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

FAO-4210-2019 (O&M)

Date of Decision : 20.05.2025

Meena Devi & Ors ... Appellant(s)

Versus

Davender Kumar & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.S. Budhwar, Advocate for the appellants.

Mr. Suneel Ranga, DAG Haryana for respondent Nos.1 to 3.

Ms. Shamsheer Kaur, Advocate for respondent No.4.

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, Kurukshetra (hereinafter referred to as 'Tribunal'), vide the impugned award dated 05.03.2019.

2. Since the factum of the accident is not in dispute, the facts are not being reproduced herein 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	₹8,300/-
2	Future prospects @ 25%	[₹8,300 + 2,075] = ₹10,375/-
3	Annual income	[₹10,375 x 12] = ₹1,24,500/-
4	Deduction 1/3 rd	[₹1,24,500 – 41,500] = ₹83,000/-
5	Multiplier of 13	[₹83,000 x 13] = ₹10,79,000/-
6	Funeral expenses	₹15,000/-

7	Loss of estate	₹15,000/-
8	Loss of consortium	₹40,000/-
	Total Compensation	₹11,49,000/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants states that he does not challenge the future prospects, deduction as well as multiplier as applied by the Tribunal. However, he states that the income of the deceased has wrongly been assessed as ₹8,300/- per month as per the minimum wages for an unskilled worker instead of a skilled worker inasmuch as the deceased was an agriculturist possessing agricultural land as is apparent from the jamabandi for the year 2017-18 appended with an application (**CM-13585-CII-2019**) for additional evidence (Annexure A1), which he was cultivating. Though the land remained with the claimant-appellants, however, they would need to employ a manager to look after the said land. The minimum wages for a skilled worker at the relevant time were ₹9,585/- per month and, hence, the income of the deceased ought to have been assessed as ₹9,585/- per month. It is further the contention of the learned counsel that 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 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].

5. *Per contra*, the learned counsel for respondent No.4-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

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

7. In the present case, no appeal has been preferred by the Insurance Company. Since no challenge has been laid down by the learned counsel for the appellants to the future prospects, deduction as well as multiplier as applied by the Tribunal, the same are accordingly maintained.

8. The income of the deceased, in the present case, has wrongly been assessed by the Tribunal as per the minimum wages for an unskilled worker which ought to have been for a skilled worker inasmuch as the deceased was an agriculturist possessing land as is apparent from the jamabandi for the year 2017-18 appended with an application (CM-13585-CII-2019) for additional evidence (Annexure A1). After death of the deceased there is, however, a possibility that the claimant-appellants may be required to engage persons to look after agriculture cultivation. Hon'ble Supreme Court in case of **State of Haryana & Anr. vs. Jasbir Kaur & Ors.** [2003 (4) RCR (Civil) 140] has held under :

“8. It is clear on a bare reading of the Tribunal's decision as affirmed by the High Court that no material was placed before the former to prove as to what was the income. As rightly contended by learned counsel for the appellants, there was not even any material adduced to show type of land which the deceased possessed. The matter can be approached from a different angle. The

land possessed by the deceased still remains with the claimants as his legal heirs. There is however a possibility that the claimants may be required to engage persons to look after agriculture. Therefore, the normal rule about the deprivation of income is not strictly applicable to cases where agricultural income is the source. Attendant circumstances have to be considered. Furthermore, there was no material before the Tribunal to arrive at the figure of Rs.4500 per month. No reason has been indicated to arrive at this figure. In the light of what has been discussed above about "just compensation" the income cannot be estimated without any material to justify the estimation. In the normal course, we would have remitted the matter back to the Tribunal for fresh consideration. But considering the fact that one young person lost his life, and the matter was pending before the Tribunal and the High Court for some years, we feel it appropriate to take all relevant factors into consideration, and decide the matter. Gauzing the relevant aspects, noted above, the monthly income is fixed at Rs.3000/- per month and after deducting Rs.1,000/- for personal expenses, financial contribution so far as the claimants are concerned is fixed at Rs.2,000/- per month....."

Keeping in view the law laid down by the Supreme Court in the case of **Jasbir Kaur** (supra) and the fact that the deceased would have been managing the land, his income ought to have been assessed as that of a skilled worker which, at the relevant point of time, was ₹9,585/- per month. Hence, the income of the deceased is assessed as ₹9,585/- per month. 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 claimant-appellants 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, one son and mother of the deceased) would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹9,585/-
2	Annual Income	₹1,15,020/- [₹9,585 x 12]
3	Deduction 1/3rd	₹76,680/- [₹1,15,020 – 38,340]
4	Future Prospects - 25%	₹95,850/- [₹76,680 + 19,170]
5	Multiplier - 13	₹12,46,050/- [₹95,850 x 13]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental (ii) Filial (iii) Spousal's	₹48,000/- ₹48,000/- ₹48,000/- (Total ₹1,44,000/-)
	Total Compensation	₹14,26,050/-

9. 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.

10. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 : Civil Appeal No.4299 of 2025 arising out of SLP (C) No.4484 of 2020 decided**

on 18.03.2025], after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the percentage directed by the Tribunal. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

11. In view of the above, the present appeal is allowed and the impugned award stands modified to the extent stated above. Pending applications, if any, also stand disposed off.

20.05.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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