



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

**FAO-1357-2009 (O&M)
Reserved on: 20.08.2025
Pronounced on: 02.09.2025**

RAM PIYARI AND ORS.

.....Appellants

Vs

KULWANT SINGH AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Deepak Jain, Advocate for
Mr. Vaneet Thakur, Advocate
for the appellants.

Ms. Shamsher Kaur, Advocate
for respondent No. 3/Insurance Company.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 21.10.2008 passed by the learned Motor Accident Claims Tribunal, Sirsa (for brevity, "the Tribunal"), whereby an amount of Rs. 4,30,000/- was awarded as compensation to the appellants/claimants along with interest @ 9% per annum.

Brief Facts

[2]. A claim petition came to be filed before the Id. Tribunal, praying for grant of compensation to the tune of Rs. 15,00,000/- (Rupees fifteen lakhs only) along with the interest @ 18% per annum on account of death of Bhag Chand in a vehicular accident which took place on 24.03.2005 while alleging rash and negligent driving of respondent No. 1-driver.

[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 @ 3,500/- per month as a skilled labour and making deductions of 1/3rd towards personal expenses, awarded compensation in the following manner:-



S.No.	Heads of Claim	Amount (in Rs.)
1.	Compensation	4,20,000/-
2.	Loss of Estate	2,000/-
3.	Funeral Expenses	5,000/-
4.	Loss of Consortium	2,500/-
5.	Total	4,29,500/- rounded off to 4,30,000/-

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:-

Claimant No. 1 (widow of deceased)	Rs. 1,80,000/-
Claimant No. 2 (minor daughter of deceased)	Rs. 50,000/-
Claimant No. 3 (minor son of deceased)	Rs. 50,000/-
Claimant No. 4 (minor son of deceased)	Rs. 50,000/-
Claimant No. 5 (father of deceased)	Rs. 50,000/-
Claimant No. 6 (mother of deceased)	Rs. 50,000/-

[4]. Being aggrieved against the award dated 21.10.2008, the present appeal was preferred by the appellants for enhancement of compensation and for modifying the impugned award passed by the Ld. Tribunal, as per the latest law. Facts as specified in the claim petition about the manner of accident and the issue regarding negligence of the driver have been recorded in favour of claimants by the Ld. Tribunal, and being not under challenge, are not repeated here for the sake of brevity.

[5]. Learned counsel for the appellants/claimants assailed the award while submitting that earning of the deceased was to the tune of Rs. 18,000/- per month as he was diploma holder from National Council for Vocational Training,



Sirsa under the Ministry of Labour, Government of India in the trade of radio and television mechanic and was a skilled and perfect mechanic alongside maintaining a Mini Dairy Farm and selling milk therefrom. It was further submitted that the above fact was duly proved from the deposition of the appellant/claimant No. 1 as well as Gaja Nand (PW-2) which was not rebutted by the respondents by leading any evidence and therefore, Ld. Tribunal went wrong while having assessed monthly income @ 3,500/- per month. Furthermore, it was submitted that deduction @ 1/3rd 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.

[6]. On the other hand, learned counsel representing respondent No. 3- Insurance Company submitted that the interest @ 9% was on the higher side and the same is liable to be reduced @ 7.5 % per annum. Learned counsel further submitted that as the income of the deceased was not convincingly proved, Ld. Tribunal, rightly assessed the same as Rs. 3,500/- per month, and thus, appellants/claimants have been adequately compensated and that the present appeal was liable to be dismissed.

[7]. 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 appellants.

Discussion

Question of Income Assessed

[8]. In the present case, in Ram Piyari (wife of deceased) and Gaja Nand (brother of deceased/ eye-witness of the accident) while appearing as PW-1 and PW-2 respectively, submitted that the deceased was a diploma holder having experience in the field of television, radio and electrical fittings; running a shop



in New Mandi, Sirsa and apart from this he was also maintaining a small dairy farm, and thus, was earning Rs. 18,000/- per month, although no documentary evidence to support the same was placed before the Tribunal in this regard except a certificate showing the skill of the deceased in his trade. Accordingly, learned Tribunal assessed the monthly income of deceased @ 3,500/- per month considering him as a skilled 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:

"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 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.”

[9]. Considering the facts of the present case, Ram Pyari (wife of deceased), while deposing as PW-1, stated that her husband was a trained person having the diploma in trade of radio and television mechanic and was running a shop; besides maintaining a mini dairy farm and earning Rs. 18,000/- per month, it cannot be denied that he was maintaining his family including his wife, 3 minor children and aged parents and was the only bread winner of his family. In such circumstances, assessing the income of deceased as Rs. 3,500/- per month would not be appropriate as in the given facts it would be proper in case the income of deceased is assessed at a lump sum amount of Rs. 7,000/- per month, considering him to be a skilled labour besides maintaining dairy farming.

[10]. So far the contention made by Ld. Counsel for the appellant that as far as deduction is concerned, one-third of the deceased's income towards personal expenses was on the higher side. The said submission is justified in view 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 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.”

[10.1] In the instant case, the Ld. Tribunal had deducted one-third (1/3rd) of the income of the deceased towards his personal and living expenses without taking into consideration the number of dependents of the deceased who are widow, three minor children and aged parents. As such in view of the above cited judgment, 1/4th deduction towards the personal expenses would be proper.

Question of Compensation under Conventional Heads

[11]. 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. vs. Satinder Kaur @ Satwinder Kaur”*, reported as *(2021) 11 SCC 780* compensation awarded under conventional heads are also required to be re-assessed. Thus, the appellants 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 assessed to the tune of Rs. 48,000 x 6 (Rs. 2,88,000/-) as appellants being spouse, parents and children of deceased are also entitled for spousal, parental and filial consortium.

[12]. 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, in comparison to parents of the deceased i.e. appellant No. 5 & 6 who still have one other son to look upon for maintenance; accordingly appellant No. 1 is held entitled for 60% of the compensation amount whereas appellant No. 2-4 & 6 (minor children and 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 appellants/claimants shall separately/individually be entitled for consortium in their favour.

Conclusion

[13]. In view of the discussion made herein above, the appellants/claimants are held entitled for the grant of compensation in the following manner:-

S.No.	Nature	Amount (in Rupees)
1.	Annual Income of Deceased	Rs. 84,000/-
2.	Add 40% of Future Prospects	Rs. 33,600/-
3.	Total Income (Rs. 84,000+ Rs. 33,600)	Rs. 1,17,600/-
4.	Deduction (1/4)	Rs. 29,400/-
5.	Loss of Income after applying multiplier of 18 as per age of 32 years (88,200 x 16)	Rs. 14,11,200/-
6.	Funeral Expenses	Rs. 18,000/-
7.	Loss of Estate	Rs. 18,000/-
8.	Total Compensation	Rs. 14,47,200/-
9.	Amount Awarded by the Tribunal	Rs. 4,30,000/-
	Enhanced Amount	Rs. 10,17,200/-

Thus, the appellant/widow is entitled for Rs.6,10,320/- and appellant No. 2-4 & 6 i.e. minor children and mother of the deceased are entitled for Rs. 4,06,880/- as compensation.



[14]. Similarly, the appellants/claimants shall be entitled for following amount of compensation as consortium:-

Sr. No.	Name/Appellants No.	Consortium Amount
1	Ram Piyari (widow)	Rs. 48,000/-
2	Suman (minor daughter)	Rs. 48,000/-
3	Parveen (minor son)	Rs. 48,000/-
4	Monu @ Amandeep (minor son)	Rs. 48,000/-
5	Nand Ram (father of deceased)	Rs. 48,000/-
6	Gomti (mother of deceased)	Rs. 48,000/-

[15]. In the view of the observations made by the Hon'ble Supreme Court in **"Smt. Supe Dei and others vs. National Insurance Company Limited and other,** reported as **(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,** the grant of interest @ 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization is justified. 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 the aforesaid modification, the present appeal stands disposed of.

[17]. Pending miscellaneous application(s), if any, shall also stand disposed of.

September 02, 2025

Tejwinder

(HARKESH MANUJA)
JUDGE