



FAO-4231-2024 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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FAO-4231-2024 (O & M)

Date of decision:29.01.2025

THE ORIENTAL INSURANCE COMPANY LTD

...APPELLANT

VS.

SMT. SAPNA DEVI AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. D.P. Gupta, Advocate  
for the appellant.

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**SUVIR SEHGAL, J.**

**CM-15500-CII-2024**

1. For the reasons given in the application, it is allowed.
2. Delay of 46 days in filing of the appeal is condoned.

**Main Case**

3. This is an appeal filed under the Motor Vehicles Act, 1988, by the insurer of the offending vehicle assailing award dated 02.04.2024 passed by the Motor Accident Claims Tribunal (for short "the Tribunal"), Gurugram.
4. Facts are not in dispute. On 16.09.2018, Sanjay Singh and Yatender were travelling on a motorcycle, which was hit by a Canter bearing



No.HR-38-X-8396. Due to the negligent driving by the Canter, both the motorcycle riders sustained injuries and Sanjay Singh was declared dead at the hospital. On the statement of an eye witness, FIR No.36 dated 17.09.2018 was lodged under Sections 279 and 304-A, IPC. The claimants/respondents No.1 to 4, who are the wife, minor children and mother of the deceased, filed a claim petition before the Tribunal. After full dressed trial, Tribunal reached at the conclusion that respondents No.1 to 4 were dependent upon the deceased and that Sanjay Singh died due to the rash and negligent driving of the canter by respondent No.5. The vehicle was owned by respondent No.6 and was insured under a policy Ex.PW-4/1 issued by the appellant.

5. Taking into account the age and income of the deceased, the dependency of respondents No.1 to 4, loss caused to them was assessed at Rs.52,04,800/-. The liability of payment of compensation was held to be joint and several of all the three respondents and the claimants were held entitled to interest @7.5% per annum from the date of filing of the petition and on failure to deposit the amount within a period of two months from the date of receipt of the bank account particulars from the complainants, interest @10% per annum with yearly rests was levied on the insurance company.

6. Mr. D.P. Gupta, counsel for the appellant has raised two fold argument. He states that the deceased was earning a family pension and after his death, family pension of Rs.13,070/- was sanctioned in the name of his widow-respondent No.1 as is evident from Ex.PX. He urges that the family



pension being drawn by the widow has to be deducted from the compensation payable to the claimants. Secondly, he contends that the Tribunal has awarded a penal interest of 10% per annum with yearly rests in case of non-deposit of the compensation amount within a period of two months from the date of receipt of the bank particulars, which is highly excessive.

7. I have considered the submission made by counsel for the appellant.

8. In *Helen C. Rebello Vs. Maharashtra State Road Transport Corporation and another (1999) 1 SCC 90*, Supreme Court held that family pension is earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions, receivable by the heirs after his death. The heirs receive family pension even otherwise than accidental death and there is no co-relation between the two. Following this judgment, in *Sebastiani Lakra and others Vs. National Insurance Company Ltd. and another (2019) 17 SCC 465*, Supreme Court observed that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others and it cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. In view of the dictum of the Supreme Court, the first argument raised by Mr. Gupta deserves to be and is rejected.



9. However, there is substance in the second argument raised by counsel for the appellant. Tribunal has clearly erred in imposing a penal interest of 10% per annum with yearly rests from the date of award till realization. The award of interest with yearly rests amount to compounding of interest, which is not permissible. This portion of the award, therefore, deserves to be altered.

10. In view of the above discussion, the award insofar as grant of interest @10% per annum with yearly rests is modified and shall be read as award of 10% simple interest from the date of the award, in case, the insurance company fails to deposit the amount within a period of two months from the date of receipt of the bank account particulars of the claimants. The remaining findings and the compensation awarded by the Tribunal are affirmed.

11. With the above modification, appeal and miscellaneous applications are disposed of.

29.01.2025

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**(SUVIR SEHGAL)**

**JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No