2026:PHHC:061607

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

FAO NO.566-2015 (O&M)

SUSHMA DEVI AND ORS ……Appellants

Vs.

JOGINDER SINGH AND ORS ……Respondents

1	*The date when the judgment was reserved*	*17.02.2026*
2	*The date when the judgment is pronounced*	*23.04.2026*
3	*The date when the judgment is uploaded on the website*	*23.04.2026*
4	*Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced*	*Full*
5	*The delay, if any, of the pronouncement of full judgment, and reasons thereof.*	*Not applicable*

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. D.K. Prajapati, Advocate,
for the appellant.

Mr. Chander Shekhar Singhal, Advocate,
for respondent No.1.

Mr. Ajay Bansal, Advocate for respondent No.2

Mr. Pradeep Kumar, Advocate,
for respondent no.3- The New India Assurance Co. Ltd.

******

HARKESH MANUJA, J.

1. By way of present appeal, challenge has been laid to an award dated 24.4.2014 passed by the learned Motor Accident Claims Tribunal, Sonepat (for brevity, "the Tribunal"), whereby an amount of Rs. 9,53,500/- was awarded as compensation to the appellants/claimants along with interest @ 7.5% per annum from the date of filing of petition till its realization on account of death of Bhushan Singh @ Pushan Singh in a motor vehicular accident, that occurred on 20.10.2011.

Since the sole issue for determination in the present appeal is confined to the quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is omitted herein for the sake of brevity.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS

2. Learned counsel for the appellants/claimants assailed the award by submitting that the deceased was working as a driver with M/s Himachal Kashmir Transport Company, (Chinar) AW-394, Sanjay Gandhi Transport Nagar, Delhi earning 10,000/- per month and held valid licence for driving LMV, HMV, MMV. (Ex. P-5) and that the ld. Tribunal erred in categorizing the deceased as an unskilled labourer and arbitrarily assessing his income at Rs 5,000 whereas under the Minimum Wages Act applicable in Delhi, the prescribed wages for a skilled worker are Rs 8,112/- per month. It was further argued that ld. Tribunal also failed to grant any compensation as Future Prospects. Ld. counsel also challenged the award of Rs 2500/- towards medical expenses as grossly inadequate, considering that the deceased remained under treatment for nearly 5 months (date of accident:20.10.2011 and date of death:17.03.2012). Furthermore, it was submitted that the amount of compensation granted under conventional heads was not in

consonance with the settled law, therefore, he prayed for enhancement of compensation as per latest decision on the subject.

<u>ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No.3/INSURANCE COMPANY</u>

3. Per contra, learned counsel representing respondent No. 3/Insurance Company 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.

<u>DISCUSSION</u>

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

<u>QUESTION OF INCOME ASSESSED</u>

5. In the present case, appellants/claimants asserted that deceased was a driver and was earning Rs.10,000/- per month, however they failed to lead any cogent evidence on record in regard to the same and the learned Tribunal assessed the monthly income of deceased @ Rs.5,000/- while considering the deceased as an unskilled labour. As the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in strict sense is not required. The Hon'ble Supreme Court in case of ***<u>"Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors."</u>***, reported as ***<u>(2022) 1 SCC 198</u>***, held that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

> *"…….In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income.*
> *There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month……"*

5.1 Furthermore, the Hon'ble Apex Court in the case of ***"Kala Devi and others versus Bhagwan Das Chauhan and others"***, reported as ***Civil Appeal No. 9972 of 2014*** noted that the role of a driver is a skilled job and emphasized the necessity of fair and adequate compensation by correctly assessing the income of the deceased, especially when determining compensation in fatal motor accident cases. The Court underscored the importance of considering the actual earnings and future earning potential of the deceased, consistent with the Minimum Wages Act, to ensure rightful compensation for the dependents and the earnings should reflect the same. The relevant excerpt revising the compensation determined by the High Court is reproduced hereunder:-

> *"We have heard the learned counsel for the parties. The deceased was 25 years of age at the time of death and was a matriculate, working as a driver with a valid license for driving heavy motor vehicles. A driver in Himachal Pradesh on an average earns L 9,000/- p.m. as per Minimum Wages Act. Therefore, the courts below have failed to take judicial notice of the same and the fact that the post of a driver is a skilled job. Thus,*

> *considering the facts and circumstances of the case, we take the gross monthly income of the deceased at L 9,000/- p.m., i.e. L 1,08,000/- p.a…"*

6. Considering the facts of the present case, wherein, the appellants have stated that the deceased was a truck-driver and earning Rs. 10,000/- per month, it cannot be denied that the deceased was maintaining his family including his wife, four minor children as well as aged parents and was the only bread winner of his family. In such circumstances, assessing the income of the deceased as Rs. 5.000/- per month would not be appropriate and rather it would be proper that the income of the deceased was assessed as Rs. 9500/- per month while considering him as skilled labour.

The Hon'ble Supreme Court in the case of ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"***, reported as ***2009(3) RCR (Civil) 77***, went on to hold that in case the number of dependent family members exceed 6, 1/5th 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 (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family member exceeds six."*

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

7. Furthermore, in view of the judgment 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. 3,36,000/- (Rs. 48,000 x 7) as the appellants, being spouse, four minor children and parents of deceased are also entitled for spousal, parental and filial consortium.

COMPENSATION TOWARDS MEDICAL EXPENSES

8. Considering the period for which the deceased remained admitted and under treatment at home even thereafter, the transportation charges incurred during the treatment and shifting, this Court deems it fit to grant compensation of Rs. 40,000/- towards the medical charges incurred.

S No.	Nature	Amount (in Rs.)
1.	Annual Income of the deceased	1,14,000/-(monthly income: Rs 9500)
2.	Deduction (1/5th)	Rs. 22800/-
3.	Net Income (Rs. 1,14,000- Rs. 22,800)	Rs. 91,200/-
4.	Future Prospects (50%)	Rs. 45,600 /-
5.	Total Income (91,200 + 45,600)	Rs. 1,36,800/-
6.	**Loss of Income after applying multiplier of 17 as deceased aged 29 years(1,36,800 x 17)**	**Rs. 23,25,600/-**
7.	**Loss of Estate**	**Rs. 18,000/-**
8.	**Funeral Expenses**	**Rs. 18,000/-**
9.	**Loss of Consortium (48,000 x 7)**	**Rs. 3,36,000/-**
10.	**Compensation towards medical expenses**	**Rs. 40,000/-**
11.	**Total Compensation**	**Rs. 27,37,600/-**

12.	**Amount Awarded by the Tribunal**	**Rs. 9,53, 500/-**
13.	**Enhanced Compensation**	**Rs. 17,84,100/-**

9. The grant of interest @ 7.5% per annum is not equitable and just in view of the observations made by the Hon'ble Supreme Court in ***"Smt. Supe Dei and others vs. National Insurance Company Limited and other,*** reported as ***(2009) (4) SCC 513*** approved in a subsequent judgment titled as ***"Puttamma and others vs. K.L. Narayana 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 claimants 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.

QUESTION OF LIABLILTY AND RECOVERY RIGHTS

10. In the present case, the respondents failed to place on record the route permit pertaining to the offending vehicle despite specific directions issued by the ld. Tribunal. Moreover, no other documentary evidence apart from the contract carriage permit (Ex. R1) and the national permit for goods carriage (Ex. R2) has come on record. A perusal of the aforesaid documents reveal that neither of them was valid for, or covered, the relevant period at the time of the accident. It thus stands established that not only was the route permit withheld, but in fact no valid permit whatsoever was brought on record by respondent Nos. 1 and 2. Furthermore, even the driving licence of respondent No.1 was not produced. In these circumstances, the ld. Tribunal while placing reliance upon the judgment of

National Insurance Co. Ltd. Vs. Chella Bharathamma (2008 (1) SCC 423) rightly drew adverse inference against the owner as well as the driver and granted recovery rights to the Insurance Company. Significantly, the said finding was never even assailed by Respondent no. 1 and 2 either by way of appeal or cross-objection. In view of the above, this Court is of the considered opinion that the Insurance Company shall remain primarily liable to satisfy the award amount in the first instance, with liberty to recover the same from respondent Nos. 1 and 2 thereafter. Accordingly, the findings recorded by the learned Tribunal on this issue warrant no interference and are hereby affirmed.

11. In view of the aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

April 23, 2026 **(HARKESH MANUJA)**
sonika **JUDGE**

(i) Whether reasoned/speaking? Yes

(ii) Whether reportable? Yes