2026:PHHC:134107

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

FAO-2500-2000
FAO-2501-2000
FAO-2698-2000

Judgment reserved on : 14.09.2026
Judgment pronounced on 18.09.2026

1. **FAO-2500-2000**

SUMIT GUPTA AND ANOTHER

...Appellants

Versus

NATIONAL INSURANCE CO. AND OTHERS

...Respondents

2. **FAO-2501-2000**

SUMIT GUPTA AND ANOTHER

...Appellants

Versus

NATIONAL INSURANCE CO. AND OTHERS

...Respondents

3. **FAO-2698-2000**

NATIONAL INSURANCE CO. LTD AND ANOTHER

...Appellants

Versus

SUMIT GUPTA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: None for appellants in FAO No. 2500 of 2000 and FAO No. 2501 of 2000.

Mr. Deepak Suri, Advocate and
Mr. Brij Bhushan Sharma, Advocate
for the appellants in FAO-2698-2000.

Mr. Vinod Gupta, Advocate and
Mr. Didar Singh, Advocate
for respondent No.3/insurance company.

Mr. Gurpreet Singh Fateh, Sr. DAG, Punjab
for respondent No.4.

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PARMOD GOYAL, J.

1. Present appeals have been preferred by appellants-claimants

(sons) seeking enhancement of compensation awarded vide award dated 01.06.2000 passed by learned Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'Tribunal'), whereby appellants-claimants were awarded total compensation of Rs.9,00,000/- on account of death of Mohinder Pratap in FAO No. 2500 of 2000. Appellants-claimants are also aggrieved by dismissal of claim petition on account of death of Mona Gupta in **FAO No. 2501 of 2000** in motor vehicular accident dated 5.11.1994 allegedly caused due to rash and negligent driving of respondent-driver while driving truck bearing registration No.PB-10-B-9558 (hereinafter referred to as 'offending vehicle').-

2. Insurance company has also challenged impugned award dated 01.06.2002, whereby it was held liable to pay compensation instead of respondent No.4, who was having custody of vehicle as vehicle stood seized by police in another accident.

3. Since in the present appeal the only issue raised by the appellants-claimants is with regard to the quantum of compensation and no appeal or cross-objection has been preferred by any of the respondents to challenge findings of learned Tribunal as regards to rash and negligent driving of offending vehicle driven by respondent-driver, therefore, the detailed facts regarding the manner of accident are not being noticed herein for the sake of brevity.

<u>FAO No. 2501 of 2000</u>

4. In the present case, learned Tribunal had awarded the following compensation to appellants-claimants on account of death of Mohinder Pratap Gupta (hereinafter referred to as 'deceased'):

Income	Rs.10,000/- per month

Deduction	1/4th
Multiplier	10
Loss of dependency	Rs.90,000/- (Rs.7,500/- x 12 x 10)
Total compensation awarded by Tribunal	Rs.9,00,000/-

5. Learned counsel for the appellants/claimants has sought enhancement of compensation on the following grounds:

- That the learned Tribunal has erred in not assessing the income of the deceased as pleaded and proved by the claimants.
- That the learned Tribunal has failed to apply the correct multiplier, as per age of deceased.
- That the deduction towards the personal and living expenses of the deceased is excessive and contrary to the settled principles of law.
- That no addition towards future prospects has been made while calculating the loss of dependency. Future prospects ought to have been added, as per age of deceased.
- That the learned Tribunal has also failed to award just and appropriate compensation under the conventional heads, namely funeral expenses, loss of estate, and loss of spousal, parental, and filial consortium, in accordance with the law laid down by the Hon'ble Supreme Court.

6. Appellant-claimants had claimed that the deceased was aged between 44-45 years old and was earning Rs.20,000/- per month by running a pharmaceutical factory under the name & style M/s Macnein & Argus Pharmaceuticals. In order to prove pleaded income and vocation of deceased, appellants-claimants have relied upon the income tax return (Ex.P-2) accompanied with balance sheet of the firm. As per the balance sheet there were two partners and deceased earned Rs.51,000/- on account of commission and Rs.75,591.15/- on account of profits. Therefore, keeping in

view the income tax return (Ex.P2) of the deceased, the learned Tribunal had rightly considered the income of the deceased as Rs.10,000/- per month.

7. In the present case, learned Tribunal has taken income of deceased to be Rs.10,000/- per month as per income pleaded and proved by appellants/claimants. Since deceased was aged between 44 -45 years of age at the time of accident, he would be entitled to addition of 25% towards future prospects in view of judgment passed by Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.**, 2017 (16) SCC 680 and keeping in view of age of deceased to be between 44-45 years, multiplier of '14' would be applicable as per judgment passed by Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009(6) SCC 121. Similarly, deduction towards personal expenses has to be made on the basis of number of dependents which are two in present case i.e. two sons. Accordingly, deduction to the extent of 1/3rd shall be applicable.

8. The loss of dependency, therefore, has to be determined by taking monthly income of deceased to be Rs.10,000/- per month by applying future prospects to the extent of 25%, multiplier of '14' and by making deduction of 1/3rd towards personal expenses.

9. Apart from compensation for loss of dependency, appellants-claimants shall also be entitled to **Rs.15,000**/- towards **funeral expenses** and **Rs.15,000**/- towards **loss of estate**. Appellants-claimants No.1&2 shall be entitled to compensation of **Rs.40,000**/- each towards **loss of parental consortium**. It is however made clear that in case Hon'ble Supreme Court answer the reference regarding quantum of compensation under conventional head made in **Hasina Yasmin & Ors. Vs. National Insurance**

Co. Ltd., 2025 SCC Online SC 2919 in favour of appellants-claimants, appellant-claimants shall be free to seek said amount by moving appropriate application in this regard.

10. Accordingly, reworked compensation is as under :-

Income	Rs.10,000/- per month	Rs.10,000/- per month
Future Prospects	25% (Rs.10,000/- + 2500)	Rs.12,500/-
Deduction	1/3rd (Rs.12,500– 4167)	Rs.8,333/-
Multiplier	14	14
Total loss of dependency	Rs.8,333 x 12 x 14	Rs.13,99,944/-
Loss of Estate		Rs. 15,000/-
Funeral Expenses		Rs.15,000/-
Loss of parental consortium to claimant Nos.1 & 2	Rs.40,000 x 2	Rs.80,000/-
Total Compensation awarded in appeal		Rs.15,09,944/-
Total Compensation awarded by the Tribunal	Rs.9,00,000/-	
Enhanced amount of compensation	Rs.15,09,944/- (awarded in appeal) – Rs.9,00,00/- (awarded by the Tribunal)	Rs.6,09,944/-

<u>FAO No.2500 of 2000</u>

11. In the present case, learned Tribunal had dismissed the claim petition filed by the appellant-claimants on account of death of their mother Mona Gupta (hereinafter referred to as 'Deceased'). Claim petition was dismissed on the ground that deceased being housewife was not earning, therefore, there was no loss of dependency.

12. The learned Tribunal has erred in dismissing the claim petition on the ground that deceased was a housewife and was not earning anything. Merely because deceased was housewife, her contribution towards family

cannot be considered any lesser than an earning member. A housewife contributes immensely towards the welfare of family and her contribution cannot be less than an earning member, who would have earned and contributed to the family in cash. This view of mine find support from **Kirti Singh & Anr. Vs. Oriental Insurance Company Ltd.,** 2021 (1) RCR (Civil) 478. The deceased in the present case was 40 years of age and was a home-maker. The income of the deceased ought to have been taken keeping in view minimum wages for an unskilled worker prevailing at the time of the accident. Therefore, notional income of deceased is taken as Rs.1,500/- per month. Age of the deceased was admittedly 40 years at the time of accident, hence**, 25% future prospects** ought to be added in terms of the decision of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** (supra). Keeping in view age of the deceased as 40 years multiplier of '15' would be applicable. Similarly, deduction towards personal expenses has to be made on the basis of number of dependents which are two in present case i.e. two sons. Accordingly, deduction to the extent of $1/3^{rd}$ shall be applicable. In view of fact that deceased was homemaker, therefore, addition of 25% towards gratuitous services has to be added towards income of deceased to determine loss of dependency in view of mandate of Hon'ble Supreme Court in **Kirti Singh & Anr. Vs. Oriental Insurance Co. Ltd.,** 2001(1) RCR (Civil) 478.

13. The loss of dependency, therefore, has to be determined by taking monthly income of deceased to be Rs.1,500/- by applying future prospects to the extent of 25%, 25% needs to be added for gratuitous services rendered by deceased, multiplier of '15' has to be applied after making deduction of $1/3^{rd}$ towards personal expenses.

14. Apart from compensation for loss of dependency, appellants-claimants shall also be entitled to **Rs.15,000**/- towards **funeral expenses** and **Rs.15,000**/- towards **loss of estate**. Appellants-claimants No.1&2 shall be entitled to compensation of **Rs.40,000**/- each towards **loss of parental consortium**. It is however made clear that in case Hon'ble Supreme Court answer the reference regarding quantum of compensation under conventional head made in **Hasina Yasmin & Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of appellants-claimants, appellant-claimants shall be free to seek said amount by moving appropriate application in this regard.

15. Accordingly, compensation awarded is as under :-

Income	Rs.1,500/- per month	Rs.1,500/- per month
Future Prospects	25% (1,500 + 375)	Rs.1,875/-
Addition for gratuitous services	25% 1875 + 469	Rs. 2,344/-
Deduction	1/3rd (Rs.2,344 – Rs.781)	Rs.1,563/-
Multiplier	15	15
Total loss of dependency	Rs.1,563 × 12 ×15	Rs.2,81,340/-
Loss of Estate		Rs. 15,000/-
Funeral Expenses		Rs.15,000/-
Loss of parental consortium to claimant Nos.1 & 2	Rs.40,000 x 2	Rs.80,000/-
Total Compensation awarded in appeal		Rs.3,91,340/-

16. Appellants/claimants shall be entitled to enhanced compensation awarded in appeal along with 7.5% interest from the date of filing of claim petition till realization (except under the conventional heads i.e. loss of consortium, funeral expenses, loss of estate). Under conventional heads interest shall be payable from August 2017 onwards till realization.

Apportionment and liability to pay compensation shall be as per award.

FAO No.2698 of 2000

17. It is contended on behalf of appellant-Insurance Company that the accident in question occurred when the offending truck bearing No. PB-10-B-9558 was lying parked in the middle of the road. The said truck had earlier met with an accident on 03.11.1994, in respect of which FIR No. 80 dated 03.11.1994 was registered at Police Station Bhogpur. The accident in the present case occurred subsequently on 05.11.1994.

18. Learned counsel has argued that the offending truck was in police custody on 05.11.1994 and, therefore, the accident had occurred on account of the failure of the police to remove the said truck from the middle of the road. It has, accordingly, been contended that the Insurance Company cannot be held liable to pay compensation to claimants and the entire liability is required to be fastened upon respondent No. 4-State, as its agency had failed to discharge its duty. Reliance has been placed upon the judgment of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Deepa Devi & ors.**, Civil Appeal No. 5796 of 2007 arising out of SLP (Civil) No. 22778 of 2005, decided on 11.12.2007. It has thus been argued that since possession of the offending truck was with respondent No. 4-State at the relevant time, the liability, if any, would be that of the State and the Insurance Company cannot be held liable to indemnify the registered owner.

19. On first look, the argument noted above on behalf of the appellant-Insurance Company appears to be attractive. However, on careful scrutiny of the material available on record, the very basis of the argument raised by learned counsel for the appellant-Insurance Company is found to be missing in the present case. The argument on behalf of the appellant-

Insurance Company is that once the vehicle was taken over by the police, it became the duty of the police to remove the vehicle from the middle of the road and, if any accident takes place on account of failure to discharge such duty, the Insurance Company cannot be held liable, as the vehicle was not in possession of registered owner.

20. In the case of **National Insurance Company Limited Vs. Deepa Devi** (supra), relied upon by learned counsel for the appellant-Insurance Company, the offending vehicle was requisitioned by the District Magistrate and the accident had occurred while the vehicle was in the possession of the District Magistrate. The Hon'ble Supreme Court, in such circumstances, held that where the offending vehicle was requisitioned by the State and was in its possession of State at the time of the accident, the State would be liable to pay the amount of compensation and not the registered owner or the Insurance Company of the vehicle.

21. In the present case, respondent-owner-cum-driver appeared as RW-1 and had denied the accident in its entirety. In his cross-examination, he stated that his vehicle had met with an accident on 03.11.1994, in which three vehicles were involved, and all the three vehicles remained at the spot up to 07.11.1994. The vehicle was taken on superdari on 07.11.1994 under the orders of the Court. RW-1 admitted in his cross-examination that the vehicle was carrying crusher and was going from Jalandhar to Pathankot. He further stated that from 03.11.1994 to 07.11.1994, his two employees remained with the truck throughout. He stated that Parminder Singh, second driver, and Kamaljit Singh, cleaner, had kept fire burning on the road along with some police officials. He, however, denied the suggestion that he had not taken any steps to remove his truck so as to avoid any further accident.

He also admitted that he had not visited the place of occurrence after 03.11.1994. These assertions no where show that vehicle was in possession of police. Rather presence of two employees over truck shows that truck was in his possession.

22. Joginder Parsad, Constable, was examined as RW-2. He duly proved FIR No. 80 dated 03.11.1994 regarding the first occurrence and DDR No. 26 dated 05.11.1994 regarding the accident dated 05.11.1994, which is the subject matter of the present appeals. He also stated that FIR Ex. R-1 pertained to an accident involving three trucks. However, he stated that he had not brought any other document relating to the case except the FIR and expressed ignorance regarding the investigation as well as re-investigation in the matter.

23. Except for the above-noted evidence, no other evidence was led by the respondents to show that after the accident dated 03.11.1994, the offending truck was taken into possession by the police and that, at the time of the accident dated 05.11.1994, the offending truck was in possession of the police. Unless this fact is proved, the argument raised on behalf of appellant-Insurance Company cannot be accepted. For fastening liability upon respondent No. 4-State, it was necessary to establish that the vehicle was in its possession to the exclusion of the registered owner. In the absence of such evidence, the registered owner would continue to be liable for payment of compensation.

24. Thus, the material evidence necessary to establish possession of the offending truck by respondent No. 4-State at the time of the accident dated 05.11.1994 is totally missing in the present case. Therefore, the judgment relied upon by learned counsel for the appellant-Insurance

Company has no applicability to the facts of the present case. It has not been shown that respondent No. 4-State was in possession of the offending truck at the relevant time. Furthermore, there is no evidence to show that the truck could not be removed from the road on account of any fault on the part of the police and not on account of any omission or failure on the part of the owner of the offending vehicle.

25. In these circumstances, the liability of the registered owner and driver continues. Since respondent-owner is liable to pay the compensation, the appellant-Insurance Company, under the contract of insurance, is bound to indemnify the insured and pay the compensation.

26. In view of the above discussion, there is no merit in appeal preferred by appellant-insurance company and the same is dismissed. Appeals preferred by appellants-claimants are allowed in terms indicated above. The liability to pay the compensation shall be as per the award.

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

(PARMOD GOYAL)
JUDGE

18.09.2026
Himanshu/manoj

Whether Speaking/Reasoned	:	Yes
Whether Reportable	:	Yes/No