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

2025:PHHC:129091

CM-18453-CII-2025 IN
CM-9560-CII-2025 IN/&
FAO-2997-2025 (O&M)
DATE OF DECISION : 17.09.2025

MANOJ KUMAR SETHI **... APPELLANT**

V/S

IFFCO TOKIO GENERAL INSURANCE CO. LTD. AND OTHERS
... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sankalp Gehlawat, Advocate for the appellant.

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PARMOD GOYAL, J. (ORAL)

CM-18453-CII-2025

The applicant is seeking preponement of application bearing CM-9560-CII-2025, which is stated to be fixed for 06.02.2026.

In view of the prayer made in the application, same is allowed and the application as well as main case is taken up on Board for hearing today itself.

Main case

Present appeal has been preferred by the owner of offending vehicle bearing registration no. HR-13D-3470, who is aggrieved by award of compensation of Rs.16,11,820/- passed by the learned Motor Accidents Claims Tribunal, Jhajjar (hereinafter referred as 'Tribunal') in favour of the LRs of deceased Aman who died in a motor vehicular accident on 15.06.2022 holding appellant-owner liable to pay compensation.

2. In the present case, the learned Tribunal has found from the evidence led by parties that it was the offending vehicle owned by respondent No.2 i.e. the present appellant, which had caused the accident resulting into death of deceased Aman due to rash and negligent driving of respondent No.1 - driver of the offending vehicle. Learned Tribunal taking mother as well as elder brother of deceased to be dependents, concluded loss of dependency to be Rs.15,27,120/- and has granted total compensation of Rs.16,11,820/-.

3. Learned counsel for the appellant has raised two-fold arguments; firstly that learned Tribunal has wrongly taken claimant no.2 - Deepak, elder brother of the deceased to be entitled to loss of dependency as respondent No.2 was not dependant upon deceased.

4. Even if this argument is taken as correct and Deepak is excluded from and not considered dependent of deceased, even then it is to be seen whether loss of dependency calculated by learned Tribunal is correct or not by taking mother of the deceased alone to be dependant.

4. On consideration, I find that while determining loss of dependency, learned Tribunal has duly applied the principle which otherwise would be applicable, even if mother is taken as sole dependant in the present case. Learned Tribunal has taken the income of the deceased to be Rs.10,000/- by considering him to be unskilled worker. The approach of learned Tribunal to take minimum wages payable to unskilled worker cannot be faulted with. Since deceased was 20 years old, 40% towards future prospects were added and thereafter, 50% deduction towards personal expenses were made, since deceased was a bachelor. Even if we take that

deceased had one dependant i.e. mother only, even then personal expenses to the extent of 50% alone can be deducted. Since deceased was 20 years old, multiplier of 18 was applied. The calculation of loss of dependency even after taking mother to be sole dependant would come to same amount, therefore loss of dependency has been rightly determined by learned Tribunal in accordance with principles laid down by Hon'ble Supreme Court in ***Smt. Sarla Verma & Others Vs. Delhi Transport Corporation & Another, 2009 (3) RCR (Civil) 77*** and ***National Insurance Company Ltd vs. Pranay Sethi and others, (2017) 16 SCC 680.*** No exception with the determination of compensation payable to claimant mother alone can be made out. It is worth noticing that no consortium has been awarded to claimant no.2. Consortium has only been awarded to claimant no.1. Therefore, even if it is considered that mother was sole dependant, even then no fault with the determination of compensation as done by learned Tribunal can be found. In these circumstances, merely because learned Tribunal has apportioned the compensation amount to the extent of 80:20% between claimant nos. 1 and 2 this will not make the award of learned Tribunal to be erroneous.

5. Faced with the above conclusion, learned counsel for the appellant has also challenged the liability of appellant to pay compensation in view of the fact that he had already sold the offending vehicle to Pawan Kumar on the basis of affidavit. Admittedly, along with present appeal, appellant has also filed an application under Order 41 Rule 27 for placing on record affidavit of Pawan Kumar, the subsequent purchaser. It is worth nothing that neither in written statement nor during the course of trial before learned Tribunal, respondent No.2 had taken any plea that the vehicle was

sold by him to Pawan Kumar. The application for additional evidence seeking to take new stand without seeking amendment in the written statement cannot be allowed as evidence sought to be placed by way of additional evidence is not based on pleadings.

6. Learned counsel for the appellant has made reference to evidence led by respondent that he had sold the vehicle to one Harish Dewan and he sold the same to Pawan Kumar. However, again the said contentions/assertions made by the appellant cannot be considered as the same are beyond pleadings. There is no connecting evidence available that vehicle stood sold to Harish Dewan. Appellant is continuing to be registered owner. Therefore, no fault with the conclusion drawn by learned Tribunal can be found.

7. Present appeal is without any merit. Hence, dismissed.

17.09.2025 **(PARMOD GOYAL)**
Janki **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No