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

FAO-2577-2022 (O&M)

Date of Decision : 05.08.2025

Usha Sharma & Ors ... Appellant(s)

Versus

Mohd Javir & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Inderjeet Singh, Advocate for the appellants.

Mr. Paul S. Saini, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

CM-7296-CII-2022

1. For the reasons mentioned therein, the application seeking condonation of delay of 1030 days in refiling the appeal is allowed and the delay of 1030 days in refiling the appeal is condoned.

CM-7297-CII-2022

2. For the reasons mentioned therein, the application seeking condonation of delay of 01 day in filing the appeal is allowed and the delay of 01 day in filing the appeal is condoned.

FAO-2577-2022

3. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'Tribunal') vide the impugned award dated 07.02.2019 in a motor vehicle accident which occurred on 14.09.2016.

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

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

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹10,300/-
2	Deduction 50%	[₹10,300 – 5,150] = ₹5,150/-
3	Annual income	[₹5,150 x 12] = ₹61,800/-
4	Multiplier of '7'	[₹61,800 x 7] = ₹4,32,600/-
5	Funeral expenses	₹15,000/-
6	Loss of estate	₹15,000/-
7	Loss of consortium	₹40,000/-
8	Total Compensation	₹4,92,600/-
	Interest	7.5% per annum

6. Learned counsel for the claimant-appellants would contend that he does not challenge the multiplier as applied by the Tribunal, however, he contends that the income of the deceased has wrongly been assessed as ₹10,300/- per month as it was proved on the record that the deceased was paying a monthly installment of ₹39,376/- towards the loan taken for the purchase of a truck and personal loan. Learned counsel for the claimant-appellants has referred to registration certificate of the truck (Ex.P11) as per which the truck was registered in the name of the deceased. Learned counsel has further referred to Ex.P2 and Ex.P3 which are the statement of accounts showing the payment of the instalments. Learned counsel for the claimant-appellants has relied upon a judgment of the Hon'ble Supreme Court in the case of **Gurpreet Kaur & Ors. vs. United India Insurance Company Ltd. & Ors. [2022 SCC OnLine SC 1778]** to contend that the said case before the Hon'ble Supreme Court was regarding an accident which had taken place in 2014 and wherein the deceased was paying an EMI of ₹11,550/- per

month and the income had been assessed as ₹25,000/- per month. Learned counsel has further contended that the Tribunal has wrongly applied deduction to the extent of 50% inasmuch as there is no evidence on the record that the claimant-appellant Nos.2 and 3 were residing separately or that they were not dependent upon their father and were fully independent, hence, 1/3rd deduction would be applicable in the present case. In support of his contentions, he has relied upon the judgment of the Hon'ble Supreme Court in the case of **“Seema Rani & Ors. Vs. The Oriental Insurance Company Limited & Ors.” [2025 (2) RCR (Civil) 48]**. It is further the contention of the learned counsel that the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are also not in accordance with the law laid down by the Hon'ble Supreme Court. In support of his contentions he has relied upon the judgments of the Hon'ble Supreme Court in the cases of **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]**.

7. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that the income of the deceased has rightly been assessed as ₹10,300/- per month in the absence of any proof of income and that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

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

9. In the present case, no appeal has been filed by the Insurance Company. Since no challenge has been laid by the learned counsel for the claimant-appellant towards multiplier, the same is accordingly maintained. On the aspect of future prospects, the age of the deceased was admittedly 61 years at the time of accident, hence, no loss of future prospects is to be awarded in terms of the decision laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra).

10. The argument of the learned counsel for the claimant-appellants that the income of the deceased has wrongly been assessed as ₹10,300/- per month since he was paying a monthly EMI of ₹39,376/- per month towards the loan taken for the purchase of a truck and personal loan deserves to be accepted. The claimant-appellants have examined Tarlochan Singh, Sales Manager, HDB Financial Services Ltd. as PW3 who deposed that the deceased had taken vehicle loan and personal loan from HDB Finance and in this regard he proved on record the copies of statement of accounts as Ex.P2 and Ex.P3. A perusal of Ex.P2 and P3 reveals that the deceased was paying EMIs to the tune of ₹39,376/- per month. There is no evidence contrary thereto led by the Insurance Company nor any suggestion was put to the above witness qua the said loan statements. Hon'ble Supreme Court in the case of **Gurpreet Kaur** (supra) has held as under :

“8. Though, there is no evidence on record regarding the income of deceased Pyara Singh, however, from the testimony of P.W.4 - Amar Kumar, Assistant Manager, Kotak Mahindra Bank Limited, it is clear that the deceased - Pyara Singh was regularly making the payment of Rs.11,550/- as instalment to discharge his

loan liability towards the tractor. At this rate, the entire loan was paid back within a year or so. That clearly establishes the earning capacity of the deceased. It is also the case of the appellants-claimants that the deceased was working as a contractor and was earning Rs.50,000/- per month. The Tribunal adopted a balanced approach and keeping in view factors like : (i) the payment of monthly instalment of Rs.11,550/- towards loan of the tractor; (ii) Maintaining a family comprising of wife, two minor children and parents; (iii) Affording tractor and motorcycle; (iv) that the deceased was working as a contractor; assessed his income at Rs.25,000/- per month.”

11. In view of the above, if the deceased was paying an EMI of ₹39,376/- per month towards loan installments, his income can safely be presumed to be above the said amount. Accordingly, taking a cue from the judgment of the Hon'ble Supreme Court in the case of **Gurpreet Kaur** (supra), the income of the deceased is assessed as ₹50,000/- per month.

12. The argument of the learned counsel for the claimant-appellants that the Tribunal has wrongly applied a deduction @ 50% also deserves to be accepted inasmuch as it is a case of the claimant-appellants that though the claimant-appellant Nos.2 and 3 are major, however, they were residing with the deceased and there is nothing on record to conclude that they were fully independent and were not dependent upon their deceased father. Hon'ble Supreme Court in the case of **Seema Rani** (supra) has held as under:

“9. We have heard the learned counsel for the Appellants. We are unable to agree with the view taken

by the Tribunal on the dependents of the deceased. This Court in National Insurance Company Limited v. Birender & Ors., (2020) 11 SCC 356 had expounded that major married and earning sons of the deceased, being legal representatives, have a right to apply for compensation, and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent on the deceased or not. The Court went on to conclude that since the sons, in that case, were earning merely Rs. 1,50,000/- per annum, they were largely dependent on the earnings of the deceased and were staying with her.”

13. In view of the law laid down by the Hon’ble Supreme Court in the case of **Seema Rani** (supra), 1/3rd deduction would be applicable in the present case.

14. Further, the amounts awarded under the conventional heads and under the head ‘loss of consortium’ are not 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) and hence, 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 claimant-appellants would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium.

Accordingly, the reworked compensation is as under :

S. No.	Heads	Compensation Awarded
1	Monthly Income	₹50,000/-
2	Annual Income	₹6,00,000/- [₹50,000 x 12]
3	Deduction 1/3rd	₹3,00,000/- [₹6,00,000 – 3,00,000]
4	Multiplier - 7	₹21,00,000/- [₹3,00,000 x 7]

5	Loss of estate	₹18,000/-
6	Funeral expenses	₹18,000/-
7	Loss of consortium (i) Parental [₹48,000/- x 3] (ii) Spousal's	₹1,44,000/- ₹48,000/- (Total ₹1,92,000/-)
8	Total Compensation	₹23,28,000/-

15. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. However, the claimant-appellants shall not be entitled to any interest for the period of delay in refiling the appeal. So far as the apportionment of the compensation is concerned, the Tribunal has awarded the entire compensation to the claimant-appellant No.1 only. However, in view of the above discussion, the claimant-appellant No.1 shall be entitled to 70% of the compensation amount while the claimant-appellant Nos.2 to 4 shall be entitled to 10% each.

16. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company - National Insurance Company Limited - in the bank account(s) of the claimant-appellants within a period of six weeks from today as per the above apportionment. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimant-appellants to the Insurance company within a period of two weeks from today and needful shall be done by the Insurance Company after

verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

17. 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.

05.08.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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