

2025:PHHC:121815



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

**(i) FAO-2866-2016 (O&M)**

National Insurance Company Limited

...Appellant

VERSUS

Bablu and others

...Respondents

**(ii) XOBJC-49-CII-2017**

National Insurance Company Limited

...Appellant

VERSUS

Bablu and others

...Respondents

**Date of Decision: September 08, 2025**

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Ms.Madhu Sharma, Advocate  
for the appellant.

Mr.Ashish Gupta, Advocate  
for respondents No.1 to 4/cross-objectors.

Mr.Baljeet Beniwal, Advocate  
for respondents No.5 and 6.

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**ARCHANA PURI, J.**

Appellant-National Insurance Company Limited has filed the present appeal, thereby, assailing the Award dated 17.11.2015, qua the extent of compensation awarded to Bablu, who had sustained in a motor

vehicular accident and had died during the pendency of the claim petition.

In pursuance of the notice issued, the respondents-claimants made appearance and filed cross-objections bearing No.XOBJC-49-CII-2017, thereby, seeking enhancement of the compensation.

The accident had taken place on 25.1.2014. On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have been caused due to rash and negligent driving of truck bearing registration No.HR-38Q-9510, driven by respondent No.5-Nahar Singh. Even though, it was claimed by Bablu that he was working as electrician and earning Rs.15,000/- per month, but however, considering no satisfactory evidence, coming on record, with regard to the extent of earnings, learned Tribunal had taken the earnings of Bablu as Rs.6,000/- per month and had awarded compensation to the extent of Rs.10,21,230/-, which is reproduced in tabular form, as herein given:-

<b>Sr.No.</b>	<b>Nature</b>	<b>Amount in rupees</b>
1.	Bills	2,14,230/-
2.	Stay in hospital	11,000/-
3.	Towards permanent disability	1,60,000/-
4.	Towards of loss of enjoyment of life	5,00,000/-
5.	Loss of income	36,000/-
6.	Pain & Sufferings and special diet	<u>1,00,000/-</u>
	Total	<u>10,21,230/-</u>

Being aggrieved by the extent of compensation awarded, more particularly, 'towards loss of enjoyment of life' as well as 'pain and suffering', when Bablu had died, during the pendency of the claim petition, the insurance company has filed the present appeal.

Counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the

insurance company that the cause of action, being personal to the injured, abates on his death, which was not caused due to the accident. The legal heirs are entitled only to such compensation, which forms the part of estate of the deceased. Loss of salary, pain and suffering as well as towards loss of enjoyment of life, do not form part of estate of the deceased. As such, learned counsel for the appellant made a prayer for reduction of the compensation, as awarded by learned Tribunal.

On the other hand, learned counsel for the respondents/legal heirs (cross-objectors) of deceased Bablu has assiduously submitted that no reduction, as such, can be made as Bablu had died during the pendency of the claim petition. The amount of loss of income was suffered by the family as well, as they all were dependent upon deceased Bablu. The claims, as such, towards loss of income, medical expenses etc., will survive as part of loss of estate. Furthermore, he submits that the extent of disability, assessed by learned Tribunal is also on lower side, which calls for intervention. Rather, he makes a prayer for re-computation of the compensation, as it is submitted that it is on a lower side. In this regard, reference is made to ***The Oriental Insurance Company Limited vs. Kahlon @ Jasmail Singh Kahlon (deceased) through his Legal Representative Narinder Kahlon Gosakan and another, 2022(13) SCC 494.***

Considering the submissions aforesaid, it is pertinent to mention that the above cited case, is somewhat similar in factual and circumstantial narrative and the Hon'ble Supreme Court, therein, considered the issue of grant of compensation to the legal heirs/dependents of the deceased claimants, who had died during the course of proceedings/trial. Keeping in view the same, it would be relevant to refer to the observations made by the

Hon'ble Supreme Court, as herein given:-

*“9. The Act is a beneficial and welfare legislation. Section 166(1) (a) of the Act provides for a statutory claim for compensation arising out of an accident by the person who has sustained the injury. Under Clause (b), compensation is payable to the owner of the property. In case of death, the legal representatives of the deceased can pursue the claim. Property, under the Act, will have a much wider connotation than the conventional definition. If the legal heirs can pursue claims in case of death, we see no reason why the legal representatives cannot pursue claims for loss of property akin to estate of the injured if he is deceased subsequently for reasons other than attributable to the accident or injuries under Clause 1(c) of Section 166. Such a claim would be completely distinct from personal injuries to the claimant and which may not be the cause of death. Such claims of personal injuries would undoubtedly abate with the death of the injured. What would the loss of estate mean and what items would be covered by it are issues which has to engage our attention. The appellant has a statutory obligation to pay compensation in motor accident claim cases. This obligation cannot be evaded behind the defence that it was available only for personal injuries and abates on his death irrespective of the loss caused to the estate of the deceased because of the injuries.*

*10. In Umed Chand (supra), giving a broad liberal interpretation to the provisions of the Act so that legal representatives do not suffer injustice, it was observed that the claim for personal injuries will not survive on death of the injured unrelated to the accident but the legal representatives could pursue the claim for enhancement of the claim for loss of the estate which would include expenditure on medical expenses, travelling, attendant, diet, doctor's fee and reasonable monthly annual accretion to the estate for a certain period. It is trite that the income which a person derives compositely forms part of the expenditure on himself, his family and the savings go to the estate. The unforeseen expenses as aforesaid naturally have to be met from the estate causing pecuniary loss to the estate.*

*11. In Maimuna Begum (supra) the defence under Section 306 of the Indian Succession Act, 1925 on the old English Common Law maxim “actio personalis moritur cum persona” was rejected opining that it would be unjust to non-suit the heirs on that ground.*

*12. In Venkatesan (supra), the injured claimant preferred an appeal dissatisfied, but was deceased during the pendency of the appeal. Compensation came to be awarded under the Act*

*for loss of estate keeping in mind the nature of the injuries, the treatment, the expenditure incurred and loss of income.*

13. *In Surpal Singh (supra), Justice K.S. Radhakrishnan, C.J. (as he then was), observed that the Act was a social welfare legislation providing for compensation by award to people who sustain bodily injuries or get killed. The grant of compensation had to be expeditious as procedural technicalities could not be allowed to defeat the just purpose of the act. The Courts in construing social welfare legislations had to adopt a beneficial rule of construction which fulfills the policy of the legislation favorable to those in whose interest the Act has been passed. Judicial discipline demanded that the words of a remedial statutes be construed so far as they reasonably admit so as to secure that relief contemplated by the statute and it shall not be denied to the class intended to be relieved. Rejecting the maxim of “actio personalis moritur cum persona” on the premise that it was an injury done to the person and the claim abated with his demise it was observed:*

*“11. The question as to whether injury was personal or otherwise is of no significance so far as the wrong doer is concerned and he is obliged to make good the loss sustained by the injured. Legal heirs and legal representatives would have also suffered considerable mental pain and agony due to the accident caused to their kith and kin. Possibly they might have looked after their dear ones in different circumstances, which cannot be measurable in monetary terms. We are therefore in full agreement with the view expressed by the learned Single Judge of this Court in Gujarat State Road Transport Corporation’s case (supra) that even after death of the injured, the claim petition does not abate and right to sue survives to his heirs and legal representatives.”*

14. *This view has subsequently been followed in a decision authored by brother Justice M.R. Shah J., (as he then was) in **Madhuben Maheshbhai Patel v. Joseph Francis Mewan and Others, 2015 (2) GLH 499**, holding as follows:*

*“12....Considering the aforesaid decision of the Division Bench of this Court in the case of Surpal Singh Ladhubha Gohil (supra); decisions of the learned Single Judge of this Court in the case of Jenabai Widow of Abdul Karim Musa (supra) and in the case of Amrishkumar Vinodbhai (supra); and aforesaid two decisions of the learned Single Judge of the Rajasthan High Court, we are of the opinion that maxim “actio personalis moritur cum persona” on which Section 306 of the Indian Evidence Act (sic Indian Succession Act) is based cannot have an*

*applicability in all actions even in an case of personal injuries where damages flows from the head or under the head of loss to the estate. Therefore, even after the death of the injured claimant, claim petition does not abate and right to sue survive to his heirs and legal representatives in so far as loss to the estate is concerned, which would include personal expenses incurred on the treatment and other claim related to loss to the estate. Under the circumstances, the issue referred to the Division Bench is answered accordingly. Consequently, it is held that no error has been committed by the learned Tribunal in permitting the heirs to be brought on record of the claim petition and permitting the heirs of the injured claimant who died subsequently to proceed further with the claim petition. However, the claim petition and even appeal for enhancement would be confine to the claim for the loss to the estate as observed hereinabove.”*

15. Similar view has been taken by the Punjab & Haryana High Court in **Joti Ram v. Chamanlal**, AIR 1985 Punjab and Haryana 2 and the Madras High Court in **Thailammai v. A.V. Mallayya Pillai**, 1991 ACJ 185 (Mad).

16. The view taken in *Kanamma (supra)* and *Uttam Kumar (supra)* that the claim would abate is based on a narrow interpretation of the Act which does not commend to us. The reasoning of the Gujarat High Court is more in consonance with aim, purpose and spirit of the Act and furthers its real intent and purpose which we therefore approve.

17. The injuries suffered by the deceased in the accident required prolonged hospitalization for six months. The extent of disability suffered was assessed on 16.06.2000 as 100%. The extent of disability, pursuant to physiotherapy was reassessed as 75% on 08.08.2002. In the interregnum, the injured resigned his job on 30.09.2001 at the age of 53 years as he found movement difficult and inconvenient without an attendant as distinct from complete immobility. The injured was possessing professional qualifications in labour laws and Industrial relations along with a Diploma in Personnel Management. He may have had to suffer some handicap in also practicing before the labour court, but cannot be held to have suffered 100% physical disability as his capacity for rendering advisory and other work coupled with movement on a wheel chair with the aid of an attendant could still facilitate a reduced earning capacity. It cannot be held that the injured was completely left with no source of livelihood except to deplete his estate. In assessing, what has been described as a ‘Just Compensation’ under the Act, all factors including possibilities have to be kept in mind.

*18. The Tribunal, on technicalities rejected his claim for salary, medical expenses and percentage of disability and granted a measly compensation of Rupees one lakh only by a cryptic order. We are, therefore, of the opinion that while the claim for personal injuries may not have survived after the death of the injured unrelated to the accident or injuries, during the pendency of the appeal, but the claims for loss of estate caused was available to and could be pursued by the legal representatives of the deceased in the appeal.*

*19. In Parminder Singh (supra) compensation on the basis of complete loss of income, the percentage of disability, future prospects were granted applying the relevant multiplier. Again, in Kajal (supra) the injured was assessed as 100 per cent disabled, considering all of which compensation was awarded on the notional future prospects along with relevant multiplier. The loss of income to the injured in the facts of the present case has to be assessed at 75%. In view of Raj Kumar (supra) there shall be no deduction towards personal expenses.*

*20. We see no reason to deviate from the consistent judicial view taken by more than one High Court that loss of estate would include expenditure on medicines, treatment, diet, attendant, Doctor's fee, etc. including income and future prospects which would have caused reasonable accretion to the estate but for the sudden expenditure which had to be met from and depleted the estate of the injured, subsequently deceased."*

Further, in ***Kahlon's case (supra)***, it was held that the compensation under the head 'pain and suffering', being personal injuries, is not sustainable and was disallowed by the Hon'ble Supreme Court. Thereupon, re-assessment of the compensation was worked upon.

Consequently, without further ado, it is now well settled proposition of law that although the claim for personal injuries, may not survive, after the death of injured, unrelated to the accident or the injuries, during the pendency of the proceedings/appeal, but the claim for loss of estate, has to be assessed and awarded to the legal representatives/heirs of the deceased.

Adverting to the case in hand, it ought to be noted that Bablu

had sustained injuries in the accident in question, for which, he had filed claim petition on 02.09.2014. However, during the pendency of the said claim petition, Bablu had died on 17.06.2015, as per death certificate Ex.P1. Thereupon, his legal heirs, who were dependents, were impleaded as party to the pending claim petition. It is pleaded case of Bablu that he was working as electrician and was earning Rs.15,000/- per month. Even though, the claimants had examined PW-6 Vikram Singh, partner of M/s My Home Care, who deposed about Bablu to be working as electrician in the shop and that he was paying Rs.15,000/- per month as salary and proved receipts of salary slips issued by him Ex.PW6/1 to Ex.PW6/3 as well as the salary certificate Ex.PW6/4, but however, he had not brought the record, with regard to the employment of Bablu with him as well as salary disbursed to him, even though, he had stated in the cross-examination that he used to maintain such record. He had closed his shop, due to heavy losses and on account of requisite record, not having come forth, learned Tribunal has rightly discarded the testimony of the aforesaid witness, more particularly, when he could prove the salary receipts, then definitely, the record, ought to have been available with him, but the same was not produced. In the given circumstances, learned Tribunal had appropriately considered the earnings of the deceased as Rs.6,000/- per month.

The disability certificate Ex.P2 has been proved by PW-5 Dr.Ravi Shanker. The disability, on account of amputation above knee upto lower 1/3rd right thigh was assessed as 80%. Deceased Bablu was 39-40 years old, at the time of accident and he was allegedly working as electrician. Being skilled worker, on account of amputation of his right leg, his mobility was bound to be affected and therefore, he would not have been

able to continue with his vocation and thus, the functional disability, as such is taken as 80%. Considering the same, the disability worked upon by learned Tribunal is not appropriate.

Very true, in consonance with *Kahlon's case (supra)*, towards loss of enjoyment of life and pain and suffering, no amount, as such, could be awarded to the legal heirs/dependents of the deceased, but however, the legal heirs/dependents, shall be entitled to compensation, on other counts, as part of loss of estate, few of which have been given amiss, while working upon the compensation.

Taking into consideration aforesaid and also considering the disability, in terms of the multiplier process by application of multiplicand as well as also considering the addition to be made on the count of 'future prospects', the compensation is re-computed as herein given:-

Income of Bablu	Rs.6000x12=Rs.72,000/- per annum
Addition of future prospects @ 25%	Rs.72,000+18,000=Rs.90,000/-
Suitable multiplier '15' to be applied with disability @ 80%	Rs.90,000 x 15 x 80/100 = <b>Rs.10,80,000/-</b>
Medical Bills	<b>Rs.2,14,230/-</b>
Special diet, transportation and attendant charges	<b>Rs.50,000/-</b>
<b>Total</b>	<b>Rs.13,44,230/-</b>

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.13,44,230-10,21,230=Rs.3,23,000/-**. On the enhanced amount of the compensation i.e. **Rs.3,23,000/-**, the respondents-claimants (cross-objectors) shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the cross-objections, till realization of the enhanced amount of compensation. The enhanced amount of compensation i.e. **Rs.3,23,000/-** shall be disbursed

to the respondents-claimants, in equal shares.

The impugned Award dated 17.11.2015 stands modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.

With the above observations, the appeal filed by appellant-National Insurance Company Limited stands disposed of, whereas, the cross-objections filed by the respondents-claimants stands allowed.

**September 08, 2025**  
Vgulati

**(ARCHANA PURI)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**Yes/No**