
(2026) 02 J&K CK 1629
In the Jammu And Kashmir High Court
Case No : MA No.517 Of 2012

Union of India and others	Vs	APPELLANT
Surinder Singh Tomor and another		RESPONDENT

Date of Decision : 06-02-2026

Acts Referred:

Citation : (2026) 02 J&K CK 1629

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Vishal Sharma, Sumant Sudan, Arjun Bhatia

Final Decision : Dismissed

Judgement

Rajnesh Oswal, J

1. Three claim petitions were decided by a common award dated 21.04.2012 passed by the learned Motor Accident Claims Tribunal, Jammu (hereinafter referred to as "the Tribunal") in File No. 127/Claim titled 'Urmila Devi and others Vs. Union of India and others', File No. 128/Claim titled 'Manoj Devi and others Vs. Union of India and others', and File No. 129/Claim titled 'Surendra Singh Tomar and another Vs. Union of India and others'.

2. Aggrieved of the said common award, both the respondents as well as the claimants in the claim petitions have assailed the same by filing separate appeals and cross-appeals.

3. MA No. 517/2012 along with CCROS No. 19/2013 arises out of File No. 129/Claim titled 'Surendra Singh Tomar and another Vs. Union of India and others'; MA No. 518/2012 along with CCROS No. 18/2013 arises out of File No. 127/Claim titled 'Urmila Devi and others Vs Union of India and others'; and MA No. 520/2013 along with CCROS No. 17/2013 arises out of File No. 128/Claim titled 'Manoj Devi and others Vs. Union of India and others'.

4. Since all the aforesaid appeals and cross-objections arise out of the common

award dated 21.04.2012, they were heard together and are being disposed of by this common judgment.

MA No.517/2012& CCROS No. 19/2013:

5. The appellants–Union of India have assailed the award passed in File No. 129/ Claim (Surendera Singh and another Vs. Union of India and others) on the ground that the claimants were required to establish that the accident had occurred due to the rash and negligent driving of the driver of the military vehicle, but the claimants failed to prove the same by any cogent evidence, and on the contrary, it stood proved by appellants that the accident was an act of God, inasmuch as, the vehicle in question was a specialised vehicle, and while giving a way to a vehicle coming from the opposite direction, the road caved in, resulting in the vehicle rolling down into a deep gorge. It is further stated by the appellants that the deceased was Army personnel discharging sovereign duties and, at the time of the accident, was part of a road-opening party deployed for convoy protection. In such circumstances, it is urged that the deceased was neither a passenger nor a third party within the meaning of the Motor Vehicles Act, and, therefore, the claim petition itself was not maintainable. It is also contended that the amount of compensation awarded by the Tribunal is not only exorbitant but also unjustified.

6. The claimants, in their cross-appeal, contend that the Tribunal has erred in applying the multiplier by reducing it from 13 to 11. It is further contended that the Tribunal has incorrectly deducted one-half of the income of the deceased towards personal and living expenses. Additionally, the grievance of the claimants is that no compensation has been awarded under the head of loss of love and affection, and that the compensation awarded under the other conventional heads is also on the lower side.

MA No. 518/2012 & CCROS No.18/2013

7. The appellants–Union of India have assailed the award passed in File No. 127/ Claim(Urmila Devi and others Vs. Union of India and others) on the similar grounds as raised in MA No.517/2012.

8. The claimants, by way of cross-appeal, contend that the Tribunal committed an error in applying the multiplier by reducing it from 14 to 12. It is further contended that inadequate compensation has been awarded to the wife of the deceased on account of loss of consortium, and that no compensation whatsoever has been awarded under the said head in favour of the children of the deceased. It is also urged that the compensation awarded under the other conventional heads is on the lower side and warrants appropriate enhancement.

MA No.520/2013 & CCROS No. 17/2013.

9. The appellants–Union of India have assailed the award passed in File No. 128/ Claim on the similar grounds as raised in MA No.517/2012.

10. The claimants, in their cross-appeal, contend that the Tribunal has erred in applying the multiplier by reducing it from 17 to 15. It is also urged that the compensation awarded under the other conventional heads is on the lower side and calls for enhancement.

11. Mr. Vishal Sharma, learned counsel appearing for the appellants, has submitted that the learned Tribunal has not properly considered the contentions of the appellants, therefore, the impugned award deserves to be set aside.

12. On the other hand, Mr. Arjun Bhatia, learned counsel for the claimants, has argued that the Tribunal has erred in applying the appropriate multiplier and that the compensation awarded is insufficient, particularly under the head of loss of consortium, as well as other conventional heads.

13. Heard learned counsel appearing for the parties and perused the record.

14. It may be noted that the respondents-claimants in MA No. 517/2012 (Surendra Singh Tomar and another) filed a claim petition seeking compensation on account of the death of their son, namely, Raju Singh Tomar. In MA No. 518/2012 (Urmila Devi and others), the claimants filed a claim petition for compensation on account of the death of Hav. Arvind Singh, who was the husband of Urmila Devi, father of Jyoti Kumari, Arti Kumari, and Nandni, and son of Urmila Devi, wife of Shiv Nath Singh. In MA No. 520/2013 (Manoj Devi and others), the claimants filed a claim petition for compensation on account of the death of L/NK Rishi Dev, who was the husband of Manoj Devi, father of Pratibha Yadav and Himanshu Yadav, and son of Gandhi Lal and Bimla Devi.

15. All three deceased were serving in the Indian Army and, while travelling in vehicle bearing No. 99R006343D from Ramban to Banihal, met with an accident. It is contended by the claimants that the vehicle was being driven in a rash and negligent manner by its driver, as a result of which he lost control, causing the vehicle to roll down into a deep gorge.

16. The appellant-Union of India filed its response to the claim petitions, asserting that the accident was not caused by the rash or negligent driving of the driver of the military vehicle. It was further submitted that the Court of Inquiry revealed that the accident occurred due to the weak berm of NH-1A, as a result of which the vehicle rolled down into a deep gorge.

17. From the pleadings of the parties, learned Tribunal had framed the following issues:-

1. Whether an accident occurred on 29.08.2007 by rash and negligent driving of offending vehicle 99R0063333343D (Army Vehicle) at the hands of erring driver in which, deceased sustained fatal injuries? OPP

2. If issue No.1 is proved in affirmative, whether petitioner is entitled to the compensation, if so to what amount and from whom? OPP

3. Whether driver of offending vehicle at the time of accident was not holding a

valid and effective DL ? OPR

4. Relief ? O.P. Parties.

18. The claimants in respect of issue No. 1 examined PW Harban Lal, who deposed that the army vehicle was being driven in a rash and negligent manner at a high speed by Sepoy Brijesh Kumar, as a result of which the driver lost control and the vehicle fell into a deep gorge. Consequently, Arvind Singh, Rishi Dev, and Raju Singh Tomar died on the spot.

19. On the other hand, the Union of India examined RW Narinder Singh, who deposed that he was travelling from Ramban towards Srinagar on official duty. When the vehicle reached Khooni Nallah, Digdol, a tourist bus coming from the opposite direction overtook another vehicle and suddenly came in front of the army vehicle. The driver of the army vehicle applied brakes abruptly, at that time the road caved in, causing the army vehicle to plunge into the nallah. Five army personnel accompanying him died on the spot, but he survived.

20. After examining the ocular and documentary evidence brought on record, the learned Tribunal concluded that the deceased, Arvind Singh, Rishi Dev, and Raju Singh Tomar, died as a result of a motor vehicular accident involving the army vehicle bearing No. 99R006343D, which was being driven in a rash and negligent manner by its driver, Sepoy Brijesh Kumar. Accordingly, learned Tribunal has decided Issue No. 1 in favour of the claimants and against the appellants.

21. Upon examining the record, this Court also does not find any perversity in the findings of the learned Tribunal, as the witness Narinder Singh, an independent witness, has categorically deposed as to how the accident took place. Accordingly, the contention of the appellants that the accident did not occur due to the rash and negligent driving of Sepoy Brijesh Kumar is rejected.

22. The next issue that arises for consideration is as to whether the learned Tribunal has granted just and adequate compensation to the claimants or not.

23. In File No. 127/Claim – Urmila Devi and others, the learned Tribunal has awarded a total compensation of Rs. 20,83,000.00 under the following heads:-

1. For loss of dependency : Rs. 20,58,000.00

2. Funeral expenses : Rs. 5,000.00

3. For loss of estate : Rs.10,000.00

4. For loss of consortium to

petitioner No.1 : Rs. 10,000.00

Total : Rs. 20,83,000.00

24. In this case, the claimant No.1 is the widow of deceased, claimants 2 to 4 are the children of the deceased and claimant No.5 is the mother of the

deceased. As per the case of the claimants, the deceased was serving as a Havaldar in Indian Army, and his monthly salary was Rs.16,000/-. In order to prove the salary of the deceased, PW Hav. Venugopal was examined as witness, who deposed that deceased Arvind Singh was serving as a Havaldar in 40/Lt. AD Regiment of Indian Army and his monthly salary was Rs.14,652/- as such, the monthly income of the deceased has been proved to be Rs. 14,652/-, and his age was 42 years at the time of death. The learned Tribunal applied multiplier of 12, whereas in terms of Sarla Verma's judgment (AIR 2009 SC 3104), the appropriate multiplier would be 14. The Tribunal deducted one-fourth of the income on account of personal expenses, which is in consonance with law. However, future prospects were not taken into consideration. The deceased being 42 years of age, his income is required to be enhanced by 30% as per the mandate of the Hon'ble Supreme Court in National Insurance Co.Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680, so it brings the monthly income to approximately Rs. 19,048/-. After deducting one-fourth towards personal expenses and living expenses, and applying the multiplier of 14, the loss of dependency would come to around Rs. 24,00,024/- rounded off to Rs. 24,00,000/-. The learned Tribunal has awarded Rs. 5,000/- and Rs. 10,000/- under the heads of funeral expenses and loss of estate respectively, which are required to be enhanced to Rs. 15,000/- each. The Tribunal has also awarded Rs. 10,000/- to claimant No.1 only as compensation on account of loss of consortium which is required to be enhanced to Rs. 40,000/- each to all the claimants viz. wife, three children and mother, total under this head would come to Rs.2,00,000/-. (See Rojalini Nayak & Ors. Vs. Ajit Sahoo & Ors., 2024 INSC 584 and Smt. Manjula vs. The Branch manager & Anr., 2025 INSC 1093)

25. Accordingly, the award is modified as under:

1. Loss of dependency : 24,00,000.00
2. Funeral expenses : 15,000.00
3. Loss of estate : 15,000.00
4. Loss of consortium to claimants: 2,00,000.00

Total : 26, 30,000.00

26. In File No. 128/Claim – Manoj Devi and others, the learned Tribunal has awarded a total compensation of Rs. 24,75,000.00 under the following heads:-

1. For loss of dependency : Rs. 24,50,000.00
2. Funeral expenses : Rs. 5,000.00
3. For loss of estate : Rs. 10,000.00
4. For loss of consortium to claimants : Rs. 10,000.00

Total : Rs. 24,75,000.00

27. In this case, the claimant No.1 is the widow of the deceased, claimant Nos. 2 and 3 are minor children of deceased and claimants No.4 and 5 are parents of the deceased. The monthly salary has been proved to be Rs. 12,095. Learned Tribunal has deducted one-fourth of the deceased's income on account of personal and living expenses, which is in consonance with law. However, the Tribunal has applied a multiplier of 15, whereas the appropriate multiplier in this case would be 17, as the deceased was 27 years of age. Moreover, future prospects for enhancement of income were not taken into consideration. The deceased was a permanent employee of the Indian Army, and taking into account future prospects, his income is required to be enhanced by 50% as per the mandate of the Hon'ble Supreme Court in National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680, which brings the monthly income to approximately Rs. 18,142/-. After deducting one-fourth towards personal expenses, the adjusted monthly income comes to Rs. 13,606/-. Applying the multiplier of 17, the loss of dependency would come to around Rs. 27,75,624/-. The learned Tribunal had awarded Rs. 5,000/- and Rs. 10,000/- under the heads of funeral expenses and loss of estate respectively which are required to be enhanced to Rs. 15,000/- each. The Tribunal has also awarded Rs. 10,000/- to claimant No.1 only as compensation on account of loss of consortium which in the opinion of this Court is required to be enhanced to Rs. 40,000/- each for all the claimants viz. wife, two minor children and mother as the father of deceased has already died, total under this head would come to Rs.1,60,000/-.

28. Accordingly, the award is modified under the following heads:

Heads of Compensation Amount (Rs.)

Loss of dependency 27,75,624.00

Funeral expenses 15,000.00

Loss of estate 15,000.00

Loss of consortium to claimants 1,60,000.00

Total 29,65,624.00

29. InFile No.129/claim-Surendra Singh and others, the learned Tribunal has awarded the total compensation of Rs.11,59,000.00 under following heads: -

1. For loss of dependency : Rs. 11,44,000.00

2. Funeral expenses : Rs. 5,000.00

3. For loss of estate : Rs. 10,000.00

Total : Rs. 11,59,000.00

30. In this appeal, the claimants are the parents of the deceased, whose monthly salary has been proved to be Rs. 11,548. The deceased, a permanent employee of the Indian Army, was born on 20.06.1984 and was 23 years of age at the time

of his death. The learned Tribunal applied a multiplier of 13, whereas, in the facts of the case, the appropriate multiplier would be 18. Further, the Tribunal did not award any compensation on account of future prospects. As per the mandate of the Hon'ble Supreme Court in National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680, the future income of the deceased requires enhancement by 50%. Being a bachelor, 50% of the deceased's earnings are to be deducted towards personal and living expenses. On this basis, the loss of dependency comes to approximately Rs. 18,70,776. Additionally, the Tribunal awarded Rs. 5,000/- and Rs. 10,000/- under the heads of funeral expenses and loss of estate, respectively, which in the opinion of this Court is required to be enhanced to Rs. 15,000/- each. The claimants are also entitled to compensation under the head of loss of consortium, assessed at Rs. 40,000/- each. Total would come to Rs.80,000/- under this head.

31. Accordingly, the award is modified as under:

Hheads of Compensation Amount (Rs.)

Loss of dependency 18,70,776.00

Funeral expenses 15,000.00

Loss of estate 15,000.00

Loss of consortium to the claimants 80,000.00

Total 19,80,776.00

32. The appellants-UOI are directed to satisfy the awarded amount accordingly. The modified award shall carry interest @6% per annum from the date of filing of the claim petition until realization. The enhanced amount be deposited within a period of thirty days and on deposit the same shall be released in favour of the claimants after their proper identification.

33. In view of the above, the appeals filed by the appellants against the award dated 21.04.2012 are dismissed, and the cross-appeals filed by the claimants are allowed to the extent indicated above.