



FAO-5197-2025 (O&M)

-1-

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

**FAO-5197-2025 (O&M)
Reserved on : 01.09.2025
Date of Pronouncement : 12.09.2025**

The Oriental Insurance Company LimitedAppellant

Vs.

Gobinda and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Vijay Kumar Garg, Advocate,
for the appellant.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 20.03.2025 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Gurugram (for short, 'the Tribunal'), wherein the appellant-Insurance company was fastened with the liability to pay the compensation to the claimants/respondents No.1 to 3 to the tune of Rs.25,92,000/- along with interest @ 7.5% per annum.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. Learned counsel for the appellant/Insurance company contends that the learned Tribunal erred in assessing the income of the deceased and



FAO-5197-2025 (O&M)

-2-

has awarded excessive amount under the conventional heads, while calculating compensation. Therefore, he prays that the present appeal be allowed and award be modified/reduced.

4. I have heard learned counsel for the appellant and perused the whole record of this case with his able assistance.

5. The relevant portion of the award dated 20.03.2025 passed by the learned Tribunal is reproduced as under:-

“26. To prove age of the deceased the claimants have relied upon copy of Identity Card, Ex.P-4, of the deceased issued by Haryana Kaushal Rozgar Nigam Limited, wherein date of birth of the deceased has been recorded as 10.08.1977. The accident had taken place on 23.01.2024. If the above mentioned date of birth of deceased is taken into consideration, the age of deceased at the time of accident/death comes out to be 46 years 5 months 13 days. However, in post mortem report, the age of deceased Lalita is mentioned as 45 years and in the petition, her age is mentioned as 46 years. This Tribunal is of the view that identity card issued by any authority cannot be considered as age proof. Therefore, taking into consideration the age as mentioned in the post-mortem report, in the petition as well as in the identity card of deceased, it is safe to presume the age of deceased Lalita for the age group of 46 to 50 years for the purpose to assess the compensation. 27. As far as occupation & income of the deceased is concerned, it is the case of the claimants that the deceased was working as Sweeper at ESI Dispensary, Basai Road, Gurugram under Haryana Kaushal Rozgar Nigam Limited and drawing 18,400/- per month as salary. To prove the said ₹ employment, the claimants have examined Sandeep clerk posted in Basai ESI Dispensary, Gurugram as PW-1 who has deposed that deceased Lalita was appointed as a sweeper through Haryana Kaushal Rozgar Nigam Limited vide deployment offer letter Ex.P-1. This witness has proved the salary slips of deceased for the months of November 2023 and December 2023 Ex.P-2 and Ex.P-3 and identity card of deceased issued by Haryana Kaushal Rozgar Nigam Limited Ex.P-4. The aforesaid evidence has gone unrebutted and unchallenged as no contrary evidence had been produced on record by the respondents to rebut



the claim of the claimants with regard to employment and income of the deceased. Hence, it is amply proved that the deceased used to work as sweeper with ESI Dispensary Basai Road, Gurugram. As such, in my considered opinion, it is proper to consider her last drawn salary as ₹18,400/- as was received by her in the month of December 2023. If the above mentioned figure is taken as monthly income of the deceased, her annual income comes out to be ₹2,20,800/- (₹18,400/- X 12). 28. The loss of dependency further consists of three components for its determination. Firstly, future prospects, secondly, income of the deceased after deduction to be made from the income towards her personal expenses and thirdly, the multiplier to be adopted. In this regard it is relevant to mention here that in the case of National Insurance Company Limited Versus Pranay Sethi and others, Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017, the Hon'ble Supreme Court of India has prescribed the formula for computation of future prospects. It has been observed that in the cases of income from self-employment, or on a fixed salary, an addition of the established income should be considered. As per Hon'ble Supreme Court of India it should be 25%, where the deceased was between the age of 40 to 50 years. 29. In the present case, the age of deceased has been determined between the age group of 46 to 50. Therefore, keeping in view the age of deceased and the law laid down in Pranay Sethi's case (supra), 25% of actual income of the deceased has to be computed towards future prospects. If increased by 25%, the annual contribution of deceased (including future prospects) comes out to be ₹2,76,000/- (₹2,20,800/- + 55,200/-). ₹ 30. As far as the deduction towards personal expenses of the deceased is concerned, in the instant claim petition, the compensation has been claimed by the husband and sons of the deceased. It is contended by learned counsel for respondents that both the sons i.e. claimants No.2 and 3 are of 32 years and 28 years respectively and they are not financially dependent upon their mother (since deceased). However, this contention of learned counsel for respondents is devoid of merits as the deceased was contributing in the financial kitty of the family which can be used in future for solemnization of marriage of claimants No. 2 and 3 as they are unmarried. Secondly, she was looking after the household and it can be very difficult to assess the financial loss of the pivotal of the family. So for just and fair compensation, it would be



appropriate that deduction of 1/3rd of the income of deceased be made towards her personal expenses and remaining 2/3rd is considered to be in financial kitty of the family. Therefore, after deducting one third of the total income, annual dependency of the claimants comes out to be 1,84,000/- (₹ ₹2,76,000/- minus ₹92,000/-). 31. So far as the selection of multiplier is concerned, the Hon'ble Supreme Court of India in Pranay Sethi's case (supra), has ruled that the age of deceased should be the basis for selection of multiplier. The above principle is applicable to the instant case also. The age of deceased Smt. Lalita, at the time of her death, has already been determined between the age group of 46 to 50 years. Thus it will be just and fair to adopt the multiplier method for the assessment of loss of estate. As per law laid down in Sarla Verma's case (supra), the proper multiplier to be adopted in this case for the assessment of loss of dependency is the multiplier of 13. Calculated mathematically, total dependency of the claimants comes out to be ₹ ₹ 23,92,000/- (1,84,000/- x 13). 32. Besides this, a sum of 50,000/- [with 10% increase after lapse ₹ of three years after passing of judgment in Pranay Sethi's case (supra) on 31.10.1997] is granted to the claimant No.1 as spousal consortium and another sum of 50,000/- (with 10% increase) is also awarded to the ₹ claimants on account of loss of estate and funeral expenses. Keeping in view the ratio of law as held by the Hon'ble Supreme Court of India in case titled as Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & others, 2018(4) RCR (Civil) 333, a sum of 50,000/- each is ₹ awarded to the claimants No.2 & 3 as parental consortium.

33. The claimants are entitled to get compensation under following different heads:-

i) Loss of dependency	- ₹23,92,000/-
ii) Loss of estate & Funeral expenses	- ₹ 50,000/-
iii) Spousal Consortium to claimant No.1	- ₹ 50,000/-
iv) Loss of Parental Consortium to claimants No.2 & 3	- ₹ 1,00,000/- (₹ 50,000/-each)
	Total - ₹25,92,000/-

34. Hence the total amount of compensation comes to ₹25,92,000/- (rupees twenty five lakhs ninety two thousand only) and claimants are entitled to receive the amount of compensation along with interest at the rate of 7.5% per annum from the date of filing of this petition till its realization. Hence this issue is decided accordingly partly in favour of claimants."



6. A perusal of the award reveals that deceased was stated to be 45 years of age at the time of the incident. However, the Post-Mortem Report (Exhibit P7) records her age as 46 years. The Hon'ble Supreme Court, in **Sunita v. Vinod Singh, 2025 INSC 366**, has authoritatively held that there is no impediment in accepting the age as mentioned in the post-mortem report for the purpose of determining compensation. The relevant portion of the judgment is reproduced as under:

*“11. The amount arrived at by the High Court of the monthly income being Rs.5,819/- (Rupees Five Thousand Eight Hundred and Nineteen) as against the claim of Rs.10,000/- (Rupees Ten Thousand) appears to be on the lower side as the total earning of the deceased from family pension itself ought to have been considered which itself would come to Rs.5,137/- (Rupees Five Thousand One Hundred and Thirty-Seven) to which the notional wages as a home maker had to be added, which we find is reasonable as has been taken by the High Court at Rs.2,500/- (Rupees Two Thousand Five Hundred). Thus, the monthly income would come to Rs.7,637/- (Rupees Seven Thousand Six Hundred and Thirty- Seven), which we are inclined to round off at Rs.7,000/- (Rupees Seven Thousand). Coming to the multiplier factor which is dependent on the age, there is sufficient indication that the deceased was aged about 45 years as per the Post-Mortem Report which is a scientific assessment of the age of the deceased. The purported discrepancy in the age with regard to that of the claimant and the deceased is erroneous for the reason that when the claim was filed, appellant no.1 was aged about 30 years and a difference of 15 years between the daughter-in-law and the mother-in-law cannot be said to be totally devoid of reality given the contextual and prevalent societal norms in vogue at the time of marriage of the deceased which could have been at least 25 to 30 years prior to her death i.e., in or about the 1970s. **Moreover, in the absence of material indicating to the contrary, there is no inhibition to accept the age of the deceased as per the Post-Mortem Report.** Thus, we are inclined to grant her the benefit of multiplier of 14 taking her age as 45 years. With regard to the loss of love and affection, Pranay Sethi (supra)*



grants Rs.40,000/- (Rupees Forty Thousand) per head with escalation of 10% every three years for loss of consortium which has been interpreted in Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130 to include spousal, parental, and filial consortium. Thus, there being five claimants the amount shall be [Rs.48,000/- x 5] which comes to Rs.2,40,000/- (Rupees Two Lakhs and Forty Thousand) payable under the head of loss of love and affection.”

In view of the above, the learned Tribunal has rightly assessed the age of the deceased as 46 years, and the same does not call for any interference.

7. A perusal of the award further reveals that the deceased was employed as a Sweeper at the ESI Dispensary, Gurugram, under the Haryana Kaushal Rozgar Nigam Limited, and was drawing a monthly salary of ₹18,400/-. The learned Tribunal, after placing reliance on the salary slips (Exhibits P2 and P3) and the identity card (Exhibit P4), rightly assessed the monthly income of the deceased as ₹18,400/-. This assessment is based on cogent documentary evidence and is in accordance with the settled principles of law. Hence, no interference is warranted by this Court in respect of the income so determined.

8. Coming to the addition of future prospects, the learned Tribunal made addition of 25% towards future prospects. In accordance with the settled principles of law governing the assessment of compensation, particularly as laid down in *National Insurance Company Ltd. Vs. Pranay Sethi & Ors.* [(2017) 16 SCC 680], and reaffirmed in subsequent decisions, an addition of 25% towards future prospects is warranted where the deceased was employed on a fixed salary and below the age of 50 years.



FAO-5197-2025 (O&M)

-7-

Considering that the deceased was 46 years of age, the learned Tribunal has rightly added 25% of the established income towards future prospects.

9. Further, the deceased is stated to be survived by three dependents i.e. her husband and two major sons. The appellant has contended that the major sons are not to be considered as dependents of the deceased, as they are allegedly self-sufficient.

10. Reference at this stage can be made to the judgment of Hon'ble the Apex Court in the case of *National Insurance Co. Ltd. vs. Birender and others, 2020 (11) SCC 356* wherein Hon'ble the Apex Court held as under:-

“14. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only.”

11. Further Hon'ble the Apex Court recently in *Jitender Kumar vs. Sanjay Prasad passed in Civil Appeal No. 7199-2025 (arising out of SLP (x) Non. 2777-2023), decided on 22.05.2025* held as under:-

*“13. In our considered opinion, the view on this issue cannot be faulted. The exposition of law in **Birender (supra)** is clear, wherein it was observed as under:-*

“14. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for



compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only.”

14. Such exposition came to be followed by this Court in Seema Rani and Ors. v. Oriental Insurance Co. Ltd. and Ors., 2025 SCC Online SC 283., wherein it was observed that the application for compensation, even by married sons and daughters, must be considered, irrespective of whether they are fully dependant or not. In the present case, it cannot be disputed that the claimant-appellant(s) became partner in the consultancy firm run by the deceased. Moreover, it is not in dispute that that the Flour Mill being run by the deceased, is still being run by the claimant-appellant(s). In such a factual circumstance, it cannot be said that the claimant-appellant(s) were financially dependent upon the deceased.”

12. In view of the above referred to judgments, it is abundantly clear that major daughters/sons are equally entitled to compensation, as they too remain dependent on their parents. In light of this legal position, and considering the presence of three dependents, the appropriate deduction towards personal expenses would be one-third (1/3) of the income, and not one-half as contended by the appellant. Accordingly, the learned Tribunal has rightly applied the one-third deduction, and no interference is warranted on this ground.

13. A further perusal of the award reveals that the appropriate multiplier in the present case, considering the age of the deceased as 46 years, multiplier of 13 is to be applied. The learned Tribunal has correctly applied the multiplier. Furthermore, the compensation awarded under the conventional heads of loss of consortium, funeral expenses, and loss of



FAO-5197-2025 (O&M)

-9-

estate is in consonance with the standard amounts prescribed in *Pranay Sethi's case (supra)*. These amounts have been rightly assessed by the Tribunal, and no ground is made out for interference by this Court.

14. It is well settled by the Hon'ble Supreme Court in *K. Ramya v. National Insurance Co. Ltd., 2022 (4) RCR (Civil) 435* that the Motor Accident Claims Tribunals are vested with sufficient latitude to determine "just compensation" and are not shackled by rigid arithmetical rules or strict standards of evidence as in civil suits for damages. Interference by the Appellate Court is warranted only when the award of compensation is manifestly excessive, arbitrary, or contrary to settled principles.

15. The findings of the learned Tribunal are based on sound appreciation of evidence and established principles of law, particularly in determining income for computation of compensation under the Motor Vehicles Act, 1988. No perversity, illegality, or error is found that would justify interference under appellate jurisdiction.

16. Accordingly, this Court finds no merit in the appeal, and the same is **dismissed**. Thus, the award dated 20.03.2025 is hereby upheld.

17. The statutory amount of Rs.25,000/- deposited by the appellants at the time of admission of the appeal, is ordered to be refunded to them.

18. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

12.09.2025

Virender

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