



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-3184-2017 (O&M)

BAJAJ ALLIANZE GENERAL INSURANCE CO LTD

.....Appellant

vs.

SHILPA JAIN (SINCE DECEASED) THROUGH LRS. & ORS

.....Respondents

Reserved on:- 19.12.2025

Pronounced on:- 15.01.2026

Uploaded on:- 16.01.2026

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. Punit Jain, Advocate
for the appellant.

Mr. M.K. Mittal, Advocate
for respondent No.1 to 4.

Ms. Farheen Bajwa, Advocate
for Mr. Harsh Aggarwal, Advocate
for respondent No.5.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 22.12.2016 passed by the learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein, the appellant insurance company was held liable to pay the compensation to the claimants/respondents to the tune of Rs.64,87,743/- along with interest @ 9% per annum, on the ground of quantum of compensation to be on higher side.



2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced here for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

3. Learned counsel for the appellant-Insurance Company vehemently argues that the compensation awarded by the Tribunal is on the higher side.

4. He further contends that the learned tribunal has erred in considering the income tax returns of 2014-2015 for the calculation of income of the deceased as the same was filed after the death of Aadish Jain, therefore, this ITR should not have been considered and average should be taken from the previous ITRs.

5. He further contends that the learned Tribunal has erred in calculating the income of the deceased, as it has considered the gross income without deducting income tax, contrary to the settled position of law laid down by the Hon'ble Supreme Court in a catena of judgments.

6. He further contends that the learned Tribunal has erred in adding 50% to the income of the deceased as future prospects instead of 40%.

7. He further contends that the learned Tribunal has erred in considering parents of the deceased as dependent upon him. Accordingly, he prays that the present appeal be allowed and amount of compensation be reduced as per latest law.

8. Per contra, learned counsel for respondents-claimants contends that the amount awarded by the learned Tribunal is on the lower side and the same is liable to be enhanced.



9. He further points out that the claimants have already filed a separate appeal, being FAO-3468-2017, titled as “Shilpa Jain (since deceased) through her LRs Vs. Inderjeet Jain and others”, challenging the quantum of compensation awarded by the Tribunal and seeking its enhancement. Therefore, they pray for dismissal of the present appeal.

10. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

SETTLED LAW ON COMPENSATION

11. Hon’ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation and Another [(2009) 6 Supreme Court Cases 121]**, laid down the law on assessment of compensation and the relevant paras of the same are 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, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the 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 members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle.



In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

* * * * *



42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas³, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.

12. 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:-

*“52. As far as the **conventional heads** are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. 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.

** * * * **

59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

59.4. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The



established income means the income minus the tax component.

59.5. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma⁴ which we have reproduced hereinbefore.

59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 42 of that judgment.

59.7. The age of the deceased should be the basis for applying the multiplier.

59.8. 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 aforesaid amounts should be enhanced at the rate of 10% in every three years.”

13. Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

“21. A Constitution Bench of this Court in Pranay Sethi² dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal



consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

*21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

*21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the



value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

23. *The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*

24. *The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi². In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.*



14. A perusal of the record shows that the deceased was 28 years old at the time of the accident, he was stated to be running two readymade garment showrooms, earning four lakhs per annum. According to the contention of the appellant-insurance company, the learner Tribunal has erred in calculation of the income of the deceased by placing reliance on the income tax returns of 2014-15 because the same was filed after the death of Adish Jain. However, this contention does not hold any merit in the eyes of law. It is trite that the return placed on record shall not be rejected only on the ground that it was submitted after the date of the accident. This view was recently reiterated in the judgment of *Nidhi Bhargava versus national insurance Company Limited 2025 SCC online SC 872* the relevant paragraph of the same is reproduced as under:

*“12. Just because on the date of the accident i.e., 12.08.2008, the Return for the Assessment Year 2008-2009 had not been filed, cannot disadvantage the appellants, for the reason that the period for which the Return is to be submitted covers the period starting 1st of April, 2007 and ending 31st March, 2008. Thus, for obvious reasons, the Return would be only for the period 01.04.2007 to 31.03.2008, and date of submission would be post-31.03.2008. No income earned beyond 31.03.2008 would reflect in the Income Tax Return for the Assessment Year 2008-2009. To reject the Return on the sole ground of its submission after the date of accident alone, **in our considered view, cannot** be legally sustained.*

*13. The Income Tax Return is a legally admissible document on which the income assessment of the deceased could be made. This Court in **Malarvizhi v. United India Insurance Co. Ltd., (2020) 4 SCC 228** affirmed that the determination of income must proceed on the basis of*



Income Tax Return(s), when available, being a statutory document. In S Vishnu Ganga v. Oriental Insurance Company Limited, 2025 SCC Online SC 182, we opined:

'11. ...It is no longer res integra that Income Tax Returns are reliable evidence to assess the income of a deceased, reference whereof can be made to Amrit Bhanu Shali v. National Insurance Co. Ltd., (2012) 11 SCC 738 [Para 17]; Kalpanaraj v. Tamil Nadu State Transport Corporation, (2015) 2 SCC 764 [Para 7], and K Ramya (supra) [Para 14 of 2022 SCC Online SC 1338].'

(emphasis supplied)

14. In Malarvizhi (supra), the Madras High Court relied upon the Returns 'for Assessment Year 1997-1998 and not 1999-2000 and 2000-2001 which reflected a reduction in the annual income of the deceased' therein.

15. The High Court interfered and reduced the compensation as awarded by the Tribunal only on the ground that Return for the Assessment Year 2008-2009 had to be excluded from consideration. It is not in dispute that the deceased was a businessman. The relevance of the Income Tax Return stems, in the context of the Act, for the period which it relates to i.e., the Financial Year concerned, and not on the date on which it is filed with the Income Tax Department. When faced with Returns for different Assessment Years, it would be upto the Tribunal concerned to adopt either the average income therefrom or choose an Assessment Year to rely upon. There is good reason to leave judicial discretion on the Tribunal to adopt one of the afore-noted two courses of action, bearing in nature the social purpose and object behind the Act, which is a beneficial legislation. It is quite unfortunate that the High Court in the present case has dealt with the matter in such a casual and superficial way where the rightful claim



*of the appellants under a welfare legislation has been drastically reduced without any cogent reason on a very tenuous ground, which we find to be totally unjustified. As pointed out in **Shivaleela v. Divisional Manager, United India Insurance Co. Ltd.**, 2025 SCC Online SC 563:*

*'13. ... In **K Ramya v. National Insurance Co. Ltd.**, 2022 SCC Online SC 1338, after taking note of, inter alia, **Ningamma v. United India Insurance Co. Ltd.**, (2009) 13 SCC 710, the Court held that the '... Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future. ...' ...'(2)*

[(2) Also reported as [2025] 4 SCR 63 | 2025 INSC 357]

(underlined in original)

16. On the strength of the reasons afore-indicated, the Impugned Order is modified to the extent that the original amount [Rs. 31,41,000/- (Rupees Thirty-One Lakhs Forty-One Thousand)] awarded by the Tribunal in MACT No.357515/2016 as compensation is restored. Payment be made to the Appellants by the Respondent No.1 at the rate of 9% interest per annum after adjusting amount(s), if any, that may have been paid during the interregnum. The exercise be completed within two months from today, failing which an additional 9% interest per annum shall be payable for the period of delay, both on the principal amount as well as on the interest component, till the date



of actual payment. No order as to costs, in the circumstances.”

15. Therefore, the tribunal has rightly relied upon the ITR of 2014-2015, for the calculation of income of the deceased.

16. Adverting to the next contention of the appellant-insurance company, the submission that income tax is required to be deducted from the gross income of the deceased, deserves acceptance in the eyes of law. It is well settled that while determining compensation, the gross income after deduction of income tax alone is to be taken into consideration. In **Sarla Verma v. Delhi Transport Corporation (2009) 6 SCC 121**, the Hon'ble Supreme Court categorically held that the income of the deceased must be assessed after deducting the payable income tax. This principle was further reiterated in **Vimal Kanwar v. Kishore Dan (2013) 7 SCC 476**, wherein it was held that where the income of the deceased falls within the taxable bracket, deduction of income tax is mandatory.

17. Relevant portion of the same is reproduced as under:

“21. The third issue is “whether the income tax is liable to be deducted for determination of compensation under the Motor Vehicles Act” In the case of Sarla Verma & Anr. (Supra), this Court held “generally the actual income of the deceased less income tax should be the starting point for calculating the compensation.” This Court further observed that “where the annual income is in taxable range, the word “actual salary” should be read as “actual salary less tax”. Therefore, it is clear that if the annual income comes within the taxable range income tax is required to be deducted for determination of the actual salary. But while deducting income-tax from salary, it is necessary to notice the nature of the income of the victim. If the victim is receiving income chargeable under the head



“salaries” one should keep in mind that under [Section 192 \(1\)](#) of the Income-tax Act, 1961 any person responsible for paying any income chargeable under the head “salaries” shall at the time of payment, deduct income-tax on estimated income of the employee from “salaries” for that financial year. Such deduction is commonly known as tax deducted at source (‘TDS’ for short). When the employer fails in default to deduct the TDS from employee salary, as it is his duty to deduct the TDS, then the penalty for non-deduction of TDS is prescribed under [Section 201\(1A\)](#) of the Income-tax Act, 1961.

Therefore, in case the income of the victim is only from “salary”, the presumption would be that the employer under [Section 192 \(1\)](#) of the Income- tax Act, 1961 has deducted the tax at source from the employee’s salary. In case if an objection is raised by any party, the objector is required to prove by producing evidence such as LPC to suggest that the employer failed to deduct the TDS from the salary of the employee.

However, there can be cases where the victim is not a salaried person i.e. his income is from sources other than salary, and the annual income falls within taxable range, in such cases, if any objection as to deduction of tax is made by a party then the claimant is required to prove that the victim has already paid income tax and no further tax has to be deducted from the income.”

18. Accordingly, the annual income of the deceased is required to be computed after deduction of the income tax and is thus assessed at **₹3,27,983/-** (3,32,692 - 4,709) per annum. Therefore, monthly income of the deceased is reassessed as **Rs.27,332/-**.

19. A further perusal of the award reveals that the learned Tribunal has erred in adding 50% as future prospect to the income of the deceased.



Since the deceased was self-employed, therefore, as per the settled law, **40%** is to be added as future prospects.

20. Further, perusal of the award reveals that the learned tribunal has deducted 1/4 towards the personal expenditure of the deceased, considering his wife, two children and his parents as dependent of him at the time of his death. As per the contention of the respondent, the parents of the deceased were not dependent upon him. Therefore 1/3rd has to be deducted as personal expenditure. This contention is contrary to the settled position of law. The Hon'ble Supreme Court has consistently recognised that the loss of a family member in a motor accident is an unfathomable tragedy not only for the parents. The anguish, grief and emotional trauma suffered by parents are profound and enduring, often defying adequate articulation. No amount of compensation can truly redress the emotional void caused by such a loss. Since there is no record to show that the parents of the deceased were not dependent upon him at the time of his death, the learned tribunal has rightly deducted, 1/4th as personal expenditure.

21. A further perusal of the award reveals that the learned Tribunal has granted meager amount under the head of loss of consortium, therefore, the same is liable to be enhanced.

22. In view of the above, the present appeal is allowed. The award dated 22.12.2016 is modified accordingly. The respondents-claimants are entitled to modified compensation as per the calculations made hereunder:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.27,332/-
2	Future prospects @ 40%	Rs.10,933/- (40% of 27332)
3	Deduction towards personal expenditure 1/4th	Rs.9,566/- (38265 X 1/4th)



4	Total Income	Rs.28,699/- (38265-9566)
5	Multiplier	17
6	Annual Dependency	Rs.58,54,596/- (28699 X 12 X 17)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.25,000/-
9	Loss of Consortium Parental : 2 x 48,400 Spousal : 1 x 48,400 Filial : 2 x 48,400	Rs.2,42,000/-
10	Total Compensation	Rs.61,39,746/-
11	Amount Awarded by the Tribunal	Rs.64,87,743/-
12	Enhanced amount	Rs.3,47,997/- (64,87,743-61,39,746)

23. 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 respondents-claimants are granted the interest @ 9% per annum on the modified amount from the date of filing of claim petition till the date of its realization.

24. The appellant-Insurance Company is directed to deposit the modified amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the modified amount of compensation along with interest to the respondents-claimants.

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

15.01.2026

Ayub

(SUDEEPTI SHARMA)
JUDGE

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