has though correctly applied the deduction of 1/3<sup>rd</sup>, however, multiplier of '16' has wrongly been applied inasmuch as the deceased was 24 years of age at the time of the accident and, hence, as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** (supra), multiplier of '18' would be applicable. No addition has been made towards future prospects and hence as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition is made towards future prospects. Further, the amount awarded under the conventional heads is on the lower side and no amount has been awarded under the head 'loss of consortium' and hence as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants (wife and son of the deceased) would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. The interest component awarded by the Tribunal is maintained. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	<b>Monthly Income</b>	₹8,500/-
2	<b>Annual Income</b>	₹1,02,000/- [₹8,500 x 12]
3	<b>Deduction 1/3<sup>rd</sup></b>	₹68,000/- [₹1,02,000 – 34,000]
4	<b>Future Prospects - 40%</b>	₹95,200/- [₹68,000 + 27,200]
5	<b>Multiplier - 18</b>	₹17,13,600/- [₹95,200 x 18]
6	<b>Loss of estate</b>	₹18,000/-
7	<b>Funeral expenses</b>	₹18,000/-
8	<b>Loss of consortium</b> (i) Parental (ii) Spousal's	₹48,000/- ₹48,000/- (Total ₹96,000/-)
	<b>Total Compensation</b>	<b>₹18,45,600/-</b>

10. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% per annum from the date of filing of the claim petition till the realization of the entire amount. Since appellant No.3 who was mother of the deceased has died, the Tribunal shall determine the apportionment and disbursement of the amount accordingly.

11. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

11.03.2025  
Yogesh Sharma

**( ALKA SARIN )**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO