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

**FAO-866-2020 (O&M) &
XOBJC-56-2024**

Iffco Tokio General Insurance Company Ltd. ....Appellant

Vs.

Shivani Thakur and others ....Respondents

**Reserved on : 06.03.2026
Date of Pronouncement:24.03.2026
Uploaded on : 27.03.2026**

*Whether only the operative part of the judgment is pronounced?NO
Whether full judgment is pronounced? YES*

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Sanjeev Kodan, Advocate,
for the appellant-Insurance Company

Mr. Arvind Kumar Yadav, Advocate
for cross-objector/respondent No. 1 to 5
(in X Objection No. 31–CII-2025)

Ms. Garima Modi, Advocate
for respondent Nos. 6 and 7.
-.-

SUDEEPTI SHARMA, J.

FAO-866-2020 (O&M)

1. The present appeal has been preferred against the award dated 09.09.2019 passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, on the ground that liability to pay compensation has been

wrongly fixed upon the appellant-Insurance Company as well as quantum of compensation being on higher side.

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2. The present cross-objection has been preferred by cross-objectors/claimant (respondent No. 1 to 5 herein) against the award dated 09.09.2019 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Tribunal, for enhancement of compensation, granted to the cross-objectors/claimant to the tune of Rs.1,36,09,840/- on account of death of Deepak Thakur, in a motor vehicular accident, occurred on 27.09.2015.

3. Since the appeal filed by the Insurance Company and the cross-objections filed by the claimant/cross-objector are arising out of the same award dated 09.09.2019 passed by the learned Tribunal, therefore, **FAO-866-2020** and **XOBJC-56-2024** are decided vide this common judgment.

FACTS NOT IN DISPUTE

4. On 27.9.2015, Deepak Thakur (since deceased) was going to Balabhgarh from Bawal on motor cycle bearing registration no. HR-51AR-3751 which was being driven by the deceased and his colleague Gaurav son of Suresh was pillion rider. While driving the motor cycle at a moderate speed at about 7.50 AM, when they reached near Assam Petrol pump Nikhri in the mean time a canter bearing registration no. HR61B-1778 being driven by respondent no.1 in rash and negligent manner and at a very high speed and hit the motor cycle of deceased. Due to the impact deceased sustained serious and fatal injuries and he was taken to General Hospital, Rewari, where, he was declared dead. FIR No. 410 dated

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27.09.2015 under Sections 279/337/304-A of IPC was registered at Police Station Dharuhera.

5. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

6. From the pleadings of the parties, the following issues were framed by the learned Tribunal :-

> *"1. Whether the deceased Deepak Thakur son of Omkar died in a motor vehicular accident occurred on 27.09.2015 at about 7.50 a.m. falling within the jurisdiction of police station Dharuhera on account of rash and negligent driving of vehicle bearing RC No. HR 61B-1778 by respondent no.1?OPP*
>
> *2. If issue no.1 is proved, to what amount of compensation the claimant is entitled to and from whom?OPP*
>
> *3. Whether the respondent no.1 was not holding a valid and effective driving licence to drive the above said vehicle at the time of accident ?OPR*
>
> *4. Relief."*

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

7. Learned counsel for the appellant–Insurance Company contends that the learned Tribunal has failed to properly appreciate the evidence on record, inasmuch as the present case is one of a hit-and-run, and the vehicle along with its driver was subsequently introduced only to secure compensation. He has further argued that neither the description of the offending vehicle nor the identity of the driver was mentioned in the FIR. The FIR, in fact, was lodged by Sanjay Gupta against an unknown vehicle and an unidentified driver.

8. He further submits that during the course of investigation, the Investigating Agency, on the basis of the statement of Kanwar Singh recorded under Section 161 Cr.P.C. on 27.09.2015, introduced the vehicle number; however, even in the said statement, the name of the driver was not disclosed. Apart from this solitary witness, no other independent witness was associated by the Investigating Agency either to establish the involvement of the vehicle or to identify the driver.

9. Learned counsel further contends that the vehicle has been falsely implanted in connivance with the police authorities, particularly in view of the fact that the driver was acquitted by the criminal court on the benefit of doubt. On these grounds, it is prayed that the present appeal be allowed.

10. Per contra, learned counsel for respondents No. 1 to 5 (claimants/cross objectors) submits that the learned Tribunal has rightly appreciated the evidence on record and has correctly held that the accident in question occurred due to the sole negligence of the respondent-driver of the offending vehicle. He further contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the appeal filed by the Insurance Company be dismissed and amount of compensation be enhanced as per latest law.

11. I have heard learned counsel for the parties and perused the whole record of this case.

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12. Before proceeding further, it would be apposite to reproduce the relevant portion of the award:-

> *"ISSUE NO. 1*
>
> *9. In order to discharge the onus of issue no. 1 the claimants have examined PW1 Kanwar Singh eve witness. He has furnished his affidavit Ex.PWI/A reiterating the averments made by the claimants in the claim petition regarding the cause and manner of the accident in question. As per PW1 on 27.9.2015 he was going to Kapriwas from Bawal in a car which was being driven by Sunil. When they reached near Assam Oil Petrol Pump on NH-8 in the area of village Nikhri a motor cycle bearing registration no. HR 51AR 5721 was going ahead of them. That in the mean time a canter being driven in rash and negligent manner came at a high speed and hit the motor cycle due to which both the motorcylists fell down and sustained injuries. At the time of accident respondent no.1 driver of canter stopped for some time and after that he fled away from the spot. As per PW1 his statement was recorded on the same day of accident at police station Dharuhera. In cross examination by learned counsel for respondents he has deposed that he cannot identify the driver of offending vehicle. That his statement was recorded by the police in the evening on the same day. That they had brought both the victims at Trauma Center, Rewari in his car. That the driver of motor cycle was wearing the helmet at the time of accident. PW1 has further deposed that colour of offending vehicle was red and there was short jam at the time of accident. The claimant no.1 has also examined herself as PW2 and has testified in her affidavit Ex. PW2/A that her husband Deepak Thakur died in the accident on 27.9.2015. She has placed on record Ex. P1 copy of post mortem report. The claimants have also placed on record Ex. P48 certified copy of FIR, Ex. P49 certified copy challan, Ex. P50 certified copy of*

charge sheet and Ex. P51 certified copy of statement of witness Gaurav Gupta in criminal case bearing FIR no. 410 dated 27.09.2015 under sections 279/337/304A IPC at Police Station Dharuhera. In view of above discussed evidence adduced by the claimants learned counsel for claimants while relying upon the authorities Suman & others Vs. Somveer & others, 2016(3) RCR, Civil 980 and Kusum Lata & others Vs. Satbir & others I (2011) ACC 907 (SC) has argued that issue no.1 be decided in favour of claimants as respondent no.1 and 2 have failed to rebut the evidence led by the claimants.

10. On the other hand it has been argued by learned counsel for respondents that though the FIR regarding the accident in question has been registered on the statement of Gaurav, who is co-employee of the deceased but the claimants did not examine him. They have further pointed out that in his statement Gaurav has mentioned that the accident has been caused by an unknown vehicle as is clear from Ex. P48 certified copy of FIR. They have further pointed out that the PW1 the alleged eye witness examined by the claimants in cross examination has deposed that he cannot identify the driver. Further, though PW1 has stated that they took the deceased to hospital but in MLR the name of PW1 is no where mentioned. They have thus argued that in view of above lacunae/discrepancies in the evidence adduced by the claimants as well as the authority ***National Insurance Company Limited Vs. Smt. Billo Devi and others, FAO no. 5613 of 2017(O&M) and Anil Vs. New India Assuarance company Ltd. 2018 SAR (Civil) 558 of Hon'ble Punjab & Haryana High Court,*** *issue no.1 be decided against the claimants.*

11. The fact that the accident in question took place within the territorial jurisdiction of Rewari is not disputed and the above fact is also clear from FIR's copy. Ex. P48. It has been rightly pointed out by learned counsel for respondents that in FIR Ex. P48 the complainant

Gaurav Gupta has mentioned that accident has been caused by unknown vehicle. But at the same time it is relevant to mention here that the FIR in this case has been registered on the same day. In the authority ***Suman & others Vs. Somveer & others, (Supra)*** *relied upon by learned counsel for claimants it has been held that non mentioning of vehicle number in FIR is of no consequence. Further in the authority* ***Kusum Lata & others Vs. Satbir & others (Supra)*** *Hon'ble Apex Court has held that claimants are not required to be prove the case as is required to be done in a criminal trial. As has been discussed above, the claimants have examined PW1 Kanwar Singh an eye witness to the accident in question and in his affidavit he has specifically deposed that accident in question had been caused by canter bearing registration no.HR61B-1778, in cross examination by learned counsel for respondents he has also deposed that his statement was recorded by the police in the evening on the same day and he has specified the colour of offending vehicle as red. It is further relevant to mention here that nothing has come in the testimony of PW1 that he was known to the claimants or deceased or he is in their relations. Though the respondents had examined RW1 Suresh Kumar the investigating officer of criminal case registered against respondent no.1 but in his statement also nothing has come on record to suggest that respondent no.1 has been falsely involved in the accident in question. Also from the perusal of Ex. P49 copy of charge sheet it is revealed that name of PW1 Kanwar Singh has been mentioned at serial no.11 in the list of witnesses.*

12. It is further relevant to mention here that in this case the police has also furnished the accident information report which bear the date 1.12.2015 and is part of this claim petition, wherein also the registration number of the offending vehicle has been mentioned. Also, the copy of insurance policy and copy of registration certificate had been

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attached with the said information report. So far as the authority ***National Insurance Company Limited Vs. Smt. Billo Devi and others, supra*** *relied upon by learned counsel for respondents is concerned it is not applicable to this case being distinguishable on facts and in the said authority there is no reference of accident information report furnished by the police. Similarly the authority* ***Anil Vs. New India Assurance Company (Supra)*** *relied upon by respondents is of no help where Hon'ble Apex Court had dismissed the appeal filed by claimants and upheld the order of Hon'ble High Court as there was no evidence regarding the post mortem of deceased person. Also, the complaint in respect of alleged accident was lodged after more than a month and the tractor allegedly involved in the case was owned by brother of alleged deceased person. In view of above discussion this court is of the considered view that by leading cogent oral as well as documentary evidence on record the claimants have proved issue no.1. Accordingly, this issue is decided in favour of claimants"*

13. The primary contention raised by learned counsel for the appellant–Insurance Company is that the present case is one of a hit-and-run and that the offending vehicle has subsequently been falsely implanted in connivance with the police authorities, merely to secure compensation. It is further argued that the FIR was initially registered against an unknown vehicle and driver; that the alleged eye-witness failed to identify the driver; that no independent witness was examined; and that the driver having been acquitted in the criminal proceedings, the involvement of the offending vehicle becomes doubtful.

14. This Court has considered the aforesaid submissions but finds no merit in the same.

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15. A perusal of the impugned award demonstrates that the learned Tribunal has undertaken a thorough and proper appreciation of the entire evidence available on record. The claimants examined PW1 Kanwar Singh, eye-witness to the occurrence, who has categorically deposed with regard to the manner in which the accident took place and has specifically attributed rash and negligent driving to the driver of the offending canter. His testimony clearly establishes that the canter, being driven at a high speed and in a rash and negligent manner, struck the motorcycle, resulting in fatal injuries to the deceased.

16. The mere fact that PW1- Kanwar Singh, in his cross-examination, stated that he could not identify the driver of the offending vehicle, does not, in any manner, discredit his otherwise reliable testimony. The Hon'ble Supreme Court ***in Sunita v. Rajasthan State Road Transport Corporation (Doc ID-1368079)*** has held that non-examination of a particular witness or inability to identify the driver is not fatal to a claim petition, if the material on record otherwise establishes the occurrence and negligence. In the present case, the testimony of PW1 remains consistent and inspires confidence.

17. Equally untenable is the argument that since the FIR (Ex. P48) was registered against an unknown vehicle, the subsequent implication of the offending vehicle is doubtful. It is not uncommon that immediately after an accident, complete particulars of the offending vehicle are not available. The FIR in the present case was admittedly lodged on the same day, and therefore, non-mentioning of the vehicle number therein cannot be treated as fatal. The subsequent investigation, including the statement recorded under Section 161

Cr.P.C., led to the disclosure of the vehicle number, which stands corroborated from the charge-sheet as well as the accident information report submitted by the police.

18. The contention regarding non-examination of independent witnesses is also without substance. It is well settled that proceedings under the Motor Vehicles Act are summary in nature and strict rules of evidence are not applicable. In ***Anita Sharma v. New India Assurance Co. Ltd., (2021) 1 SCC 475***, the Hon'ble Supreme Court has categorically held that strict proof of an accident is not required and the claimants are only required to establish their case on the touchstone of preponderance of probabilities, and not beyond reasonable doubt as is required in criminal trials. In the present case, the evidence led by the claimants sufficiently discharges the said burden.

19. The plea of false implication of the offending vehicle in connivance with the police is also devoid of any factual foundation. The Investigating Officer examined by the respondents has not stated anything to substantiate such an allegation. On the contrary, the charge-sheet placed on record reflects the involvement of the offending vehicle and also includes PW1 in the list of witnesses. The accident information report further lends corroboration to the case of the claimants.

20. The reliance placed by the appellant on the acquittal of the driver in the criminal proceedings is equally misconceived. The Hon'ble Supreme Court in ***Sunitha Anil Kumar & Ors. v. United India Insurance Company Ltd., Criminal Appeal No. 2995 of 2023***, has held that mere acquittal of the driver in criminal

proceedings cannot be determinative in claim cases, as the standard of proof in both proceedings is fundamentally different. The findings of the Motor Accident Claims Tribunal are required to be assessed independently on the basis of preponderance of probabilities.

21. In view of the aforesaid discussion, this Court is of the considered opinion that the learned Tribunal has rightly appreciated the evidence on record in its correct perspective. The finding that the accident in question occurred due to rash and negligent driving of the offending vehicle is based on cogent and reliable evidence and does not suffer from any illegality or perversity.

22. Accordingly, the findings recorded by the learned Tribunal on the issue of rashness and negligence are hereby affirmed, and the contentions raised by the appellant–Insurance Company are rejected.

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23. Adverting now to the cross-objections filed by the claimants/cross-objectors seeking enhancement of compensation, the same is decided as under after taking into account the settled law on compensation.

SETTLED LAW ON COMPENSATION

24. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

General principles relating to compensation in injury cases

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5. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).

6. The heads under which compensation is awarded in personal injury cases are the following :

Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses. Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

xxx xxx xxx xxx

19. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon

the nature of profession, occupation or job, age, education and other factors.

20. The assessment of loss of future earnings is explained below with reference to the following

Illustration 'A' *: The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:*

a) Annual income before the accident : Rs. 36,000/-.
b) Loss of future earning per annum
(15% of the prior annual income) : Rs. 5400/-.
c) Multiplier applicable with reference to age : 17
d) Loss of future earnings : (5400 x 17) : Rs. 91,800/-

Illustration 'B' *: The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :*

a) Annual income prior to the accident : Rs. 36,000/- .
b) Loss of future earning per annum
(75% of the prior annual income) : Rs. 27000/-.
c) Multiplier applicable with reference to age : 17

d) Loss of future earnings : (27000 x 17) : Rs. 4,59,000/-

Illustration 'C' *: The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :*

a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-
b) Loss of future earning per annum (70% of the expected annual income) : Rs. 42000/-
c) Multiplier applicable (25 years) : 18
d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-
[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

25. Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*** **[(2017) 16 SCC 680]** has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

(A) Deduction of personal and living expenses to determine multiplicand;
(B) Selection of multiplier depending on age of deceased;
(C) Age of deceased on basis for applying multiplier;
(D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.
The relevant portion of the judgment is reproduced as under:-

“ *Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”*

26. Hon’ble Supreme Court in the case of ***Erudhaya Priya Vs. State Express Tran. Corpn. Ltd.* 2020 ACJ 2159,** has held as under:-

“ *7. There are three aspects which are required to be examined by us:*

(a) the application of multiplier of '17' instead of '18'*;*

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish

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v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:

"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

i. *Pain, suffering and trauma resulting from the accident;*
ii. *Loss of income including future income;*
iii. *The inability of the victim to lead a normal life together with its amenities;*
iv. *Medical expenses including those that the victim may be required to undertake in future; and*
v. *Loss of expectation of life."*

[emphasis supplied]

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:

*"**Nature of injury**:*

i. *compound fracture shaft left humerus*
ii. *fracture both bones left forearm*
iii. *compound fracture both bones right forearm*
iv. *fracture 3rd, 4th & 5th metacarpals right hand*
v. *subtrochanteric fracture right femur*

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vi. *fracture shaft femur*

vii. *fracture both bones left leg*

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish's case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:

Heads	***Awarded***
Loss of earning power (Rs.14,648 x 12 x 31.1/100	*Rs. 9,81,978/-*
Future prospects (50 per cent addition)	*Rs.4,90,989/-*
Medical expenses including transport charges, nourishment, etc.	*Rs.18,46,864/-*
Loss of matrimonial prospects	*Rs.5,00,000/-*
Loss of comfort, loss of amenities and mental agony	*Rs.1,50,000/-*
Pain and suffering	*Rs.2,00,000/-*
Total	*Rs.41,69,831/-*

The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

27. A perusal of the impugned award reveals that the deceased, Deepak Thakur was stated to be 32 years of age at the time of the accident. Therefore, the learned Tribunal has rightly considered his age as 32 years and applied the multiplier of 16 as per the settled law.

28. A perusal of the impugned award reveals that the deceased was employed as a Deputy Manager with Kiran Udyog Limited, HSIIDC Growth Centre, Rewari, and was stated to be earning a monthly salary of ₹1,00,000/. In

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order to substantiate the said claim of income, salary slips (Ex. P-15 to Ex. P-45) were duly produced and placed on record. The learned Tribunal, however, while assessing the income of the deceased, chose to rely solely upon the last drawn salary slip and consequently assessed the monthly income at ₹67,162/-. Such an approach, in the opinion of this Court, does not appear to be entirely justified, as it overlooks other material evidence available on record. A careful examination of the record further shows that there exists a letter indicating that the salary of the deceased had been revised with effect from 01.04.2015. This document clearly reflects an upward revision in the pay scale and, therefore, constitutes a relevant and significant piece of evidence for determining the actual income of the deceased. However, the said aspect was not taken into consideration by the learned Tribunal at the time of assessment.

29. In these circumstances, this Court considers it appropriate to reassess the income of the deceased by taking into account the revised pay scale, as the same would more accurately represent the true and effective earnings of the deceased at the relevant time and, consequently, the actual loss of income suffered. Accordingly, the income of the deceased is reassessed at ***₹78,652/- per month***.

30. A further perusal of the award reveals that the learned Tribunal has erred in law in not deducting income tax from the salary of the deceased. It is trite law that income tax is to be deducted from the gross salary for determination of the actual salary of the deceased. A three Judge Bench of the Hon'ble Supreme

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Court in ***Vijay Kumar Rastogi Vs. Uttar Pradesh State Roadways Transport Corporation AIR 2018 Supreme Court 819*** has categorically held that the income to be considered for determining compensation under the Motor Vehicles Act includes not merely the net salary or take-home pay but the taxable income, inclusive of all allowances and perquisites. The relevant extract of the said judgment observed as follows:-

> *"It is unfathomable that the High Court, despite having accepted the claim of the appellant founded on his tax return for the relevant period, disclosing the taxable income of the appellant as Rs.77,480/(rounded off) and deduction of tax of Rs.4,496/, could have affirmed the conclusion of the Tribunal that the net annual income of the appellant was Rs.44,511/. It ought to have reckoned the taxable income for computing the head towards loss of income. This, in our opinion, is the manifest error committed by the High Court. The appellant is justified in relying upon the decisions of this Court which have taken the view that loss of taxable earning should be reckoned for the purpose of determining just compensation as enunciated in National Insurance Co. Ltd. Vs. Indira Srivastava and Ors.1, which has been followed in Oriental Insurance Company Limited Vs. Jashuben and Ors.2, and Kavita Vs. Deepak and Ors.3 It has been held that the "income" should include those benefits, either in terms of money or otherwise, which are taken in*

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to consideration for the purpose of payment of income tax or professional tax, although some elements thereof may or may not be taxable due to the exemption conferred thereupon under the statute."

31. Therefore, in view of the above, income tax ought to be deducted from the gross salary of the deceased. Thus, the income is re-assessed as ***Rs.68887/- (78652-9765)***

32. A further perusal of the award reveals that the learned Tribunal has erred in adding 40% of amount towards future prospects to the income of the deceased. However, as per the settled law on compensation, **50%** is to be added as future prospects, considering the fact that he was a permanent employee.

33. A further perusal of the award reveals that the less amount was granted towards the loss of consortium. Therefore, the award requires interference and indulgence of this Court.

CONCLUSION

34. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the appeal filed by the Insurance Company is **dismissed** being devoid of any merits, whereas cross-objection filed by the cross-objector/claimants is **allowed**. The award dated 09.09.2019 is modified accordingly. The cross-objector/claimants are held entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	*Heads*	*Compensation Awarded*
1	Monthly Income	Rs.68887/-
2	Future prospects @ 50%	Rs.34443/- (50% of 68887)
3	Deduction towards personal expenditure 1/4	Rs.25832/- (103330X 1/4)
4	Total Income	Rs.77498/- (103330 – 25832)
5	Multiplier	16
6	Annual Dependency	Rs.1,48,79,616/- (774981X 12 X 16)
7	Loss of Estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000/-
9	Loss of Consortium Spousal : Rs.40000 x 1 Filial : Rs.40000 x 2 Parental Rs. Rs.40000 x 2	Rs.2,00,000/-
	Total Compensation	**Rs.1,51,09,616/-**
	Amount Awarded by the Tribunal	**Rs.1,36,09,840/-**
	Enhanced amount	**Rs.14,99,776/- (Rs. 1,51,09,616- 1,36,09,840)**

35. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176*** and ***R.Valli and Others VS. Tamil Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107***, the amount so calculated shall carry an interest @ 9% er annum (**excluding the period of delay of 613 days in filing the cross objection)** from the date of filing of the claim petition, till the date of realization.

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36. Appellant-Insurance Company is directed to deposit the enhanced amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The learned Tribunal is directed to disburse the enhanced amount of compensation along with interest to the cross objectors-claimants, as per the ratio settled in the award dated 09.09.2019.

37. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

24.03.2026
Gaurav Arora

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes