

2. Brief facts relevant to the present *lis* are that on 12.08.2012 at about 9.00 pm, Vikash (deceased) alongwith his friend, namely, Dharmender was going to village Palda, District Jhajjar on a motorcycle bearing Registration No.HR-34-D-6712 which was being driven by the deceased and Dharmender was the pillion rider. When they reached near village Jhal on Kanina Kosli road, their motorcycle struck against the offending vehicle, which was parked in the middle of the road without any parking indicator and without observing the traffic rules and regulation. As a result, the deceased and Dharmender fell on the road and sustained serious, grievous and multiple injuries. Thereafter they were taken to CHC, Nahar from where they were referred to Government Hospital, Rewari, however, on the way the deceased succumbed to his injuries. FIR No.148 dated 13.08.2012 under Sections 283, 337, 304A of the Indian Penal Code, 1860 was registered at Police Station Khol.

3. On notice, the driver and owner of the offending vehicle filed their joint written statement taking preliminary objections regarding maintainability of the petition and denying the factum of the accident.

4. The Insurance Company while filing its written statement also took an identical stand as was taken by the driver and owner of the offending vehicle and in addition it was averred that the alleged accident was not caused due to rash or negligent driving of the driver of the offending vehicle. It was further averred that at the time of the accident, the driver of the offending vehicle was not holding a valid and effective driving licence.

5. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the petitioner had suffered injuries in a vehicular accident that took place due to rash and negligent driving of offending vehicle no. HR 61 0925 by respondent no.1, as alleged in the petition ? OPP

2. If issue no.1 is proved, whether the petitioners are entitled to compensation? If so to what amount ? OPP

3. Whether respondent no.1 was not holding a valid and effective driving licence on the date of accident ? If so its effect ? OPR

4. Relief.

6. The Tribunal vide the impugned award had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹6,000/-
2	Annual income	[₹6,000 x 12] = ₹72,000/-
3	Deduction 50%	[₹72,000 – 36,000] = ₹36,000/-
4	Multiplier of 18	[₹36,000 x 18] = ₹6,48,000/-
5	Funeral expenses/transportation	₹25,000/-
6	Loss of estate	₹10,000/-
7	Love and affection	₹25,000/-
	Total Compensation	₹7,08,000/-
	Interest	7% per annum

7. Learned counsel for the Insurance Company would contend that the offending vehicle was not insured with the Insurance Company nor they issued any insurance policy. It is further the contention of the learned counsel of the Insurance Company that a cover note had been issued by the agent/intermediary, namely, M/s Automotive India Motor Dealer run by

M/s Shreyas Insurance Broker Pvt. Ltd. and as per the agreement of the Insurance Company with the aforesaid intermediary, the insurance cover note could not have been issued and prepared by M/s Automotive India Motor Dealer through M/s Shreyas Insurance Broker Pvt. Ltd. and also that no amount had been received towards the premium. Learned counsel has further pointed out that the contract with the said intermediary was also cancelled.

8. Per contra, the learned counsel for the claimants would contend that there is nothing on the record to show that the cover note was not issued after the receipt of the premium. It is further the contention that there is no evidence which was led by the Insurance Company to show that the contract with the intermediary/agent had been cancelled.

9. As regards the quantum of compensation, the learned counsel for the claimants would contend that he does not challenge the income of the deceased, deduction and the multiplier as applied by the Tribunal. However, he states that the Tribunal has not made any addition towards future prospects which ought to have been 40%. It is further the contention of the learned counsel that the amount awarded under the conventional heads as well as under the head 'loss of consortium' is also not in accordance with 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]**.

10. Learned counsel for the 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.

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

12. In the present case, the cover note was issued by the intermediary/authorized agent. On a specific query by the Court to the learned counsel for the Insurance Company as to whether there was any evidence led on the record to show that the contract between the intermediary/agent had been cancelled, the learned counsel has answered in the negative. RW1, Ashok Kumar, who was Incharge of M/s United India Insurance Company Ltd., admitted that if the Insurance Company had issued a cover note after receipt of the premium, then it is a valid document. He also admitted that the cover note (Ex.R3) is of their company. He further admitted that there is no evidence on the record to show that the cover note (Ex.R3) was issued by the intermediary without receipt of the premium from insured. In the absence of any evidence as discussed above, the argument of the learned counsel for the Insurance Company that the offending vehicle was not insured cannot be accepted. No other argument has been raised by the learned counsel for the Insurance Company.

13. As regards the quantum of compensation, since there is no challenge to the income of the deceased, deduction and the multiplier as applied by the Tribunal, hence, the same are maintained. The deceased in the present case was 21 years of age at the time of the accident and the Tribunal has not made any addition towards future prospects and hence, as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi**

(supra), 40% addition is made towards future prospects. Further, the amount awarded under the conventional heads and under the head 'loss of consortium' is 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 claimants 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 (parents 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	₹6,000/-
2	Annual Income	₹72,000/- [₹6,000 x 12]
3	Deduction 50%	₹36,000/- [₹72,000 – 36,000]
4	Future Prospects - 40%	₹50,400/- [₹36,000 + 14,400]
5	Multiplier - 18	₹9,07,200/- [₹50,400 x 18]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium	
	(i) Filial [₹48,000/- x 2]	₹96,000/-
	Total Compensation	₹10,39,200/-

14. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7% per annum from the date of filing of the claim petition till the realization of the entire amount.

15. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 : 2025 SCC OnLine SC 567]**, 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 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.

16. In view of the above discussion, **FAO-5623-2015** filed by the claimants is allowed and **FAO-7111-2015** filed by the Insurance Company is dismissed. The impugned award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

07.07.2025
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

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