



FAO-5807-2019

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO-5807-2019
Reserved on:- 05.12.2025
Pronounced on:- 11.12.2025
Uploaded On: 12.12.2025**

Kanta Rani and OthersAppellants

vs.

Surjit Singh and OthersRespondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Shrey Vasudev, Advocate (through VC)
for the appellants.

Mr. Ankit Bhardwaj, Advocate
for respondent No.3.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 20.04.2019 passed by the learned Motor Accident Claims Tribunal, Patiala in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Tribunal') for enhancement of compensation granted to the claimants to the tune of Rs.4,06,000/- alongwith interest @7.5% per annum on account of death of Dharampal Gupta @ Dharam Pal Singla in a Motor Vehicular Accident, occurred on 02.11.2016.

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. The learned counsel for the claimants-appellants contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be



enhanced. Therefore, he prays that the present appeal be allowed and amount of compensation be enhanced as per latest law.

4. *Per contra*, learned counsel for respondent No.3-Insurance Company, however, vehemently argues that the compensation awarded is on higher side. Therefore, he prays for dismissal of the present appeal.

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

SETTLED LAW ON COMPENSATION

6. 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 1/3 of 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.

7. 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.”*



8. 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.

9. A perusal of the record shows that the deceased Dharampal Gupta @ Dharam Pal Singla was stated to be 64 years of age. Since this fact was not disputed by the insurance company, therefore the tribunal has rightly assessed the age of the deceased Dharampal Gupta @ Dharam Pal Singla as 64 years by placing reliance on post-mortem report Ex.C3.

10. A perusal of the record shows that the deceased was stated to earning Rs.35,000/- per month from the business of Singla Cement Store. However, the learned tribunal has overlooked the income tax return and has not considered the same for assessment of loss of income of the deceased by holding that the appellants have suffered no actual loss because the cement store business of the deceased is stated to be continuing after his death and consequently assessed the nominal income of the deceased at Rs.8000/- per month for loss towards supervisory skills.

11. However, this approach of learned Tribunal is not tenable in the eyes of law on many counts. Firstly, no cogent evidence has been adduced before the Tribunal to establish that the said business is, in fact, still being carried on by the appellants or any other person. Even assuming, without admitting, that the business is being continued by the appellants after stepping into the shoes of the deceased, it cannot be presumed as a matter of law that the appellants possess the same acumen, experience, contacts, goodwill, and entrepreneurial ability as the deceased. In the absence of such parity, a decline in the turnover and profitability of the business is not only probable but expected, particularly when the successors are likely to lack the maturity, expertise, and standing in the trade that the



deceased enjoyed. This vital aspect, which directly impacts the assessment of loss of dependency has been completely overlooked by the Tribunal.

12. The same view has been fortified by the judgment passed by the Hon'ble Supreme Court in S. Vishnu Ganga and others Vs. M/s Oriental Insurance Company Ltd., 2025 INSC 123. The relevant extract of the same is reproduced as under:-

“11. Having examined the matter, the Court finds that the Award rendered by the Tribunal is well-considered. Though the claimed compensation was Rs.1,00,00,000/- (Rupees One Crore) each with regard to the father and the mother, the Tribunal granted Rs.58,24,000/- (Rupees Fifty-Eight Lakhs Twenty-Four Thousand) re the father and Rs.93,61,000/- (Rupees Ninety-Three Lakhs Sixty-One Thousand) re the mother. The documents produced by the appellants and the reasoning given by the Tribunal as well as the Karnataka High Court's Division Bench judgment in B Parimala (supra) indicate, and in our opinion, rightly so, that merely because the appellants stepped into the shoes of the deceased, by such factum itself, the appellants would not be capable of running the Mill. It would be of relevance as to whether due to their lack of experience and maturity, real/expected downfall in the profitability of the firm or the business would ensue. Such factor, while considering a claim pertaining to loss of future income/earnings, would have to be dealt with. In the present cases, even the monthly incomes of the parents as claimed by the appellants i.e.. income of the father being Rs.25,00,000/- (Rupees Twenty-Five Lakhs) per year and the mother's being Rs.20,00,000/- (Rupees Twenty Lakhs) per year, the notional income fixed by the Tribunal of Rs.60,000/- (Rupees Sixty Thousand) each per month, is much more reasonable. 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”

13. Furthermore, the decision of learned Tribunal to notionally assess the monthly income of the deceased at a grossly inadequate sum of Rs.8,000/- merely on account of “supervisory skills” is wholly arbitrary and unsustainable. The claimants/appellants had asserted a monthly income of Rs.35,000/-, which stands corroborated by the Income Tax Return of the deceased for the Assessment Year 2015-16 (Ex.C-7), wherein the gross total income is reflected as Rs.3,92,332/-.

14. It is a settled proposition of law, repeatedly affirmed by the Hon’ble Supreme Court, that Income Tax Returns constitute the most reliable and authentic evidence for determining the income of a deceased in motor accident compensation cases. By discarding this unimpeachable documentary evidence and substituting it with a conjectural figure, the Tribunal has fallen into grave error. Reference at this stage can be made to the judgment passed by the Hon’ble Supreme Court in ***K Ramya v. National Insurance Co. Ltd., 2022 SCC Online SC 1338.***

15. The relevant portion of the same is produced as under:-

“13. The Deceased in the present case was a businessman and during the proceedings before the Tribunal, the Appellants produced the relevant income tax returns, audit reports and other relevant documents pertaining to the commercial ventures of the Deceased to prove the loss of income attributable on account of his sudden demise. The Tribunal relied on the same and computed the income by taking an average of the income recorded in three prior financial



years (FY 2000-2001, FY 2001-2002 and FY 2002-2003) to determine the compensation under the head of 'loss of income'.

14. In contrast, the High Court set aside the same on the ground that the income earned was out of capital assets and cannot be said to have been earned out of personal skills of the deceased. It consequently went on to determine the income of the Deceased on a notional basis as per his educational qualification. Unfortunately, such an approach, in our opinion, is erroneous in view of the decisions of this court in *Amrit Bhanu Shali v. National Insurance Co. Ltd.* (2012) 11 SCC 738, para 17. and *Kalpanaraj v. Tamil Nadu State Transport Corpn.* (2015) 2 SCC 764, para 8. wherein this court has held that documents such as income tax returns and audit reports are reliable evidence to determine the income of the deceased. Hence, we are obliged to modify the compensation, especially when neither any additional evidence has been produced to showcase that the income of the Deceased was contrary to the amount mentioned in the audit reports nor it is the stand taken by the Insurance Company that the said reports inflated the income.

15. At this stage, to facilitate our analysis, it would be pertinent to divide the income as mentioned in the audit reports into two parts -(a) Income from Business Ventures and other Investments and (b) Income from House Property and Agricultural Land. It should be emphasized that these audit reports only showcase amounts which specifically stem from the shares and interest held by the Deceased in the businesses and it is not a case wherein the entire turnover of businesses are depicted as Deceased's income. Moreover, it deserves to be clarified that the income under the abovementioned two parts have been computed at gross value as per the audit reports and includes the deductions such as interest paid on loans and expenses incurred by the deceased.



C.2.1 - Treatment of Income from Business Ventures and other Investments

16. As per the audit report and other documents, the income under this part was attributable to the amounts earned from the deceased's multiple business ventures, which included the partnership firms and other investments such as shares and bank interests. On perusal of the documents on record, it is to be noticed that almost all business ventures were the result of the initiatives taken by the Deceased, and he was actively involved in the day-to-day management of these entities. In fact, the testimony of the Deceased's wife points out that the Appellants had to sell the buses which were utilized in the transport business because they were not able to take care of the vehicles on account of the demise of the Deceased and even the export business was shut down due to the same reason.

17. The mere fact that the Deceased's share of ownership in these businesses ventures was transferred to the Deceased's minor children just before his death or to the dependents after his death is not a sufficient justification to conclude that the benefits of these businesses continue to accrue to his dependents. On the contrary, it has come on record that the Deceased was actively involved in the day-to-day administration of these businesses from their stage of infancy, had undergone specialized training to administer his business and that the audit reports neatly delineate Deceased's share of income from the businesses. These facts necessitate that the entire amount from the business ventures is treated as income. Similarly, the amount earned from the bank interests and remaining investments must also be included as income.

18. The Appellants have produced audit reports for the last four financial years which highlight the amounts under 'Income from Business Ventures and other Investments' which is as per follows - (i) for FY 2000-2001 is Rs. 8,95,812/- (ii) for FY 2001-2002 is Rs. 10,31,091/- (iii) for FY 2002- 2003 is Rs.



14,65,060/- and (iv) for FY 2003-2004 is Rs. 9,79,099/-. The average of these amounts comes up to Rs. 10,92,765.50/-, which is rounded off to Rs 10,93,000/- and the same is awarded to the Appellants as loss of income derived under 'Income from Business Ventures and other Investments'.

16. In view of the above discussion and settled legal position, this Court places reliance on Ex. C-7 (ITR for A.Y. 2015-16) showing the deceased's gross total income as Rs. 3,92,332/- to assess the annual income (as depicted from ITR).

17. The annual income of the deceased is taken as Rs. 3,92,332/- and the monthly income as Rs. 32,694.33 (Rs. 3,92,332 \div 12), rounded off to Rs. 32,700/- per month.

18. Consequently, the monthly income of the deceased for computation of loss of dependency is accordingly fixed at Rs. 32,700/-.

19. Thus, the impugned award suffers from infirmities both on facts and in law and deserves to be set aside to the extent it restricts the income of the deceased.

20. A further perusal of the award reveals that the learned Tribunal erred in deducting 1/2 towards personal expenditure of the deceased. Considering the fact that the deceased has four dependants and keeping in view the settled law on compensation, **1/4th** is to be deducted towards personal expenditure of the deceased.

21. Furthermore, the amount granted under the head of loss of estate, funeral expense and loss of consortium is on lower side. Therefore, the award requires indulgence of this Court.

CONCLUSION

22. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is allowed. The award dated



20.04.2019 is modified accordingly. The appellants-claimants are entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.32,700/-
3	Deduction towards personal expenditure 1/4	Rs.8,175/- (32,700 X 1/4)
4	Total Income	Rs.24,525/- (32,700-8,175)
5	Multiplier	7
6	Annual Dependency	Rs.20,60,100/- (24,525 X 12 X 7)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Parental: 48,400 x 3 Spousal: 48,400 x 1	Rs.1,93,600/-
Total Compensation		Rs.22,90,000/-
Deduction Amount Awarded by the Tribunal		Rs.4,06,000/-
Enhanced amount		Rs.18,84,000/-(22,90,000-4,06,000)

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

24. The Insurance Company-respondent No.3 is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in

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the accounts of the claimants/appellants and as per ration settled by the learned Tribunal, vide its award dated 20. The claimants/appellants are directed to furnish their bank account details to the Tribunal.

25. However, respondent No.3-Insurance Company is granted liberty to recover the said amount of compensation from the insured i.e. owner of the offending vehicle as per the award dated 20.04.2019.

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

11.12.2025*Saahil***(SUDEEPTI SHARMA)**
JUDGE

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