

FAO-7908-2016 (O&M)

2025:PHHC:149615



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.7908 of 2016 (O&M)

Reserved on: 16.10.2025
Pronounced on: 31.10.2025

SMT. SANTOSH SHARMA (DECEASED) THROUGH HER LRS. & ORS.

....Appellants

Vs.

RAJ PAL SINGH AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Ms. Jasleen Kaur, Advocate and Mr. Manoj Kumar Taya, Advocate
for Mr. Sandeep Singh, Advocate for the appellant.

Mr. Tarun Kumar Prashar, Advocate for
Mr. S.S. Momi, Advocate for respondents No. 1 and 2.

Mr. B.S. Taunque, Advocate for respondent No. 3 (through V.C.)

HARKESH MANUJA, J.

CM No.26702-C of 2016

There is delay of 17 days in re-filing the present appeal.

Upon hearing learned counsel for the parties and for the reasons mentioned in the application, the same is allowed. The delay of 17 days in re-filing the present appeal is condoned.

CM No.26704-C of 2016

Prayer in this application is for condonation of delay of 289 days in filing the appeal.

Upon hearing learned counsel for the parties and for the reasons mentioned in the application, which makes out sufficient cause, the same is allowed. Accordingly, delay of 289 days in filing the appeal is condoned.

Main case

1. By way of present appeal, challenge has been laid to an award dated 26.03.2015 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for brevity, "the Tribunal"), whereby an amount of Rs.6,23,040/- was awarded as



compensation to the appellant/claimant along with interest @ 7.5% per annum from the date of award till its realization.

FACTS

2. A claim petition came to be filed at the instance of claimant/appellant before the learned Tribunal, praying for grant of compensation to the tune of Rs. 30,00,000/- (Rupees thirty lakhs only) on account of death of Janak Raj in a motor vehicular accident which took place on 29.05.2013 while alleging rash and negligent driving of respondent No.1-driver.

3. After going through the pleadings and evaluating the evidence led by both the parties, learned Tribunal arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No.1/driver; holding all the respondents jointly and severally liable, to be indemnified by the Insurance Company, awarded compensation in the following manner:-

S.No.	Nature	Amount (in Rs.)
1.	Monthly Income	Rs.8715/-
2.	Annual Income	Rs.1,04,580/-
3.	Less 1/3 rd on account of personal expenses (Rs. 1,04,580 – Rs. 34,860)	Rs.69,720/-
4.	Annual Dependency	Rs.69,720/-
5.	Loss of Income after applying multiplier of 7 as per age of 63 years (69,720 x 7)	Rs.4,88,040/-
6.	Loss of love and affection and loss of consortium	Rs.1,00,000/-
7.	Funeral expenses	Rs.25,000/-
8.	Transportation charges	Rs.18,000/-
9.	Total Compensation	Rs.6,23,040/-

4. Being aggrieved of the award dated 26.03.2015 passed by the learned Tribunal, the present appeal was preferred by the appellant(s)/claimant(s) for enhancement of compensation. Facts, as specified in the claim petition, about the

FAO-7908-2016 (O&M)

2025:PHHC:149615



manner of the accident and the issue regarding negligence of the driver recorded in favour of the claimant by the learned Tribunal, being not assailed, are not being repeated here for the sake of brevity.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS

5. Learned counsel for the claimants/appellants contended that the learned Tribunal erred in assessing the monthly income of the deceased at a meager sum of Rs.8,715/- per month. It was submitted that the deceased was an Ex-Serviceman and was receiving a monthly pension @ Rs.25,426/- per month, besides being engaged in agricultural activities and dairy farming, from which he was earning additional income, and this fact was duly proved from the testimony of PW-2 Santosh Sharma (widow of deceased), and not rebutted by the respondents by leading any evidence. It was further argued that the compensation awarded under the conventional heads is on the lower side and does not commensurate with the settled principles of law. Learned counsel concluded his arguments by submitting that the learned Tribunal has also failed to award any amount towards future prospects, which the claimants are legally entitled to, as per the law laid down by the Hon'ble Supreme Court.

ARGUMENTS ON BEHALF OF RESPONDENT No.3/INSURANCE COMPANY

6. Per contra, learned counsel for respondent No.3/insurance Company had argued that the present appeal was not maintainable for enhancement of compensation, as the original claimant, Smt. Santosh Sharma, widow of the deceased, has already expired. It was contended that upon her demise, the right to claim enhancement of compensation did not survive to the legal representatives, as all the legal heirs on record were married and independently earning their

FAO-7908-2016 (O&M)

2025:PHHC:149615



livelihood. Therefore, it was submitted that the learned Tribunal rightly assessed the compensation, and no further enhancement was warranted in the present case.

ARGUMENTS ON BEHALF OF RESPONDENT NOS.1 & 2

7. On the other hand, learned counsel for respondent Nos.1 & 2 neither refuted the factum of accident, nor even the negligence of the offending vehicle, however, submitted that in the facts of the present case, the compensation assessed by the learned Tribunal called for no interference.

DISCUSSION

8. I have heard learned counsel for the parties and perused the paper-book of the case. I find force in the arguments advanced by the learned counsel for the appellants.

QUESTION OF INCOME ASSESSED

9. The Ld. Tribunal considering the facts and circumstances of the case and evidence brought on record has given a finding that the accident in which Janak Raj lost his life had taken place due to rash and negligent driving of the offending vehicle by respondent No.1 – Raj Pal Singh, as such, Raj Pal being driver, Kulwinder Singh as owner and The New India Insurance Company Ltd.-insurer of the offending vehicle were held to be jointly and severally liable to pay compensation to the claimants/appellants, who was widow of the deceased. However, the learned Tribunal fell in error in not granting proper and appropriate compensation to the claimant due to absence of documentary evidence to prove her case.

FAO-7908-2016 (O&M)

2025:PHHC:149615



10. In the present case, there is sufficient material on record to establish that the deceased was an Ex-Serviceman, which fact stands duly proved from the documentary evidence placed on record. Although the receipt or proof of actual pension amount has not been produced, the status of the deceased as an Ex-Serviceman itself reasonably indicates that he was getting certain monthly pension after his retirement from the armed forces. Furthermore, it has come on record that the deceased was also engaged in agricultural and allied activities, thereby contributing towards family income. Therefore, considering the overall facts and circumstances of the case, and the evidence available on record, in the humble opinion of this Court, the income of deceased is assessed @ Rs.25,000/- per month.

QUESTION OF ASSESSMENT OF FUTURE PROSPECTS

11. In the present case, the deceased was 63 years of age at the time of accident. As per the settled principles of law laid down by the Hon'ble Supreme Court, no addition towards future prospects is permissible in cases where the deceased was above 60 years of age at the time of death. This is for the reason that, ordinarily, the earning capacity of an individual is deemed to have reached its culmination or near cessation upon attaining such age, and no substantial increase in income is reasonably anticipated thereafter. Accordingly, no amount towards future prospects is required to be added while computing the loss of dependency in the present case.

12. Further in view of the law laid down by the Hon'ble Supreme Court in "Smt. Sarla Verma and others vs. Delhi Transport Corporation and another," reported as 2009 (3) RCR (Civil) 77, wherein it was held that in case the number of

FAO-7908-2016 (O&M)

2025:PHHC:149615



dependent family members were 2 to 3, $1/3^{\text{rd}}$ would be deducted as personal expenses from the total income. Relevant para of the judgment is culled out as under:-

“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra[(1996) 4 SCC 362], the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, deduction towards personal and living expenses of the deceased, should be one-third ($1/3^{\text{rd}}$) where the number of dependent family members is 2 to 3, one-fourth ($1/4^{\text{th}}$) where the number of dependent family members is 4 to 6, and one-fifth ($1/5^{\text{th}}$) where the number of dependent family member exceeds six.”

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

13. Furthermore, in view of the judgments of the Hon’ble Apex Court in Smt. Sarla Verma’s case (supra), “National Insurance Co. Ltd. vs. Pranay Sethi and others” reported as (2017) 16 SCC 680 and “United India Insurance Co.Ltd. vs. Satinder Kaur”, reported as (2021) 11 SCC 780, compensation awarded under conventional heads are also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs.18,000/- as compensation under funeral head and Rs.18,000/- towards loss of estate. Loss of consortium is assessed to the tune of Rs.1,44,000/- (Rs. 48,000 x 3) as the appellants being children of deceased are also entitled for parental consortium.

14. As regards the contention raised by the learned Counsel for respondent No.3-Insurance Company that the right to claim enhancement of compensation does not survive to the legal representatives, as all the legal heirs on record are married and independently earning their livelihood; the same is wholly misconceived and untenable. The Apex Court in catena of judgments has



categorically held that even married children of the deceased, having an independent source of income are entitled to claim compensation in their capacity as legal representatives. In “Manjuri Bera v. The Oriental Insurance Company Ltd. and another passed in Civil Appeal No.1702 of 2007 arising out of SLP(C) No.14943 of 2004,” it was observed that a legal representative is entitled to compensation, even if he was not dependent on deceased and there was no loss of dependency. It was further observed that when the deceased did not leave any legal heir except married daughter, such daughter was entitled to compensation though she was not dependent on her father. In another judgment “National Insurance Company Ltd. v. Birender and others, 2021(3) PLR 146,” it was observed that even married and earning sons of deceased being legal representatives have right to apply for compensation in case of accidental death. Therefore, such plea raised on behalf of the learned counsel for respondent No.3/Insurance Company is devoid of merits and stands rejected.

CONCLUSION

15. In view of the discussion made hereinabove, the appellant/claimant is held entitled for the grant of compensation in the following manner:-

S.No.	Nature	Amount (in Rs.)
1.	Annual Income of Deceased (Rs.25,000 x 12)	Rs.3,00,000/-
2.	Deduction (1/3 rd)	Rs. 1,00,000/-
3.	Net Income (Rs. 3,00,000 – Rs. 1,00,000)	Rs. 2,00,000/-
4.	Loss of Income after applying multiplier of 5 as per the age of 63 years (2,00,000 x 5)	Rs. 10,00,000/-
5.	Loss of estate	Rs. 18,000/-
6.	Funeral Expenses	Rs. 18,000/-
7.	Loss of Consortium (48,000 x 3)	Rs. 1,44,000/-

FAO-7908-2016 (O&M)

2025:PHHC:149615



8.	Total compensation	Rs. 11,80,000/-
9.	Amount Awarded by the Tribunal	Rs. 6,23,040/-
10.	Enhanced Compensation	Rs. 5,56,960/-

Thus, the appellants/claimants are entitled for Rs.5,56,960/- as enhanced compensation.

16. The grant of interest @ 7.5% per annum is not equitable and just in view of the observation made by the Hon’ble Supreme Court in Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513 approved in a subsequent judgment titled as Puttamma and others Vs. K.L. Naryana Reddy and another, 2014 (1) RCR (Civil) 443, thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimant from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

17. In view of the aforesaid modification, the present appeal stands disposed of.

18. Pending miscellaneous application(s) if any, shall also stand disposed of.

October 31 2025
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(HARKESH MANUJA)
JUDGE

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