

2026:PHHC:019536



FAO-2920-2003

-1-

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

103

**FAO-2920-2003
Date of decision :10.02.2026**

KRISHNA AND OTHERS

... APPELLANTS

VERSUS

RAJESH AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. U.K. Agnihotri, Advocate with
Mr. Anuj Y. Attri, Advocate
for the appellants.

Mr. Shailender Singh, Advocate
for respondent No. 1.

Mr. Aseem Aggarwal, Advocate (through V.C.)
for respondent No. 3.

PARMOD GOYAL, J. (ORAL)

1. Present appeal has been preferred by the wife, children and parents of the deceased, Sombir (hereinafter referred to as the "Deceased"), who died in motor vehicular accident which took place on 22.08.2000, on account of rash and negligent driving by Respondent No. 2 while driving dumper bearing registration No. HR-38- B/6517.

2. Being aggrieved by the impugned award dated 03.12.2002 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as "Tribunal"), vide which the appellants-claimants were found entitled to total compensation of Rs.6,27,000/-, the appellants-claimants are seeking enhancement of compensation awarded by the Tribunal as the same is not



according to their entitlement.

3. Since in present appeal the only issue raised by appellants-claimants is as regards to quantum of compensation and there is no appeal or cross-objection preferred by respondents to challenge manner of accident, the detailed facts as regards to manner of accident are not being noticed for the sake of brevity.

4. Learned Tribunal had awarded the following compensation:

Income	Rs.5,072/- (after deduction of pension)
Deduction	1/3 rd
Multiplier	15
Total loss of dependency	Rs.6,12,000/- (Rs.3,400x12x15)
Loss of consortium	Rs.10,000/-
Transportation expenses	Rs.5,000/-
Total compensation awarded	Rs.6,27,000/-

5. Ld. Counsel for appellants-claimants has sought enhancement of compensation on following grounds that :

- That the income of the deceased was not correctly taken by the learned Tribunal. It is asserted that the deceased was working as a constable in Haryana Police and fetching a salary of Rs.7,272/- per month. That the learned Tribunal has erred in deducting pension component from the salary of the deceased and has wrongly assessed the income to be Rs.5,072/- per month. The income of deceased



ought to have been taken as Rs.7,272/- per month as proved vide salary certificate Ex. P4.

- Future prospects were not added while determining loss of dependency. Future prospects to the extent 50% of monthly income needs to be added as the deceased was 35 years of age at the time of accident and was in permanent job.
- Multiplier applied by learned Tribunal is '15' whereas, keeping in view the age of deceased the multiplier of '16' ought to have been granted.
- Deduction towards personal expenses of deceased was taken as 1/3rd while determining dependency, whereas keeping in view the number of dependents of deceased i.e. 5, his wife, two children and parents, it ought to be 1/4th.
- Appropriate compensation amount needs to be granted under the head loss of consortium, funeral expenses and loss of estate in accordance with law laid down by Hon'ble Supreme Court.

6. *Per contra*, learned counsel for respondent No.3 has argued that sufficient amount has already been awarded as compensation in the present case and there is no scope of any enhancement.

7. The learned Tribunal assessed the income of the deceased at ₹5,072/- per month after deducting an amount of ₹2,200/- which the claimants were entitled to receive as pension. So far as the income and vocation of the deceased are concerned, there is no dispute.

8. Admittedly, the deceased was a Constable in the Haryana Police



and was drawing a salary of ₹7,272/- per month. Even the Tribunal accepted the pleaded income and vocation of the deceased and took his monthly income as ₹7,272/-. However, the learned Tribunal had deducted ₹2,200/- being paid to the claimants as pension from the said salary and concluded that, for the purposes of determining loss of dependency, the income of the deceased should be taken as ₹5,072/- per month.

9. I find that the learned Tribunal has committed an error in deducting the pension amount from the income of the deceased as pension is receivable on account of the services rendered by the deceased and has got no nexus/relatable with the compensation being awarded for negligence on the part of respondent No. 2. Whether the deceased died in a motor accident or died due to natural causes, his family would, in any case, would be entitled to the pensionary benefits arising out of services rendered by him. This issue is no longer *res integra*. The Hon'ble Supreme Court in **Hanumantharaju B (dead) by LR Vs. M Akram Pasha & Anr.** 2025 AIR Supreme Court 3283 has duly considered the question as to whether pension is required to be deducted or not from the income of the deceased while determining loss of dependency. It has been held:

“19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable



to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.

*For this proposition of law, we may refer to the decision in **Vimal Kanwar & Ors. v. Kishore Dan & Ors. (2013) 7 SCC 476**, wherein this Court, by referring to the earlier decision in **Helen C. Rebello v. Maharashtra SRTC (1999) 1 SCC 90**, held as follows:-*

"19. The aforesaid issue fell for consideration before this Court in Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90: 1999 SCC (Cri) 197]. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. The following was the observation and finding of this Court: (SCC pp. 111-12, para 35)

"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by an



employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No correlation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any co-relation. The insured (the deceased) contributes his own



money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."

*Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in **Reliance General Insurance Co. Ltd. v. Shashi Sharma & Ors. (2016) 9 SCC 627 and National Insurance Company Ltd. v. Birender & Ors. (2020) 11 SCC 356.***

20. *Keeping the aforesaid legal position in mind, we shall examine the issues at hand.*

21. *As regards computing the loss of income, in the light of the above referred decisions, it would not be permissible to deduct the pensionary amount of Rs. 15,247/- from the salary of Rs. 36,231/- as was done by the High Court. Hence, for the purpose of computing the loss of earning, the said monthly salary of Rs. 36,231/-*



has to be accepted without deducting the pension amount.”

10. Therefore, the income of the deceased has to be taken as ₹7,272/- per month. Admittedly, the deceased was 33 years old at the time of accident and was survived by five dependents, namely, his wife, minor children and parents. Accordingly, the deceased is entitled to addition of 50% towards future prospects, as he was in permanent service, in view of the law laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others**, 2017 (4) RCR (Civil) 1009. The applicable multiplier is 16, which is accordingly applied. An amount of 1/4th towards personal and living expenses is required to be deducted, keeping in view that the deceased left behind five dependents.

11. The claimants shall also be entitled to compensation under the conventional heads, namely, loss of estate to the extent of ₹7,500/-, funeral expenses amounting to ₹7,500/-, and ₹15,000/- to each of the claimants towards loss of spousal, parental and filial consortium.

12. Accordingly, the reworked compensation payable to appellants-claimants is as under:

Income	Rs.7,272/- (as per salary certificate Ex.P4)	Rs.7,272/- per month
Future Prospects	50% (7272+3636)	Rs.10,908/-
Deduction	1/4 th (10908-2727)	Rs.8,181/-
Multiplier	16	16
Total loss of dependency	Rs.8,181x12x12	Rs.15,70,752/-
Loss of estate		Rs.7,500/-
Funeral expenses		Rs.7,500/-



Loss of spousal consortium to claimant no.1		Rs.15,000/-
Loss of parental consortium to claimant nos. 2&3	Rs.15,000x2	Rs.30,000/-
Loss of filial consortium to claimant nos. 4 & 5	Rs.15,000x2	Rs.30,000/-
Total compensation awarded by Tribunal	Rs.6,27,000/-	
Total compensation awarded in appeal		Rs.16,60,752/-
Enhanced amount of compensation	Rs.16,60,725/-(awarded in appeal)-Rs.6,27,000/-(awarded by Tribunal)	Rs.10,33,752/-

8. Appellants/claimants shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Apportionment and liability to pay compensation shall be as per award.

9. Appeal is allowed accordingly.

10. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

10.02.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No