



224

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

FAO-6510-2015 (O&M)
Date of decision: 09.09.2025

Savitri Devi and others

...Appellants

Versus

Ram Avtar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ravinder Arora, Advocate and
Mr. Neeraj Khanna, Advocate and
Ms. Alisha Bindal, Advocate for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Company.

VIKAS BAHL, J. (ORAL)

1. The present appeal has been filed by the claimants who are seeking enhancement of the amount of compensation awarded by the Motor Accident Claims Tribunal, Panchkula (hereinafter to be referred as “the Tribunal”) vide its award dated 12.01.2015 on account of death of Ms. Rekha Rani, which took place in a motor vehicular accident that occurred on 01.08.2013. The amount of compensation which had been awarded by the Tribunal was Rs.6,50,000/- along with interest @ 7.5% p.a..

ARGUMENTS ON BEHALF OF THE APPELLANTS:-

2. Learned counsel for the appellants has submitted that the income of the deceased which had been taken by the Tribunal as Rs.10,000/- per month was not properly assessed and the said income should have been taken as Rs.30,000/- per month. It is submitted that it was proved on record that the



deceased-Rekha Rani had completed B.Com in March, 2013 and was doing first aid course, which course was necessary for the post of Conductor and had applied for the post of Conductor at Chandigarh Transport Undertaking. It is further submitted that the deceased was a national Judo and Karate player and had won number of medals in several competitions and that Delhi Railway Police had called girls for Judo and Karate competition and out of them, successful Judo and Karate female players were to be selected as Constables directly and there were high chances of deceased-Rekha Rani being selected and that the starting salary of the Constable in Delhi Police was more than Rs.30,000/- per month and that the salary would likely have doubled within few years, if she was alive. It is stated that the deceased-Rekha Rani also used to give tuitions to the students of Village Surajpur and Village Rajjipur after her college hours and was earning Rs.10,000/- per month from the said tuition work. It is submitted that father of the deceased had already died and brother of the deceased was physically handicapped and his physical disability had been assessed as 75% by the Medical Board, Panchkula and he was not in a condition to work or earn anything and that all the claimants were dependent upon the income of the deceased-Rekha Rani, who used to hand over her entire earnings to them for the purpose of running the household expenses.

3. Learned counsel for the appellants, in support of his arguments, has referred to the statement of Savitri Devi-PW2 and has also referred to the documents Ex.P4 to Ex.P21 which documents show that the deceased had done B.Com and was also an outstanding sportsperson who had won medals. It is submitted that the deceased had also done computer course which fact is



also apparent from the documents which have been duly exhibited on record. Further reliance has been placed upon Ex.P23 to show that brother of the deceased was suffering from cerebral palsy and was 75% permanently disabled. It is submitted that although, the Tribunal had observed that the deceased had potential but the notional income was assessed only to the extent of Rs.10,000/- per month. It is submitted that in view of the abovesaid facts and circumstances, income should have been assessed as Rs.30,000/- per month.

4. Learned counsel for the appellants has relied upon the judgment of the Hon'ble Supreme Court in the case of **Yashodamma S. Vs. Regional Manager, Reliance General Insurance Company Limited and another,** reported as **2023 ACJ 605, decided on 13.09.2022** in support of his arguments. It is submitted that by applying the law laid down by the Hon'ble Supreme Court in the said case, the income of the deceased should be assessed as at least Rs.20,000/- per month.

5. Learned counsel for the appellants has further submitted that the benefit of future prospects is also required to be given which had not been given by the Tribunal and no amount on account of loss of consortium had been given whereas there are three claimants and thus, the total amount on account of loss of consortium should have been Rs.1,44,000/- (Rs.48,000 x 3). In support of his arguments, learned counsel for the appellants has also relied upon the law laid down by the Hon'ble Supreme Court in case titled as **Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another** reported as **(2009) 6 SCC 121, National Insurance Company Limited Vs. Pranay Sethi and others** reported as **(2017) 16 SCC 680**, and



Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru

Ram and others reported as **(2018) 18 SCC 130**.

ARGUMENTS ON BEHALF OF RESPONDENT NO.3:-

6. Learned counsel for respondent No.3-Insurance Company, on the other hand, has submitted that the Tribunal had granted compensation under the head of funeral expenses as Rs.25,000/- and under the head of loss of love and affection as Rs.25,000/- and in case, the present appellants are claiming compensation under the heads of loss of consortium, funeral expenses and loss of estate to the extent of Rs.1,44,000/-, Rs.18,000/- and Rs.18,000/- respectively, then, no amount on account of loss of love and affection should be awarded and even the amount awarded on account of funeral expenses should be reduced from Rs.25,000/- to Rs.18,000/-. It is submitted that notional income which the present appellants are seeking is on a much higher side and has submitted that the amount of Rs.10,000/- per month taken as notional income by the Tribunal is sufficient in the present case. It is argued that a perusal of the marks obtained by the deceased in her Bachelor of Commerce examinations would show that the deceased was not an outstanding student and had got very less marks in her examinations. It is further submitted that in *Yashodamma S.'s* case (Supra) relied upon by learned counsel for the appellants, the deceased therein was 23 years of age and a final year MCA student, whereas in the present case, even as per the case of the appellants, the deceased had done B.Com. It is submitted that in the said circumstances, no reliance can be placed upon *Yashodamma S.'s* case (Supra) for taking notional income to be Rs.20,000/- per month.

REBUTTAL ARGUMENTS ON BEHALF OF THE APPELLANTS:-



7. Learned counsel for the appellants, after taking into consideration the objection raised by learned counsel for respondent No.3- Insurance Company, has submitted revised chart, as per which, the objections to the effect that funeral expenses should be reduced from Rs.25,000/- to Rs.18,000/- and no amount on account of loss of love and affection as awarded by the Tribunal should be taken, has been duly taken into consideration by the appellants. It is pointed out that in the said circumstances, the income of the deceased should be assessed as at least Rs.18,000/- per month. Revised chart submitted by learned counsel for the appellants is reproduced hereinbelow:-

“Income- Rs.18,000/-

Future prospects (40%)-Rs.7200/-

Total Income-Rs.25,200/-

Deduction 50%-Rs.12,600/-

Annual Dependency-Rs.1,51,200/-

Multiplier-18

Total Dependency- Rs.27,21,600/-

Funeral Expenses-Rs.18,000/-

Loss of Estate-Rs.18,000/-

Loss of consortium-Rs.48,000/- x 3= Rs.1,44,000/-

Total compensation-Rs.29,01,600/-

Tribunal awarded-Rs.6,50,000/-

Enhancement-Rs.22,51,600/-

Interest- 9%

Sd/- Ravinder Arora & Neeraj Khanna

Advocates

Counsel for Appellants.”

ANALYSIS AND FINDINGS:-

8. This Court has heard learned counsel for the parties and has



perused the paper book.

9. Hon'ble the Supreme Court in para 42 of **Sarla Verma's case** (Supra) had observed as under:-

*“We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, 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.”*

10. A perusal of the above would show that for the age of 22 years, multiplier of 18 is to be applied.

11. The Hon'ble Supreme Court in **Pranay Sethi's case** (Supra), has held as under:-

“59. In view of the aforesaid analysis, we proceed to record our conclusions:-

59.1 The two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

59.2 As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.

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 paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

59.6 The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 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.

60. The reference is answered accordingly. Matters be placed before the appropriate Bench.”

12. A perusal of the above judgment would show that it was observed by the Hon'ble Supreme Court that addition of some percentage of



the actual salary to the income of the deceased towards future prospects was also required to be taken into consideration and the said percentage was specifically defined.

13. The Hon'ble Supreme Court in ***Magma General Insurance Company Limited's case (Supra)*** had further observed that in death case, under the head of loss of consortium, the parents of the deceased are entitled to be awarded loss of consortium under the head of filial consortium, children are entitled to parental consortium. To the widow, spousal consortium is to be given. Relevant portion of the said judgment is reproduced hereinbelow:-

“21. A Constitution Bench of this Court in Pranay Sethi 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, co-operation, 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 recognized 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 5. 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 Sethi (supra). 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. In the abovesaid judgment, a specific amount was awarded to the father and sister of the deceased and thus, the amount of consortium awarded was made dependent upon the number of claimants/legal representatives.

15. The Tribunal had granted funeral expenses to the present appellants to the tune of Rs.25,000/- and also sum of Rs.25,000/- on account of loss of love and affection, however, had not granted any amount on account of loss of consortium. On the objection raised by learned counsel for respondent No.3-Insurance Company, in spite of there being no cross appeal, learned counsel for the appellants, as is apparent from the revised chart, has very fairly reduced funeral expenses from Rs.25,000/- to Rs.18,000/- and has also deleted the entry with respect to loss of love and affection and has added the entry of loss of estate to the extent of Rs.18,000/- which as per settled law is to be paid to the present appellants. The amount claimed on account of loss of consortium, on account of there being three claimants, to the extent of Rs.1,44,000/- (Rs.48,000/- x 3) is also as per the settled law and the said aspect has not been disputed before this Court. The fact that the present appellants are entitled to future prospects at the rate of 40% is also in accordance with the settled law and there is no dispute on the said aspect. Further, multiplier in the present case which is to be applied is '18' and not '10' which had been applied by the Tribunal, as the deceased was admittedly 22 years of age and multiplier of 18 would be applicable and there is no dispute on the said aspect also.

16. The primary issue which this Court is to adjudicate is as to how much notional income should be taken in the present case keeping in view



the facts and circumstances of the case which have been highlighted by learned counsel for the appellants as well as learned counsel for respondent No.3-Insurance Company.

17. The Hon'ble Supreme Court in *Yashodamma S.'s* case (Supra) had taken the notional income of deceased therein to be Rs.20,000/- per month and had also granted 40% on account of future prospects. In the said case, the deceased therein was 23 years of age and was stated to be a final year MCA student. The additional factors in support of the case of the deceased in the present case are that the deceased in the present case was an outstanding player and had also done training courses in computer. A perusal of Ex.P18 would show that the deceased had done a training course in the Trade of Computer from Community Development Wing of Government Polytechnic, Ambala City from 02.03.2007 to 31.08.2007 and her work and conduct was found to be good during her training and she was also given a Certificate of Proficiency (Ex.P17) for having participated in Free Computer Education Programme of Directorate of School Education Haryana during the academic session 2008-2009 and had obtained 'A' Grade. Further Ex.P16 is Certificate issued by the District Council for Child Welfare Computer Training Centre which shows that the deceased had done Diploma in Software Usage and was thus, tech savvy.

18. With respect to the deceased being an outstanding sportsperson, several documents have been produced on record. Ex.P15 is Certificate of Merit issued by the Government College for Girls, Sector 14, Panchkula, certifying that the deceased-Rekha Rani was student of B.Com-II and had won bronze medal in Inter College Judo Competition. Ex.P10 is Certificate



certifying that deceased-Rekha Rani had participated in the XXVI Haryana State Games-2012 organized by the Haryana Olympic Association in the game of Taekwondo. Ex.P11 and Ex.P12 are the Merit Certificates issued by the Kurukshetra University Sports Council certifying that in the year 2012 and 2011 respectively, deceased-Rekha Rani had participated in the University Inter Collegiate Tournament of Judo. Ex.P13 is the Certificate of Participation issued by the Panchayat Yuva Krida Aur Khel Abhiyan (PYKKA) Haryana State Women Sports Festival 2011-12 showing that the deceased had participated in the Game of Kabbadi in 2011. Ex.P14 is another Certificate issued by the Haryana State Women Sports Festival 2009 certifying the participation of the deceased in Basketball. Ex.P19 and Ex.P20 are the Certificates issued by the Government College for Girls, Sector 14, Panchkula (Haryana), showing that the deceased had participated in NSS Camp in the year 2012-2013. The said documents in addition to the oral evidence led would clearly show that the deceased was an outstanding sportsperson.

19. PW2-Savitri Devi, while appearing in the witness-box had further stated in her evidence that the deceased had applied for Delhi Police and Delhi Railway Police had called girls for Judo and Karate competition and out of them, successful Judo and Karate female players were to be selected as Constables directly. In support of the said oral evidence, Admit Card Ex.P21 was exhibited. It has also come on record that brother of the deceased was 75% permanently handicapped and Certificate issued regarding the same had been exhibited as Ex.P23. The father of the deceased had already died on 07.04.1991 which fact is apparent from the Certificate of



Death (Ex.P24). Evidence was also led by Savitri Devi-PW2 to state that the deceased-Rekha Rani was giving tuitions to students and was earning Rs.10,000/- per month from the same. The examination-in-chief of the said PW2-Savitri Devi is reproduced hereinbelow:-

“I, Savitri Devi w/o late Sh. Daya Nand, aged 50 years, resident of Vill. Rajjipur, Teh. Kalka Distt. Panchkula, do hereby solemnly affirm and declare as under:-

That my daughter Rekha Rani died in a roadside accident on 01.08.2013 at the age of 22 years. Her date of birth is 6.10.1991. After passing B.Com. final examination in March 2013. She was doing first aid course which is course is necessary for the post of conductor and she had applied for the post of Conductor of bus at Chandigarh Transport Undertaking. She was National Judo Karate player and was winner of number of competitions. She had won number of medals in Judo Karate. Delhi Police and Delhi Railway police had called Girls for Judo Karate competition and out of them successful Judo Karate female players were to be selected as Constables directly without any written test with Delhi Police. There were very bright chances of my deceased daughter Rekha Rani for her selection as a Constable with Delhi Police as she was very excellent Judo Karate player. The starting salary of a constable in Delhi Police is more than Rs.30,000/- per month and this was her earning capacity at the time of her death. Her salary was likely to cross double within few years, if she remained alive.

My husband had already expired and my son is physically handicap and his physical disability has been assessed 75% by Medical Board Panchkula. He is also not in a condition to work or earn anything. My daughter Rekha Rani used to give tuition to the student of Vill. Surajpur and Vill. Rajjipur at our residence after her college hours. She was earning Rs.10,000/-



per month from tuition work alongwith her studies. We all the claimants were solely dependent on the income of my deceased daughter Rekha Rani. She used to hand over her entire earnings to me for running the household expenses.

*My deceased daughter Rekha Rani was unmarried and she left behind me as her mother, claimant No.2 Anil Kumar aged 32 years as her handicap brother and claimant No.3 Renu Devi aged 24 years as her sister as her only legal representatives and dependents. **She was the only earning member in the family and after her death there is no source of income with us.** We were having very high hopes from the deceased. We have suffered a great loss of loss of love, affection, care, protection and proper guidance on account of death of my daughter Rekha Rani in this unfortunate accident. I have spent Rs.50,000/- on transportation, funeral and last rites of my deceased daughter.”*

20. On the other hand, distinction from the judgment of the Hon’ble Supreme Court in ***Yashodamma S.’s*** case (Supra) as highlighted by learned counsel appearing for respondent No.3-Insurance Company is to the effect that the deceased in the said case was a final year MCA student and thus, was doing higher course than that of B.Com which had been done in the present case by the deceased. With respect to the argument of learned counsel for the Insurance Company to the effect that the deceased was not getting outstanding marks, it would be relevant to note that the Hon’ble Supreme Court in the judgment relied upon by the learned counsel for the appellants in ***Yashodamma S.’s*** case (Supra) had not taken into consideration the marks obtained by the student/deceased therein. In view of the abovesaid facts and circumstances, this Court is of the opinion that the judgment of the Hon’ble Supreme Court relied upon by learned counsel for the appellants in



Yashodamma S.'s case (Supra) fully supports the case of the present appellants. In the revised chart submitted after taking into consideration the objections raised by learned counsel for Insurance Company, the appellants have claimed monthly income of Rs.18,000/- per month which in the facts and circumstances of the present case and keeping in view the law laid down by the Hon'ble Supreme Court in ***Yashodamma S.'s*** case (Supra), is reasonable and appropriate. Accordingly, the income of the deceased is notionally assessed as Rs.18,000/- per month. Thus, the appellants are entitled to enhanced amount of compensation of Rs.22,51,600/-. With respect to the rate of interest, this Court is consistently awarding the rate of interest at the rate of 7.5% per annum, which rate of interest is also reasonable in the present case.

21. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and award dated 12.01.2015 is modified and respondent No.3-Insurance Company is directed to pay an additional amount of compensation to the tune of Rs.22,51,600/- to the appellants along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation within a period of two months from today.

22. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

09.09.2025

Pawan

**Whether speaking/reasoned:-
Whether reportable:-**

**(VIKAS BAHL)
JUDGE**

**Yes/No
Yes/No**