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

**FAO-5413-2023 (O&M)
Date of Decision : 10.09.2025**

SANGITA AND ORS Appellants

VERSUS

NATIONAL INSURANCE CO. LTD. AND ORS Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Surinder Gaur, Advocate for the appellants.

Mr. R.C. Gupta, Advocate for respondent No.1.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellants aggrieved by the award passed by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as the 'Tribunal') vide award dated 01.07.2023. The only challenge in the present case is to the quantum of the compensation awarded by the Tribunal vide the impugned award.

2. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to 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 | ₹8,000 |
| 2. | Future prospects @ 40% | [₹8,000 + ₹3,200] = ₹11,200 |
| 3. | Deduction 1/3 rd | [₹11,200 - ₹3,734] = ₹7,466 |
| 4. | Annual income | [₹7,466 x 12] = ₹89,592 |
| 5. | Multiplier of '15' | [₹89,600 x 15] = ₹13,43,880 |
| 6. | Funeral expenses | ₹16,500 |
| 7. | Loss of estate | ₹16,500 |
| 8. | Loss of consortium | ₹44,000 |
| | Total Compensation | ₹14,20,880 |
| | Interest | @ 7.5% per annum |

4. Learned counsel for the claimant-appellants would contend that the income of the deceased was proved to be ₹15,000 per month. The deceased was working with Hind Motors and the Proprietor of Hind Motors, Loharu Road, Bhiwani, namely, Hem Raj Sharma, stepped into the witness box as PW-6 and proved the extract of attendance register showing the deceased – Rajesh Kumar – to be his employee. He further proved the salary certificate (Ex.PW6/B) showing his salary to be ₹15,000 per month. However, the same was rejected by the Tribunal only on account that there was no evidence on the record to show that the salary was ever credited to his account. It is further the contention of the learned counsel that the Tribunal has assessed the income as ₹8,000 per month without applying any yardstick even though the matriculation certificate was produced on the record as (Ex.P10). Learned counsel would further contend that even if the income was to be taken as that of a skilled worker, the same was ₹9,585 per month. It is still further the contention of the learned counsel that in the present case the number of dependents were 5 at the time of the death of Rajesh Kumar as his parents

were also alive, namely, Hari Ram and Savitri Devi who were also arrayed as claimants in the claim petition. However, during the pendency of the claim petition, both died and their names were delated vide order dated 20.05.2023. Hence, it is the argument of the learned counsel that at the time of death of Rajesh Kumar, the number of claimants were 5 and as such deduction of 1/4th ought to have been made. Learned counsel would yet further contend that though the claimant-appellants do not challenge the addition made towards future prospects and the multiplier applied, however, the amounts awarded under the conventional heads i.e. loss of estate and funeral expenses and under the head loss of consortium are not in consonance with the law laid down by 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.1-Insurance Company would contend that the income has rightly been assessed in the absence of any evidence on the record and that the Tribunal has rightly held that there was no evidence on the record to show that the salary was even credited to the account of the deceased. It is further the contention of the learned counsel that in the present case only 3 claimants were left as the mother and the father had since died therefore deduction of 1/3rd has rightly been made. Learned counsel has further 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. Heard.

7. In the present case the Tribunal has assessed the income of the deceased as ₹8,000 per month, which was arrived at on the basis of assumptions and presumptions. No yardstick seems to have been applied by the Tribunal. Hem Raj Sharma, who was the Proprietor of Hind Motors, Loharu Road, Bhiwani, where the deceased was stated to have been employed, had stepped into the witness box as PW-6 and stated that the deceased was his employee. He also produced on the record the attendance register showing that the deceased was his employee and also produced on the record the salary certificate (Ex.PW6/B) showing the salary to being ₹15,000 per month. In the absence of any evidence to the contrary, there was no reason to disbelieve the said evidence. The Tribunal, therefore, erred in not relying on the said evidence. PW-6 had stepped into the witness box and proved the salary certificate as also the attendance register and no evidence was produced by the respondents to counter the same. Therefore, the income of the deceased as assessed by the Tribunal is modified and is assessed as ₹15,000 per month.

8. Further, at the time when the accident had taken place there were 5 people dependent upon the deceased including the appellants herein and his parents. The parents died during the pendency of the claim petition. The status of the claimants viz-a-viz the deceased has to be seen at the time of the death. When the deceased met with an accident, there were 5 people who were dependent upon him, therefore, deduction of 1/4th ought to have been made.

Since there is no challenge to the addition made towards future prospects and the multiplier applied, the same are maintained. 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). 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. The claimant-appellants, being the widow and the children of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium.

9. Accordingly, the reworked compensation to which the claimant-appellants are entitled to is as under :

| Sr. No. | Heads | Compensation Awarded |
|---------|--|---|
| 1. | Monthly income | ₹15,000 |
| 2. | Future prospects @ 40% | [₹15,000 + ₹6,000] = ₹21,000 |
| 3. | Deduction 1/4 th | [₹21,000 - ₹5,250] = ₹15,750 |
| 4. | Annual income | [₹15,750 x 12] = ₹1,89,000 |
| 5. | Multiplier of '15' | [₹1,89,000 x 15] = ₹28,35,000 |
| 6. | Funeral expenses | ₹18,000 |
| 7. | Loss of estate | ₹18,000 |
| 8. | Loss of consortium (i) Spousal (ii) Parental | ₹48,000 [₹48,000 x 2] = ₹96,000 Total = ₹1,44,000 |
| | Total Compensation | ₹30,15,000 |

10. 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. The amount

shall be apportioned between the claimant-appellants as directed by the Tribunal.

11. 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 respondent No.1-Insurance Company in the bank account(s) of the claimant-appellants within a period of six weeks from today. The share of the minor claimant-appellants shall be kept in an FDR with a nationalized bank fetching maximum rate of interest. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimant-appellants to respondent No.1-Insurance company within a period of two weeks from today and needful shall be done by respondent No.1-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.

12. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

10.09.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No