



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

(238)

**FAO No. 6010 of 2019
Reserved on: 15-09-2025
Pronounced on :19-09-2025**

Manjit kaur and another**... Appellants**

Versus

National Insurance Co Ltd. And Others**... Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Umesh Kumar Kanwar, Advocate,
for the appellants.

Mr. Maninder Arora, Advocate,
for the Respondent No.1.

VIRINDER AGGARWAL, J.

1. The present appeal has been preferred against the award dated 31.05.2019 passed in the claim petition filed under Section 166 of the Motor Vehicle Act, 1988 by the Motor Accident Claims Tribunal, Jalandhar, for enhancement of compensation, granted to the appellants on account of death of Dharam Singh in Motor vehicular Accident.

FACTUAL BACKGROUND

2. On 28.04.2018, Dharam Singh was proceeding from his house towards Machi Gate Canal Bridge, Patara Johal, District Jalandhar, on his bicycle. Gurmit Singh, son of Darshan Singh, followed him on another bicycle. When they reached near the bridge and turned to cross the road at slow speed, a Swift Dzire car bearing registration No. PB-08-CX-4269,



driven rashly and negligently by respondent No.1, struck Dharam Singh's bicycle. Due to the impact, he fell down, sustained multiple injuries, and later succumbed to those during treatment at DMC, Ludhiana.

3. The claim petition was accordingly filed by his widow and son, under Section 166 of the Motor Vehicles Act, 1988, claiming ₹60,00,000 as compensation on account of his untimely demise. The learned Tribunal, upon consideration of the pleadings and evidence, held that the accident occurred on account of the rash and negligent driving of the offending vehicle and fastened liability on the respondents. The learned Tribunal, by award dated 31.05.2019, assessed the monthly income of the deceased at ₹8,080 treating him as an unskilled labourer, added 10% towards future prospects, applied a multiplier of 9, deducted 1/4th towards personal expenses, and computed loss of dependency at ₹7,19,928. Adding ₹40,000 towards consortium, ₹15,000 towards loss of estate, and ₹15,000 towards funeral expenses, the learned learned Tribunal awarded a total compensation of ₹7,89,928 with interest at rate of 6% per annum.

CONTENTIONS

4. The learned counsel for the appellants submits that the compensation awarded by the learned learned Tribunal is grossly inadequate. It is urged that the deceased, having retired from the Indian Army and thereafter joined the D.S.C., and was in receipt of two pensions amounting to ₹19,699 and ₹13,055 respectively, aggregating to ₹32,754 per month. Ample documentary evidence in this regard was produced on record, yet the learned Tribunal ignored the same and erroneously assessed the income of the deceased at ₹8,080 per month by treating him as an unskilled labourer. It is



further contended that deduction of pension while computing dependency is impermissible in law, as held in *Lal Dei v. HRTC*, (2007) 8 SCC 319, and *Darshna Kaur v. Jarnail Singh*, 2006 (3) RCR (Civil) 501. Counsel also submits that the learned Tribunal failed to apply the correct addition towards future prospects as mandated in *National Insurance Co. Ltd. v. Pranay Sethi* 2017(16) SCC 680, awarded inadequate amounts under the conventional heads, and further erred in restricting the interest to 6% per annum. It is, therefore, prayed that the compensation as well as the rate of interest be suitably enhanced.

5. Per contra, learned counsel for the Respondent no.3-Insurance Company supports the findings of the learned Tribunal and submits that just compensation has already been awarded, leaving no ground for interference.

OBSERVATIONS AND ANALYSIS

6. I have heard learned counsel for the parties and perused the whole record of this case.

7. A perusal of the award shows that the learned Tribunal erred in assessing the income of the deceased as only 8080/-, by ignoring the pensions admittedly drawn by him. Most importantly, the claimant-Manjit Kaur herself appeared as **PW1** and proved on record the Pension Payment Orders as **Ex. P9** and **Ex. P10**, along with the relevant bank statements, which clearly established that the deceased was receiving pensions of ₹19,699 and ₹13,055, aggregating to **₹32,754 per month**. Despite this unimpeachable evidence, the learned Tribunal wrongly observed that the amount of pension could not be taken into account while determining the compensation and, instead, assessed the income of the deceased at ₹8,080



per month as that of an unskilled labourer. This approach is inconsistent with the settled position of law.

8. It needs to be borne in mind that pension is not a gratuitous payment but represents the deferred fruits of the hard work and dedicated service rendered by an individual during his lifetime. It is often the sole means of sustenance and livelihood to the retiree and his family. Therefore, to disregard pension while determining compensation would be to ignore both its economic reality and its social purpose.

9. It is a settled proposition that pension, being a deferred portion of the earnings for past service, constitutes a valid source of income and cannot be excluded while determining loss of dependency. Thus, at the time of death, the income of the deceased consisted of the pension amounts from both pension accounts alongwith the wages he earned through manual labour. Therefore, the learned Tribunal was required to take into account the amount of both pensions while calculating the loss of dependency. Furthermore, the amount of family pension being received by claimants cannot be deducted and the full amount must be taken into account for computation of loss of dependency in view of well settled legal positions in ***Lal Dei and Ors. Vs. Himachal Road Transport, 2007(8) SCC 319.*** and ***Sebastiani Lakra and others v. National Insurance Co. Ltd. & Anr., 2019 (17) SCC 465.***

10. Recently, the Hon'ble Supreme Court, in ***Hanumantharaju B (Dead) by LRs v. M. Akram Pasha, 2025 AIR SC 3283,*** has adopted a similar approach while computing compensation. The Court held that both the pensionary income and the actual earnings of the deceased are to be taken together for assessing the total income for the purpose of determining the



loss of dependency. The relevant part of the judgement is reproduced as following:

“19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.

Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in **Reliance General Insurance Co. Ltd. v. Shashi Sharma & Ors. (2016) 9 SCC 627** and **National Insurance Company Ltd. v. Birender & Ors. (2020) 11 SCC 356.**

20. Keeping the aforesaid legal position in mind, we shall examine the issues at hand.

21. As regards computing the loss of income, in the light of the above referred decisions, it would not be permissible to deduct the pensionary amount of Rs. 15,247/- from the salary of Rs. 36,231/- as was done by the High Court. Hence, for the purpose of computing the loss of earning, the said monthly salary of Rs. 36,231/- has to be accepted without deducting the pension amount.

11. Accordingly, this Court holds that the total pension of the deceased, i.e., ₹32,754/- per month, ought to be taken as his income along with the minimum wages as unskilled labourer for the purpose of computation. Thus,



the aggregate monthly income comes to **₹40,834/-** (i.e., **₹32,754 + ₹8,080**). Considering the age of the deceased as 57-58 years as per Post Mortem Report Ex.P2 and his Aadhar card Ex.P4, a **10% addition towards future prospects** is made only on the daily wage income of **₹8,080/-**, which comes to **₹808/-** in line with the principle laid down in *Pranay Sethi (Supra)*. Hence, the total monthly income, after adding future prospects, is assessed at **₹41,642/-** (i.e., **₹32,754 + ₹8,080 + ₹808**) which on an annual basis comes to **₹4,99,704 (₹41,642 x 12)**.

12. Further, deducting **1/3rd** towards personal expenses (**₹1,66,568**) as the deceased having left behind two dependents, the annual contribution for dependency works out to **₹3,33,136**. Applying the multiplier of **9**, as laid down in *Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121*, for the age group of 56–60 years, the total loss of dependency is assessed at **₹29,98,224**. In addition, under conventional heads, **₹15,000** is awarded towards loss of estate, **₹15,000** towards funeral expenses, and **₹40,000 each** towards spousal and parental consortium, in line with *Pranay Sethi (supra)* and *Magma General Insurance Co. Ltd. v. Nanu Ram, 2018 (18) SCC 130*. Hence, the total compensation comes to **₹31,08,224/-**.

COMPARATIVE COMPUTATION

Particulars	Learned Tribunal Award (₹)	Reassessed Award (₹)
Notional Monthly Income	8,080	8,080
Pension Amount	-----	32,754
Monthly Notional Income With Future Prospects (10%) (only on daily wage)	8,888	8,888
Total Monthly Income	8,888	41,642 (32,754+8,888)



Total Annual Income	1,06,656 (8,888 x 12)	4,99,704 (41,642 x 12)
Deduction 1/3rd for personal expenses (2 dependents)	35,552	1,66,568
Annual Contribution To Family	71,104	3,33,136
Multiplier (age 57-58 yrs)	9	9
Loss Of Dependency	6,39,936 (71,104× 9)	₹29,98,224 (3,33,136 × 9)
Spousal Consortium (Widow)	40,000	40,000
Parental Consortium (Son)	-----	40,000
Loss Of Estate	15,000	15,000
Funeral Expenses	15,000	15,000
Total	₹ 7,09,936	₹31,08,224/-

13. In view of the foregoing discussion, the appeal is allowed. The impugned award dated 31.05.2019 passed by the Motor Accident Claims Tribunal, Jalandhar, is modified to the extent that the claimants shall be entitled to a total compensation of **₹31,08,224/-** along with interest at rate of 6% per annum from the date of filing of the claim petition till realization.

14. The liability to pay the compensation shall rest with respondent No.3-Insurance Company, being the insurer of the offending vehicle, as rightly held by the learned Tribunal. The apportionment and manner of disbursement shall remain the same as directed by the learned Tribunal.

(VIRINDER AGGARWAL)
JUDGE

19.09.2025
Saurav Pathania

- (i) *Whether speaking/reasoned* : *Yes/No*
(ii) *Whether reportable* : *Yes/No*