



FAO-5847-2024 (O&M)

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

FAO-5847-2024 (O&M)
Date of decision: 13.08.2025

ICICI LOMBARD GENERAL INSURANCE COMPANY LTD.

...Appellant

Versus

SMT. REKHA AND OTHERS

...Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Preet Harinder Singh Pannu, Advocate with
Mr. Sarthak Mehta, Advocate
for the appellant.

SUDEEPTI SHARMA, J. (ORAL)

1. The present appeal has been preferred by the appellant—Insurance Company challenging the quantum of compensation awarded vide Award dated 18.09.2024 passed by the learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988.

2. Learned counsel for the appellant submits that the learned Tribunal has erred in assessing the monthly income of the deceased, Balwan Singh, as ₹30,000/-. He further contends that the assessment is on the higher side and not borne out from the record. Therefore, he prays that the present appeal be allowed.

3. I have heard learned counsel for the appellant and perused the case file with his able assistance.



4. Before proceeding further, it is necessary to reproduce the relevant portion of the award:

“25. So far as the question of determination of monthly income of deceased Balwan Singh is concerned, in this regard, the onus is upon the claimants to prove that at the time of death, deceased Balwan Singh was earning 30,000/- per month from work of ₹ Munim in M/s Yadav Brothers Nihaloth, District Jhunjhunu, Rajasthan and also doing the work of agriculture and animal husbandry and dairy farming work. Claimants have examined Jayant as PW3, who has deposed that he is an authorized person of M/s Yadav Brother, Ninaloth. His father Dayanand is the proprietor of this firm. He has brought the original summoned record pertaining to the service and salary of Balwan Singh. He proved authority letter Ex.PW3/A, registration certificate of their firm Ex.PW3/B, GST certificate Ex.PW3/C, income tax return of their firm Ex.PW3/D, the certificate regarding employment Ex.PW3/E and the ledger account of their firm Ex.PW3/F. He proved that the above exhibited documents were correct as per the original, which he has brought in the court. He has worked with his father Dayanand and he has seen him writing and signing, therefore, he could identify his signatures on the documents Ex.PW3/A to Ex.PW3/C and Ex.PW3/E to Ex.PW3/F, which bear signatures of his father Dayanand and seal of their firm. A careful perusal of afore-said document when read with the testimony of PW3 Jayant reveals to this court that the deceased Balwan had been getting a monthly salary of ₹ 30,000/-.

26. However, it has been disputed by learned counsel for the insurance company that the claimants have failed to prove on record that the deceased was getting monthly salary of Rs.30,000/-. He argued that on the document Ex. PW3/E, no date of issuance of the same has been mentioned and it is argued that in the profit and loss account statement produced on record by PW3 reveals that only ₹ 36,000/- had been paid to the accountant for the year commencing from 01.04.2022 to 31.03.2023. Hence, it is argued that the claimants have failed to prove the monthly income of deceased a ₹ 30,000/-. However, this Tribunal is not in agreement with the afore-



said submission made on behalf of the learned counsel for the insurance company. A careful perusal of the testimony of PW3 reveals to this court that the documents Ex.PW3/A to Ex.PW3/C and Ex.PW3/E to Ex.PW3/F, bear the signatures of the father of PW3 Jayant namely Dayanand as well as the seal of their firm. The copies of income tax return as well as the copies of profit and loss account maintained by the firm of PW3 Jayant have been produced on record, which proves to this Tribunal that all the accounts have been maintained by the firm of PW3 in regular course of their business. This Tribunal is of the view that in the profit and loss account statement of the firm of PW3 Jayant for the period w.r.f. 01.04.2021 to 31.03.2022 and for the period w.r.f. 01.04.2022 to 31.03.2023, though under the column INDIRECT EXPENSES; under the head 'Accountant Salary' ₹ 36,000/- has been shown, however, the same does nowhere connect that it pertains to deceased only. This court Tribunal is of the view that on the careful perusal of the afore-said statement, under the column DIRECT EXPENSES, under the head 'Wages and Salary' of ₹ 8,16,000/- have been shown, which leads this Tribunal to draw an inference that the firm of PW3 Jayant was paying huge salary to their workers and it also leads this Tribunal to draw an inference that the deceased was drawing a salary of ₹30,000/- per month, which further strengthened in the light of ledger account statement for the period w.r.f. 01.04.2021 to 31.03.2022, wherein it can easily be seen that the firm of PW3 Jayant had regularly been paying a salary of ₹ 30,000/- to deceased Balwan son of Rati Ram. Merely the fact that the date of issuance of certificate Ex.PW3/E was not mentioned therein, itself does nowhere lead this Tribunal to draw an inference against the claimants, as it is worthwhile to mention here that at the time of examination, PW3 had brought all the original documents in the Tribunal. It is pertinent to mention here that no objection whatsoever has been taken by the learned counsel for respondent-insurance company at the time, when document Ex.PW3/E was exhibited in evidence. Hence, now the respondent-insurance company is estopped from disputing the authenticity and veracity of document Ex.PW3/E. Hence, as a sequel to my discussion, this Tribunal has come to the conclusion that



deceased Balwan was drawing a monthly salary of ₹ 30,000/- working as a Munim in the firm of PW3 Jayant.”

5. A perusal of the impugned award reveals that the learned Tribunal has meticulously evaluated both the oral as well as documentary evidence adduced on record concerning the income of the deceased and has thereafter returned a reasoned finding by assessing his monthly income as ₹30,000/-.

6. The contention advanced on behalf of the appellant–insurance company that the assessment is inflated and excessive is wholly bereft of merit. The learned Tribunal, while appreciating the testimony of PW-3 Jayant, who appeared as the authorised representative of M/s Yadav Brothers, duly took note of the fact that he produced the original records including the authority letter (Ex.PW3/A), registration certificate (Ex.PW3/B), GST certificate (Ex.PW3/C), income tax returns of the firm (Ex.PW3/D), employment certificate (Ex.PW3/E), and ledger accounts (Ex.PW3/F). His deposition, coupled with the exhibited documents, clearly establishes that the deceased was employed as a Munim with the said firm and was being paid a fixed monthly salary of ₹30,000/-.

7. It is also pertinent to note that the objection raised by the learned counsel for the appellant-insurance company regarding the absence of a date on Ex.PW3/E stands diluted in view of the fact that the original records were produced before the learned Tribunal, duly bearing the signatures of the proprietor Dayanand as well as the seal of the firm.

8. The learned Tribunal further drawn support from the profit and loss account statements of the firm, wherein substantial amounts have been shown under the head “Wages and Salary,” thereby fortifying the inference



that the deceased, being a regular employee, was indeed drawing the salary as claimed. The isolated entry of ₹36,000/- shown under “Accountant Salary” in the indirect expenses cannot, by any stretch, be determinative of the income of the deceased, as the said account does not exclusively pertain to him.

9. In light of the above, it is manifest that the learned Tribunal has undertaken a comprehensive appreciation of the oral and documentary evidence while arriving at the conclusion regarding the income of the deceased. Such a finding cannot be said to be perverse, arbitrary, or contrary to the record.

10. It is by now well settled that Tribunals constituted under the Motor Vehicles Act are vested with a wide discretion to award “just compensation” and are not shackled by the strict rigours of the Indian Evidence Act or the technical rules of civil trials. Unless the award of compensation is demonstrably excessive, exorbitant, or grossly disproportionate, interference by the appellate court is not warranted. Reliance in this regard may be placed upon the judgment of the Hon’ble Supreme Court in ***K. Ramya v. National Insurance Co. Ltd., 2022 (4) RCR (Civil) 435***, wherein the Apex Court reiterated that the appellate court should be circumspect in disturbing findings of fact returned by the Tribunal after due appreciation of evidence. The relevant extract of the same is reproduced as under:-

*“11. At the outset, it is pertinent to reiterate the concept of ‘just’ compensation under Section 168 of the Act. It is settled proposition, now through a catena of decisions including the one rendered by the Constitution Bench in **Pranay Sethi** that compensation must be fair, reasonable and equitable. Further, the determination of quantum is a*



*fact-dependent exercise which must be liberal and not parsimonious. It must be emphasized that compensation is a more comprehensive form of pecuniary relief which involves a broad-based approach unlike damages as noted by this court in **Yadava Kumar v Divisional Manager, National Insurance Co. Ltd.** The discussion in the abovementioned cases highlights that Tribunals under the Act have been granted reasonable flexibility in determining 'just' compensation and are not bound by any rigid arithmetic rules or strict evidentiary standards to compute loss unlike in the case of damages. Hence, any interference by the Appellate Courts should ordinarily be allowed only when the compensation is 'exorbitant or arbitrary'.*

12. *Furthermore, Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future. Keeping the abovementioned principles in the backdrop, we now move on to the facts at hand.*

C.2 RELIABILITY ON INCOME TAX RETURNS AND AUDIT REPORTS TO DETERMINE 'LOSS OF INCOME'

13. *The Deceased in the present case was a businessman and during the proceedings before the Tribunal, the Appellants produced the relevant income tax returns, audit reports and other relevant documents pertaining to the commercial ventures of the Deceased to prove the loss of income attributable on account of his sudden demise. The Tribunal relied on the same computed the income by taking an average of the income recorded in three prior financial years (FY 2000-2001, FY 2001-2002 and FY 2002-2003) to determine the compensation under the head of 'loss of income'”*

11. In the present case, the assessment of the monthly income of the deceased as ₹30,000/- is based on cogent evidence and supported by contemporaneous records. The finding is neither speculative nor arbitrary



but a well-reasoned determination rooted in the evidence brought on record.

12. Consequently, this Court finds no ground to interfere with the impugned award and the same is upheld. The appeal, being devoid of any merit, stands dismissed.

13. Further it is hereby directed that the statutory amount of Rs.25,000/- deposited by the appellant/insurance company at the time of filing of appeal in the Registry of this Court be returned to it.

14. Pending application(s), if any, stand disposed of accordingly.

13.08.2025

Ithlesh

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No