



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

**FAO No. 524 of 2017 (O&M)
Reserved on: 09.01.2025
Pronounced on : 13.01.2025**

Soni and others

...Appellant

VS

Suresh Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Wazir Singh, Advocate
for the appellants.

Mr. Manjit Singh Gahlawat, Advocate and
Mr. Jasdev Singh, Advocate Thind, Advocate
for respondent No.1.

Mr. R.C. Kapoor, Advocate
for respondent No.3-Oriental Insurance Co. Ltd.

VIKRAM AGGARWAL, J

1. The present appeal has been preferred by the claimants who are the widow, minor son and parents of the deceased-Gianender, who expired in a motor vehicular accident which took place on 03.08.2015.

2. The claim set up in the claim petition was that on 03.08.2015, Gianender had gone to the market on a motorcycle bearing registration no. HR-08-R-5776 for purchasing certain articles. On the way, a bus bearing registration no. HR39-C-9441 which was being driven by respondent no.1 (Suresh Kumar) in a rash and negligent manner struck against the motorcycle of Gianender as a result of which he sustained serious injuries. He was taken to General Hospital, Kaithal, but as his condition was serious, he was referred to PGI, Chandigarh. However, he expired on the way. It was alleged that the accident had taken place on account of the rash and negligent driving of the bus by respondent No. 1. It was further averred that

Gianender was 23 years old at the time of the accident and that his income was ₹20,000/- per month which he was earning as a conductor on a truck. Compensation was, therefore, was claim on account of the death of Gianender.

3. The claim petition was resisted by the respondents. The driver, owner and the insurer denied the factum of the accident. The insurance company took its usual defences as well.

4. The Tribunal assessed the age of Gyanender to be 23 years. His monthly income was assessed as ₹8100/- per month and after making calculations a sum of ₹1,35,6400/- was awarded as compensation.

5. Learned counsel for the parties were heard.

6. It was submitted by learned counsel representing the appellants that now in terms of the judgment of the Supreme Court of India in the case of *National Insurance Company Limited Vs. Pranay Sethi, (2017) 16 SCC 680, Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333* and the judgment dated 07.08.2024 passed by the Supreme Court in *Rojalini Nayak and others Vs. Ajit Sahoo and others, 2024 (4) RCR (Civil) 50*, future prospects at the rate of 40% deserve to be awarded apart from filial compensation at the rate of ₹48,400/- per claimant, loss of estate, funeral expenses etc. Learned counsel has also submitted calculation which reads as under:-

Sr.No.	HEAD	AMOUNT AWARDED BY TRIBUNAL	AMOUNT WHICH SHOULD BE AWARDED
1.	Monthly income	Rs.8100/-	Rs.8100/-
2.	Annual Income	Rs.8100 X 12 = 97,200/-	Rs.97,200/-
3.	Future Prospectus (40%)	NIL	Rs.97,200+38,800 (40%) = 1,36,080/-
4.	Deduction towards personal exp. 1/3 rd	1/3 rd 97200 - 32400/- = 64800/-	1/3 rd Rs. 1,36,080- 44906 = 91,174/-

5.	Multiplier	18	18
6.	Total Dependency	Rs.64800 X 18 = 11,66,400/-	Rs.91906 X 18 = 16,41,132/-
7.	Love & Affection	Rs.1,50,000/-	Rs.1,50,000/-
8.	Loss of consortium/Filial	Rs.20,000/-	Rs.48400 X 4 = 1,93,600/-
9.	Loss of Estate	Nil	Rs.18,150/-
10.	Loss of Funeral	Rs.20,000/-	Rs.18,150/-
	Total compensation	Rs.11,82,480/-	Rs.20,21,032/-
	Interest	7%	9%
	DIFFERENCE		Rs.8,38,552/-

7. *Per contra*, learned counsel representing the Insurance company has submitted that even as per the judgments referred by learned counsel for the claimants, the compensation would be payable as under:-

Details	Compensation assessed by the Tribunal	Compensation as per the latest law
Income	8100/-	8100/-
Future prospects	---	40%
Deduction	1/3 rd	1/3 rd
Multiplier	18	18
Conventional heads	1,90,000	77,000/-
Interest	7%	7%
Total	₹13,56,400/-	17,09,960/-

8. I have heard the submissions made by learned counsel for the parties.

9. The age of deceased-Gianender was assessed as 23 years to which there is no dispute. Further there is no dispute as regards the income which was assessed as ₹8100/- per month. The dependency would therefore come to ₹.8100 x 12 = ₹97,200/-. After applying future prospects at the rate of 40% in terms of the judgment of the Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi (Supra)*, the annual income would come to ₹97,200/- + 38800 = ₹1,36,080/-. The deduction towards personal expenses would be 1/3rd of ₹1,36,080/- which would come to

₹44,906/- and, therefore, the annual income would come to ₹91,174/-. After applying a multiplier of 18, the total dependency would be ₹16,41,132/-. No amount for love and affection would be payable and loss of consortium/filial compensation would be ₹48,400/- x 4, which comes to ₹1,93,600/-. The loss of estate and funeral charges would come to ₹18,150/- each and the rate of interest would be 7.5%. Under the circumstances, the compensation which would be payable to the claimants in terms of the award would be as under:-

Details	Compensation awarded by the Tribunal	Compensation awarded by this Court
Income	8100/-	8100/-
Future prospects	---	40%
Deduction	1/3 rd	1/3 rd
Multiplier	18	18
Total dependency	₹11,66,400/-	₹16,41,132/-
Loss of love and affection	₹1,50,000/-	Nil
Loss of consortium/ Filial compensation	₹20,000	₹48,400/- each i.e. ₹1,93,600/-
Loss of estate and funeral charges	₹20,000/-	₹18500/- under each head i.e. ₹37,000/-
Interest	7%	7.5% from the date of filing of the petition till realization
Total compensation	₹13,56,400/-	₹18,71,732/-
Difference		₹5,15,332/-

Accordingly, the appeal is partly allowed to the above extent.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on:13.01.2025

Rekha

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