

FAO-4796-2009 (O&M),
FAO-5555-2009 (O&M) &
FAO-535-2010 (O&M)

[1]

2025:PHHC:052302



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

1. FAO-4796-2009 (O&M)
Date of decision: 24.04.2025

The New India Assurance Company Limited

...Appellant

Versus

Smt. Aruna and others

...Respondents

2. FAO-5555-2009 (O&M)
Date of decision: 24.04.2025

Smt. Aruna and another

...Appellants

Versus

Harlabh @ Harlal Singh and others

...Respondents

3. FAO-535-2010 (O&M)
Date of decision: 24.04.2025

Smt. Aruna and another

...Appellants

Versus

Harlabh @ Harlal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. R.N.Singal, Advocate for the appellant
(In FAO-4796-2009)



Mr. Gopal Mittal, Advocate for the appellants
(In FAO-535-2010 & FAO-5555-2009) and
for respondent Nos.1 and 2 (In FAO-4796-2009)

Mr. Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Company
(In FAO-5555-2009 & FAO-535-2010)

VIKAS BAHL, J. (ORAL)

1. The present order would dispose of three appeals i.e., FAO-4796-2009, FAO-5555-2009 & FAO-535-2010. FAO-4796-2009 has been filed by the New India Assurance Company Limited against MACT case No.209 of 2005 with respect to the death of Mukesh Kumar. The sole prayer in the said appeal is for reduction of the amount of compensation awarded to the claimants on account of the death of Mukesh Kumar, which was to the tune of Rs.37,57,000/- along with interest. FAO-5555-2009 has been filed by the widow and daughter of the deceased Mukesh Kumar and they are seeking enhancement of the compensation awarded to them in MACT Case No.209 of 2005. FAO-535-2010 has also been filed by the appellants in FAO-5555-2009 i.e., Smt. Aruna, widow of Mukesh Kumar and Jaya daughter of Mukesh Kumar and they are seeking enhancement of the compensation awarded on account of death of Shivam (son of Smt. Aruna and brother of Jaya) regarding which the Motor Accident Claims Tribunal, Panchkula (hereinafter to be referred as “the Tribunal”) had granted total amount of compensation to the tune of Rs.2,50,000/- in MACT Case No.211 of



2005. In the said case, with respect to the death of Shivam, no appeal has been filed by the Insurance Company or any other party.

2. It would be relevant to note that the appeal filed by the New India Assurance Company Limited i.e., FAO-4796-2009 was earlier dismissed by the Coordinate Bench of this Court on 05.10.2009 and subsequently, New India Assurance Company Limited had filed Civil Appeal No.2743 of 2010 and the Hon'ble Supreme Court vide order dated 20.01.2015 was pleased to set aside the judgment passed by this Court and had remanded the matter to this Court for decision on merits.

3. In the present cases, it is not in dispute that Mukesh Kumar, husband of Smt. Aruna and father of Jaya, as well as Shivam son of Smt. Aruna and brother of Jaya had died in the accident which had taken place on 23.02.2004.

4. Learned counsel for the claimants as well as learned counsel for the Insurance Company have jointly submitted that the only issue which arises in the present case is with respect to the amount of compensation that has to be awarded to the claimants and other issues, more so, with respect to the Insurance Company being liable and also the fact that Harlabh @ Harlal Singh was the driver of the offending vehicle and Devendra Kumar Sharma was the owner of the same and the said vehicle was insured by the Insurance Company i.e., New India Assurance Company Limited, are not in dispute.

5. Learned counsel for the claimants i.e., widow and daughter of deceased Mukesh Kumar, has submitted that with respect to the amount



of compensation awarded in the MACT Case No.209 of 2005, the Tribunal had although assessed the annual income to be Rs.3,75,000/- per annum but had not granted any future prospects and since the age of the deceased was 42 years, thus, the benefit of additional 25% of salary as future prospects is required to be given to the claimants. It is submitted that an amount of Rs.96,800/- on account of loss of consortium is also required to be given to the claimants, which had not been given by the Tribunal. It is further submitted that an amount of Rs.18,150/- on account of loss of estate and another amount of Rs.18,150/- on account of funeral expenses are required to be given to the claimants. It is submitted that the additional amount on account of the abovesaid accounts should be given to the claimants along with interest at the rate of 9% per annum from the date of filing of the claim petition till the date of actual payment. In support of his arguments, learned counsel for the claimants-appellants has 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.

6. Learned counsel for the respondent-Insurance Company, on the other hand, has submitted that the multiplier in the present case which had been applied by the Tribunal was '15' whereas multiplier which has



to be applied in the present case would be '14' as the age of the deceased was admittedly 42 years, even as per the finding of the Tribunal. It is submitted that the interest at the rate of 9% per annum which is sought to be claimed by the counsel for the claimants on the additional amount of compensation is highly excessive and at best, interest at the rate of 6% per annum should be made applicable.

7. Learned counsel for the appellants, after taking into consideration the objections raised by learned counsel for the Insurance Company, with respect to the claim on account of death of Mukesh Kumar, has submitted a revised chart which is reproduced hereinbelow:-

“Re-Assessment of Compensation in FAO. No. 5555 of 2009

Smt. Aruna and another vs. Harlabh and others.

Death Case: Claim Petition under Section 166 of M.V.Act

Date of Accident : 23.2.2004

Name of the Deceased: Sh. Mukesh Kumar

Claimants : Widow and Minor daughter filed Petition No. 209 of 2005 on account of death of Mukesh

Mother Filed Separate Petition No. 225 of 2006/2007 on account of death of Mukesh (Both Consolidated and decided by one Common Award of Dt. 15.6.2009

Age of the Deceased: 42 years

Occupation: Businessman

Involved in the Business of Rice Sheller; Cotton Mill; Petrol Pump and Import and Export

Income : Rs. 3,75,000/- P.A. from all the sources as held by the ld. tribunal

Award of Tribunal : Rs. 37,57,000/- alongwith interest @



9% p.a. from the date of filing of the petition till its realization.

Proposed Enhancement in view of the latest judgments:-

Annual Income =Rs. 3,75,000 as assessed by the tribunal from all the sources after deducting of Tax.

Future Prospectus = 25% = 93750 (as the deceased was 42 years old)

Multiplier = 14 (Tribunal applied 15)

Total Income =Rs. 3,75,000 + 93750 = 4,68,750

Dependency = Cut of 1/3rd = 1,56,250

Total Dependency = 4,68,750 – 1,56,250=3,12,500/-

Multiplier= 14

Total Compensation = 312500X 14 = 43,75,000

Loss of Consortium = Rs. 96,800

Loss of Estate=Rs. 18,150

Funeral Exp.-Rs. 18,150

Total = 45,08,100/-

Awarded by Tribunal = Rs. 37,57,000

*Balance = Rs. 45,08,100-37,57,000 = **Rs. 7,51,100***

Interest @ 9% p.a. from the date of Petition i.e. 29.7.2005 till 22.4.25 = 13,29,266

*Enhancement under both the Components = **Rs.20,80,366***

till 22.4.25

Submitted By

Gopal Mittal

Advocate

For Claimants. Aruna and Jaya.”

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 42 years, multiplier of 14 is to be applied and for the age of 15 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 with respect to persons who were having a permanent job or/were self-employed or on a fixed salary.

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 and 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, the amount of consortium awarded was made dependent upon the number of claimants/legal representatives.

15. In view of the abovesaid judgments as well as the facts and circumstances of the case, the revised chart as submitted by learned counsel for the appellants-claimants, which has been reproduced hereinabove is in accordance with law and deserves to be upheld except on the aspect of rate of interest which is sought to be claimed by the appellants-claimants. It is not in dispute that the annual income which had been assessed by the Tribunal was Rs.3,75,000/- from all the sources after deducting tax. The Tribunal had not given the benefit of future prospects which was required to be given and the same would be an addition of 25% of income of the deceased and also the amounts on account of loss of consortium, loss of estate and funeral expenses to the tune of Rs.96,800/-, Rs.18,150/- and Rs.18,150/- respectively are



correctly sought to be claimed by the claimants on the basis of settled law and the said aspects have not been disputed before this Court on behalf of the Insurance Company.

16. Learned counsel for the Insurance Company has rightly pointed out that multiplier in the present case which is to be applied should be '14' as the deceased was 42 years of age and the multiplier of '15' had been wrongly applied by the Tribunal. Accordingly, the claimants are entitled to an additional amount of compensation to the tune of Rs.7,51,100/- with respect to the claim on account of death of Mukesh Kumar. 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.

17. With respect to the claim of compensation on account of death of Shivam, it would be relevant to reiterate that the Insurance Company has not challenged the compensation awarded by the Tribunal to the claimants who are mother (Smt. Aruna) and sister (Jaya) of the deceased Shivam. The said two claimants were awarded an amount of Rs.2,50,000/- along with interest by the Tribunal.

18. Learned counsel for the claimants/appellants in FAO-535-2010 has submitted that the exact age of the deceased Shivam at the time of accident was 15 years, 5 months and 13 days as his date of birth was 10.08.1988, as was reflected in the birth certificate which was duly exhibited as Ex.P12. It is stated that he was a brilliant student and his initial education was from Pestle Weed College, Dehradun and at the



time of accident, he was a student of 9th class at Sanawar School. It is argued that as per settled law, in the facts and circumstances of the present case, notional income of Rs.50,000/- per annum was required to be taken into consideration for the purpose of awarding compensation. It is submitted that the multiplier of '18' would be applicable in the present case and further an amount of Rs.96,800/- on account of loss of consortium, Rs.18,150/- on account of loss of estate and another amount of Rs.18,150/- on account of funeral expenses are also payable to the claimants on account of death of Shivam as per settled law. The judgments on the said aspect referred by the learned counsel for the appellants-claimants while arguing the connected appeal filed with respect to death of Mukesh Kumar, would be relevant for consideration and deciding the present appeal. The chart as submitted by learned counsel for the appellants-claimants in FAO-535-2010 is reproduced hereinbelow:-

“Re-Assessment of Compensation in FAO. No. 535 of 2010

Smt. Aruna and another Vs. Harlabh and others.

Death Case: Claim Petition under Section 166 of M.V.Act

Date of Accident : 23.2.2004

Name of the Deceased: Shivam s/o late Sh. Mukesh Kumar

Age : Date of Birth (10.8.1988 as per Birth Certificate Ex. P-12). He was Aged about 15 years 5 Month and 13 days at the time of accident.

Claimants : Mother and Minor Sister

Occupation : Brilliant Student. Initial Education from Pestle Weed College Dehradun and at the time of accident was a



Student of 9th class at Sanawar School.

Award of Tribunal : Lump Sum Compensation of Rs. 2,50,000/- had been awarded along with interest @ 9% p.a. Out of the total amount, Rs. 2,00,000 along with interest accrued thereupon had been awarded to the mother and Rest of Rs. 50,000/- along with interest accrued thereupon was awarded to the minor sister.

Proposed Enhancement in view of the latest judgments:-

Notional Income Rs. 50,000 P.A.

Multiplier = 18

Total Compensation = 50,000 X 18 = Rs. 9,00,000

Loss of Consortium Rs. 96,800

Loss of Estate= Rs. 18,150

Funeral Exp.=Rs. 18,150

Total = 10,33,100

Awarded by Tribunal Rs. 2,50,000

Balance = Rs. 10,33,100-2,50,000= Rs. 7,83,100

Interest @ 7.5% p.a. from the date of Petition i.e. 29.7.2005 till realization.

Submitted By

Gopal Mittal

Advocate

For Appellants/Claimants. Aruna and Jaya”

19. It is submitted that thus, the appellants/claimants in FAO-535-2010 are entitled to an additional amount of compensation to the tune of Rs.7,83,100/-. It was initially submitted by the learned counsel for the appellants-claimants that the said additional amount of compensation should be awarded to the appellants-claimants along with interest at the rate of 9% per annum but on the objection raised by the learned counsel



for the Insurance Company and also keeping in view the consistent orders passed by this Court, the interest at the rate of 7.5% per annum is being claimed from the date of filing of the claim petition till the date of its realisation. It would be relevant to note that the chart as submitted by learned counsel for the appellants-claimants in FAO-535-2010 is in accordance with law and could not be disputed by learned counsel for the Insurance Company except with respect to the aspect of rate of interest, which has been duly reduced in the said chart.

20. With respect to the notional income having been claimed at Rs.50,000/- per annum, it would be relevant to refer to the **judgment dated 18.02.2016** passed by the Coordinate Bench of this Court **in FAO-497-2003 titled as Nachhattar Singh and another Vs. Jagga Singh and others and other connected matters**, in which, the deceased therein were 15 years of age and were stated to be studying in 10th class and the accident took place in the year 1999 and the notional income was assessed as Rs.35,000/- per annum. While doing so, reliance was placed upon the judgment passed by the Hon'ble Supreme Court in the case of **Kishan Gopal and another Vs. Lala and others** reported as **2013(5) CTC 212**, wherein the notional income of the child of 10 years of age who had got killed in an accident in the year 1992 was assessed as Rs.30,000/- per annum. Relevant portion of the judgment passed in the case of **Nachhattar Singh and another (Supra)** is reproduced hereinbelow:-

“Both the deceased were 15 years of age and were studying in 10th class. They are to be taken as non-earning



*members of the family. Hon'ble Apex Court in case of **Kishan Gopal and Anr. Vs. Lala and others 2013 (5) CTC 212**, assessed notional income of a child of 10 years of age, who got killed in the accident as Rs.30,000/- per annum. In that case, accident had taken place in the year 1992. Keeping in view the inflationary trend, rising prices and increase in the cost of living during the period from 1992 to 1999, annual income of the deceased can be safely assessed as Rs.35,000/- per annum.*

*In case of **Kishan Gopal and Anr. Vs. Lala and others (supra)**, Hon'ble Apex Court has applied multiplier as per the age of claimant. However, while calculating the amount of compensation in case of **Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447**, a three judges Bench of Hon'ble Apex Court has held that the multiplier is to be applied as per the age of the deceased. In case of **Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121**, multiplier of 18 was suggested for the deceased within the age group of 15 to 25 years.”*

21. In the present case, it is not in dispute that the deceased was aged about 15 years, 5 months and 13 days on the date of accident which had taken place on 23.02.2004 (i.e., 5 years after 1999, which was the date of accident in the abovesaid case) and thus, taking into consideration the abovesaid facts, the notional income of Rs.50,000/- per annum which is sought to be claimed, is in accordance with law. Reference can also be made to the judgment of the Coordinate Bench of this Court passed in **FAO-159-2015 decided on 10.07.2017 titled as Beet Nath and another**



Vs. Gulab Singh and others, in which with respect to a boy of 15 years of age, the notional amount was taken to be Rs.50,000/-. Even other amounts on account of loss of consortium, loss of estate and funeral expenses have been rightly mentioned in the said chart, thus, the claimants in FAO-535-2010 are entitled to an additional amount of compensation to the tune of Rs.7,83,100/- along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of its actual realisation.

22. Accordingly, all the three appeals are disposed of with the following directions:-

- i) The New India Assurance Company Limited is directed to pay the additional amount of compensation on account of death of Shivam to the tune of Rs.7,83,100/- 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 six weeks from today to the claimants/appellants in FAO-535-2010 i.e., Smt. Aruna and Smt. Jaya in the same proportion as had been awarded by the Tribunal. Learned counsel for the appellants-claimants has given the details of the bank accounts of Smt. Aruna and Jaya which is as under:-

“Bank Account Details of Smt. Aruna Aggarwal:-

Account No.067010100055383, Bank Name:- AXIS Bank Limited situated at Panchkula (HR), Panchkula-134109, IFS Code:-UTIB0000067

Bank Account Details of Smt. Jaya Aggarwal:-

Account No.067010100342551, Bank Name:- AXIS Bank



*Limited situated at Panchkula (HR), Panchkula-134109, IFS
Code:-UTIB0000067”*

The said bank details have also been given to the learned counsel for the Insurance Company and thus, the Insurance Company is directed to deposit the abovesaid amount of compensation along with interest in the same proportion as ordered by the Tribunal, within a period of six weeks, in the abovesaid two accounts.

- ii) With respect to the claim on account of death of Mukesh Kumar, the respondent-Insurance Company is directed to deposit the additional amount of compensation to the tune of Rs.7,51,100/- 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 six weeks from today in the abovesaid bank accounts of the claimants-Smt. Aruna as well as Smt. Jaya in the proportion of 80% and 20% respectively.
- iii) It would be relevant to note that the mother of the deceased Mukesh Kumar i.e. Ram Pyari had also filed a separate claim petition No.225 of 2006/07 and she was awarded an amount of Rs.5 lacs along with interest accrued thereupon out of the total amount of Rs.37,57,000/- along with interest. It has been stated by learned counsel for the appellants in FAO-5555-2009 that the said Ram Pyari had died on 19.09.2010 and no one has come to pursue her appeal i.e., FAO-5806-2009. It is however, fairly submitted by



learned counsel for the appellants in FAO-5555-2009 that in case any claim is made by legal representatives of the said Ram Pyari then the appellants in FAO-5555-2009 would make good the said claim in the said proportion as had been ordered by the Tribunal.

- iv) Learned counsel for the claimants-appellants has submitted that 50% of the amount of compensation on account of interim orders is lying in the Punjab National Bank, Sector-20, Panchkula and the same be released to the claimants. In case the said amount is lying in the bank, as stated by the learned counsel for the appellants, the same be released to the claimants/appellants in FAO-5555-2009, in accordance with law.

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

24.04.2025

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**