

FAO-1619-2002 (O&M)

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

217-2

**FAO-1619-2002 (O&M)
Decided on : 08.08.2023**

Paramjit Kaur and others

. . . Appellant(s)

Versus

Satpal and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Vivek Suri, Advocate,
for the appellants.

Mr. Kamal Deep Singh Sidhu, Advocate, and
Ms. Kirandeep Kaur, Advocate
for respondent No.1.

Mr. Lalit Garg, Advocate
for respondent No.3 – Insurance Company.

SANJAY VASHISTH, J. (Oral)

1. The present appeal has been filed by the appellants/petitioners/claimants (hereinafter referred as 'claimants') in MACT Case No. 29 of 1998 dated 26.03.1998 for modification of award/judgment dated 20.10.2000 passed by Ld. Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of Surjit Singh.

2. The Claimants in the MACT case were widow (Claimant No. 1), daughters (Claimant No. 2 and Claimant No. 3), son (Claimant No. 4), father (Claimant No. 5) and mother (Claimant No. 6) of the deceased - Surjit Singh.

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Counsel for the appellants, at this stage, informs the Court that Maya Kaur (mother of the deceased) had already expired before filing of the appeal. Thus, FAO-1618-2002 had been filed by the Mukhtiar Singh (father of the deceased) only, while FAO-1619-2002 has been filed by the widow, daughters and son of the deceased – Surjit Singh (Claimants No. 1 to 4). Learned counsel for the appellants further informs the Court that even Mukhtiar Singh (sole appellant in FAO-1619-2002), has died during the pendency of the present appeal.

3. Briefly stated facts of the case are that the fatal accident took place on 14.02.1998 when the deceased - Surjit Singh was coming from Dhakansu to his house at Rajpura. He was driving a scooter bearing No. PB-39/7708 at a normal speed on the left hand side of the road, while, Satpal Singh (driver) and Jaspal Singh (pillion rider) were behind him on the scooter bearing No. HR-07/1170. At about 03:15 p.m, a truck bearing no. RJ-13G/0159 came from the Chandigarh side and struck with the scooter of the deceased- Surjit Singh. Surjit Singh fell down, got caught in the lower portion of the truck and died on the spot. The said accident was witnessed by Satpal Singh and Jaspal Singh who were on their scooter behind the scooter of deceased – Surjit Singh. For the said accident, FIR No. 33, dated 14.02.1998, under Sections 279/304-A IPC, was registered at Police station, Rajpura. (Ex.A1).

4. Claimants filed a claim petition under Section 166 of The Motor Vehicles Act, 1988 for seeking compensation of Rs. 15 Lakhs before the Ld. Tribunal pleading that Satpal - Driver of the truck (Respondent No.1) was driving the truck in a rash and negligent manner, that led to the fatal

accident.

5. After completion of the pleadings, Ld. Tribunal framed the following issues:

- I. Whether the death of Surjit Singh (who died at the spot) was caused in a motor vehicle accident on February 14, 1998 owing to rash and negligent driving of truck No. RJ-13G/0159 by Satpal Respondent No.1? OPP*
- II. To what amount of compensation, are the claimants entitled to and from whom? OPA*

However, on 18.10.2000, an additional issue was framed by Ld. Tribunal:

- III. Whether Satpal – Respondent No. 1 was not holding a valid driving license at the time of the alleged accident? OPR*

6. For proving the issue No.1, Claimants examined Satpal Singh as AW-2, who was the eye witness of the accident and he categorically deposed that the deceased – Surjit Singh was driving the scooter at a normal speed on the correct left hand side of the road and the accident occurred due to rash and negligent driving of Truck bearing No. RJ-13G/0159. The truck driver did not blow any horn and struck against the scooter of deceased – Surjit Singh from behind. The truck driver managed to escape from the spot and was later identified as Satpal – Respondent No.1. He left his pillion rider – Jaspal Singh at the spot and reported the matter to the police. The post mortem of the body of the deceased – Surjit Singh was conducted at A.P Jain Hospital, Rajpura and was proved as Ex.A.2.

7. Respondent No.1 failed to appear before the Ld. Tribunal and

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statement of Satpal Singh (AW-2) remained unimpeached and unrebutted in the cross examination. Further, no oral or documentary evidence was placed on file by the respondents to contradict the deposition of Satpal Singh (AW-1). In view of the deposition of the witnesses and evidence on record, Ld. Tribunal decided the Issue No. 1 in favour of Claimants.

8. It was claimed by Claimants that the deceased Surjit Singh was 42 years old at the time of the accident and was having a robust health. He was engaged in the agriculture and dairy farming and used to earn Rs.1,00,000/- per annum from agriculture while, Rs. 5,000 per month from dairy farming. Paramjit Kaur – widow of deceased (AW-1) further stated that the whole family was totally dependent on the earnings of the deceased – Surjit Singh and father and mother of the deceased are of very old age and suffering from various ailments.

9. Ajaib Singh (AW-3) also appeared as a witness and deposed that he knew deceased - Surjit Singh and had leased 6 acres land to deceased- Surjit Singh in 1966-67. In the cross- examination of Paramjit Kaur (AW-1), she deposed that name of the deceased – Surjit Kaur is entered as a cultivator, however, Ajaib Singh (AW-3) deposed that the said transaction was only oral in nature and not reported to the Patwari. Further, it was admitted that there was no land in the name of the deceased – Surjit Singh. The claimants further pleaded that Mukhtiar Singh – father of the deceased (Claimant No. 5) owned some land (Ex.A3), however, even that land was shown to be self-cultivated in records.

10. Thus, considering the statements of the witnesses and the evidences available on record, Ld. Tribunal came to the conclusion that the

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deceased – Surjit Singh used to earn Rs. 1200-1300/- from agriculture while claimants were not able to prove the income of the deceased – Surjit Singh from dairy farming. Ld. Tribunal further held that the deceased – Surjit Singh would have been spending Rs. 200-300/- on himself, thus, the claimants were dependent on the deceased – Surjit Singh to the extent of Rs.1000/-.

11. Thus, Ld. Tribunal determined the monthly income of the deceased as Rs. 1,000/- per month. Age of the deceased was assessed as 42 years and a multiplier of 14 was applied. Ld. Tribunal further awarded Rs. 2,000/- as funeral expenses. Thus, the total compensation awarded by the Tribunal was Rs. 1,70,000/-alongwith interest at the rate of 12% per annum from the date of the filing of the application till realization.

However, Ld. Tribunal held that the father of the deceased being owner of the land and mother of deceased being dependent on her husband are not entitled to any compensation. It was further held that the Satpal (Respondent No.1) was having a valid driving license.

12. Thus, all the respondents i.e Driver – Satpal (Respondent No.1), Owner – Jai Kumar (Respondent No.2) and National Insurance Company were **held jointly and severally liable to pay the amount of compensation.**

Appellants/Petitioners/Claimants have filed the present appeal seeking enhancement of the compensation as awarded by the Ld. Tribunal.

13. While addressing arguments, counsel for the appellants submits that the Ld. Tribunal has erred in determining the monthly salary of the deceased – Surjit Singh as only Rs. 1,200-1300/-per month. Counsel for the

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appellants submits that the deceased – Surjit Singh was an able bodied person and was engaged in agriculture as well as dairy farming. Ld. Tribunal failed to appreciate the fact that Mukhtiar Singh (father of the deceased) is an old aged person and is suffering from defect in his backbone, thus, the land owned by Mukhtiar Singh was cultivated by his deceased son – Surjit Singh. Thus, Ld. Tribunal has committed an error in treating the deceased as an agricultural labourer and determining such a low amount as his income.

14. On the other hand, Ld. Counsel for Respondent No. 3 – Insurance Company submits that the Ld. Tribunal has rightly determined the monthly salary of the deceased as Rs. 1200-1300/- per month. He submits that it is an admitted fact that there was no land in the name of the deceased – Surjit Singh and also no documentary proof exists of leasing of land by Ajaib Singh (AW-4) to the deceased – Surjit Singh. He further submits that claimants have totally failed in proving any income of the deceased from dairy farming and said argument has been raised by the claimants only for the purpose of inflating the claim.

15. It is further averred by the Counsel for the appellants that in consonance with the well settled law laid down by the Hon'ble Apex Court in ***National Insurance Company Limited v. Pranay Sethi and Ors., 2017(4) RCR (Civil) 1009 : Law Finder Doc Id #918174*** and ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77 : Law Finder Doc ID #188882***, although, the Ld. Tribunal has rightly applied the multiplier of 14, but has failed to provide enhancement in the shape of future prospects to the tune of 25% as the deceased – Surjit Singh was self-employed and was of the age of 42 years (between 40 to 50 years of

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age) at the time of his death.

16. He further submits that Ld. Tribunal has made a deduction of Rs. 200-300/- on account of personal expenses of the deceased which is not based on any plausible reasoning. In view of the law laid down by the Apex Court, the deduction should be 1/4th as the number of dependents of the deceased are six. He further prays for Rs.50,000/- on account of funeral expenses, Rs.20,000/- on account of loss of estate and Rs. 44,000/- each on account of loss of spousal consortium to Appellant No.1 & loss of parental consortium to Appellants No. 2, 3 and 4. He further submits that interest on the said amount should be maintained @ 12% as awarded by Ld. Tribunal.

17. Ld. Counsel for the Respondent No. 3 – Insurance Company submits that amount of compensation has been rightly awarded by the Ld. Tribunal and there is no need of causing any interference in the well-reasoned award passed by the Ld. Tribunal.

18. I have gone through the impugned award and the calculations mentioned therein, heard the learned counsel for the parties and has perused the authorities cited.

19. There is no doubt that in a situation where the different Courts at different times were at diversions in their opinion and in the absence of any clarification by the law makers despite recommendations by the Hon'ble Apex Court, all the major issues were referred to the larger Bench and accordingly, Constitution Bench was constituted in **Pranay Sethi's case (supra)**. Thus, for the purpose of reaching out to appropriate amount of compensation for adjudging the rights of the claimants, guidelines laid down in the judgment of the Constitution Bench in **Pranay Sethi's case (supra)**,

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would help the Courts.

20. In a recent judgement of the Hon'ble Apex Court titled as *Manusha Sreekumar and others v. The United India Assurance Co. Ltd., 2022 LiveLaw (SC) 858*, authored by HMJ Surya Kant, the Apex Court reiterated the purpose of the Motor Vehicles Act, 1988 which is a beneficial legislation. The relevant extract is reproduced herebelow:

“16. The act being a social welfare legislation operates through economic conception in the form of compensation, which renders way to corrective justice. Compensation acts as a fulcrum to bring equality between the wrongdoer and the victim, whenever the equality gets disturbed by the wrongdoer's harm to the victim. It also endeavours to make good the human suffering to the extent possible and to also have families which have lost their breadwinners from being pushed to vagrancy. Adequate compensation is considered to be fair and equitable compensation. Courts shoulder the responsibility of deciding adequate compensation on a case-to-case basis. However, it is imperative for the Courts to grant such compensation which has nexus to the actual loss.”

21. For the purpose of assessing the amount of compensation payable to the claimants, this Court will now deal with all the aspects in order.

I. ASSESSMENT OF MONTHLY SALARY:

I.(A) Determination of Salary of deceased

22. In order to compute the amount of compensation payable to the claimants, the first aspect to be determined is the monthly salary of the deceased. Ld. Counsel for the appellants submits that the deceased - Surjit

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Singh was an able bodied person, thus, Ld. Tribunal has erred in determining the salary of deceased as merely Rs. 1,200-1300/-. Counsel for the appellants states that deceased - Surjit Singh used to do agriculture work on land owned by his father Mukhtiar Singh as well as on 6 acres of land leased to him by Ajaib Singh (AW-4). Apart from this, deceased was also engaged in dairy farming and used to own four buffaloes. Thus, the income of the deceased should have been determined as Rs. 1,00,000/- per annum from agriculture as well as Rs.5,000/- per month from dairy farming.

23. On the other hand, Ld. Counsel for the Respondent No. 3 – Insurance Company argues that the Ld. Tribunal has rightly determined the income of the deceased as Rs. 1,200-1300/- as it is an admitted fact that deceased – Surjit Singh did not own any land in his name. He further submits that as far as land owned by father of the deceased is concerned, in the record, it is clearly mentioned that land is cultivated by the owner himself that is Mukhtiar Singh and claimants have also failed to prove any documentary evidence regarding the alleged leased land. Thus, the income determined by the Ld. Tribunal is worth to be maintained.

24. This Court has gone through facts of the case and contentions of both the counsel. This Court has also gone through the judgment of the Apex Court in **Chandra alias Chanda alias Chandraram and Anr. V. Mukesh Kumar Yadav and Ors., (2022) 1 SCC 198** which is recently reiterated by the Apex Court in **Manusha Shreekumar's case (supra)** in which the Court aptly held that in the absence of proof of income of the deceased, the minimum wages notification along with some amount of guess work that is not completely detached with reality shall act as a yardstick to

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determine the income of the deceased. For the sake of convenience, Paragraph 19 of the **Manusha Shreekumar's case (supra)**, has been reproduced herebelow:

*“19. Applying the above parameters to the instant case, there exists sufficient evidence to show that the Deceased, undoubtedly, was a fish vendor-cum-driver with a valid license. The certificate issued by the Kerala Motor Transport Workers Welfare Fund Board, certifying the Deceased as the driver of light motor goods vehicle bearing Registration No.KL-36-B-7822 under the ownership of one Shri Prakashan has been proved on record. Further, the Deceased had also paid all his subscriptions to the Board from April 2012 until the month he died. We find no reason to doubt that the Deceased was a driver at the time of his death. **This Court in Chandra Alias Chanda Alias Chandraram and Anr. v. MukeshKumar Yadav and Ors., has aptly held that in the absence of a salary certificate, the minimum wages notification along with some amount of guesswork that is not completely detached from reality shall act as a yardstick to determine the income of the deceased.**”*

25. This Court has also gone through the judgment of the co-ordinate bench of this Court in **Ram General Insurance Company Ltd. V. Beant Kaur, 2020 ACJ 2163: Law Finder Doc Id # 1434464**, wherein it was held that in cases where no evidence is brought on record by the claimants to prove the income of the deceased/ injured, it is the minimum wages as fixed under the Minimum Wages Act which should be taken as a ‘primary’ guiding factor while assessing the income of the deceased. For the sake of convenience, Para 11 and 12 of the judgment is reproduced herebelow:

“11. There is merit in the proposition that in cases where no evidence is brought on record by the claimants to prove the income of the deceased/injured, it is the minimum wages as fixed under the Minimum Wages Act which should be taken as the 'primary' guiding factor while assessing the income for the purpose of calculation of the compensation to be awarded under the Motor Vehicles Act.

12. At the same time, it is not possible to hold that in all situations where no documentary evidence is brought on record, it is the minimum wage as fixed under the Minimum Wages Act which alone is to be assessed as the income of the deceased/injured dehors the facts and circumstances of a particular case. Doubtlessly, minimum wage fixed under the Minimum Wages Act provides a sound criterion/guideline and benchmark to assess the income of the deceased/injured in such cases, but at the same time, the tribunal/Court cannot be confined or restricted to the same. It is open to the tribunal/Court to assess the income at a rate which may be higher than the minimum wage so notified keeping in view the evidence on record in that particular case.”

26. Thus, in view of the law laid down by the Apex Court and followed by coordinate Bench of this Court, this Court is of the view that for the purpose of assessing the amount of compensation payable to the claimants, minimum wages prevalent in the state at the time of the accident should be considered to determine the monthly income of the deceased. In the case in hand, accident occurred on 14.02.1998 in the jurisdiction of the Police Station, Rajpura, Punjab, thus, the minimum wages prevalent in the state of Punjab at the time of accident is applicable. For the sake of convenience, **Table No. II of the notification No. ST/CPI/MW/3302 dated**

07.11.2000 published by Labour Department, Punjab (Research and

Statistical Section) regarding minimum rates of wages of unskilled workers is reproduced herebelow:

TABLE No.II			
Minimum rates of wages of unskilled workers in respect of employment will now be :-			
Sr. No.	As on	Monthly (in Rs.)	Daily (in Rs.)
1.	1.7.1995	1350.00	51.95
2.	1.9.1995	1378.20	53.03
3.	1.3.1996	1420.50	54.65
4.	1.9.1996	1448.70	55.73
5.	1.3.1997	1509.80	58.07
6.	1.9.1997	1542.70	59.33
7.	1.3.1998	1585.00	60.95
8.	1.9.1998	1641.40	63.11
9.	1.3.1999	1749.50	67.25
10.	1.3.2000	1795.50	69.05
11.	1.9.2000	1843.50	70.85

27. Thus, as per entry No. 7 in the Schedule reproduced above, as on 01.03.1998 that is on the date of the accident, minimum wages prevailing in the state of Punjab was Rs. 1,585/- per month or Rs. 60.95 daily for unskilled workers. In view of the law laid down by the Apex Court and the notification issued by Labour Department, Punjab, the monthly income of the deceased is hereby assessed as Rs. 1,585/- per month.

Accordingly decided.

I.(B) Future Prospects:

28. Counsel for the appellants further argues that the Ld. Tribunal has failed to provide enhancement towards future prospects to the salary of the deceased in consonance with guidelines laid down by the apes Court in **Pranay Sethi’s case (supra)**. Thus, the claimants are entitled to enhancement of 25% as future prospects as the deceased – Surjit Singh was self-employed in agriculture and dairy farming and was 42 years of age which lies between 40 and 50 years of age. Counsel refers to Para 61 (iv) of

the said judgment, which is reproduced herebelow:

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

x-----x-----x-----x-----x-----x-----

x-----x-----x-----x-----x-----x

(iv) *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.*

29. Therefore, in view of the law laid down by Hon'ble Apex Court, this court deems it fit to add future prospects to the tune of 25% to the monthly salary of the deceased – Surjit Singh. Hence, an amount of Rs. 396/- (25% of Rs.1,585) is added as future prospects and thus, the monthly income of the deceased comes out to be Rs. 1,981/- (Rs. 1,585/- + Rs. 396/-).

I.(C) Deduction Towards Personal Expenses:

30. In the judgment of the Constitution Bench in **Pranay Sethi's case (supra)**, Hon'ble Apex Court has affirmed the formula laid down in **Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77 : Law Finder Doc Id #188882**, for the purpose of calculation of deduction towards personal expenses. The relevant para No.14

of the said judgment says as under:-

*“14. 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 standardized deductions. Having 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 exceed six.”*

31. As pointed out by counsel for the appellants (claimants) there are total six claimants in the MACT case filed before the Ld. Tribunal, thus, deduction of salary of the deceased would 1/4th of the income assessed.

32. On the other hand, Counsel for the Respondent No. 3 – Insurance Company argues that although, the claim petition has been filed by six claimants but in the award passed by Ld. Tribunal, there is a specific finding in Paragraph No. 25 and 26 of the impugned award that father and mother of the deceased are not entitled to any compensation. For the sake of convenience, the relevant extract of the award passed by the Ld. Tribunal is reproduced herebelow:

“25. Mukhtiar Singh claimant is the owner of the land. Therefore, he is a self dependent person. He was not dependent on his son Surjit Singh. Therefore, he is not entitled to any compensation.

26. Maya Kaur claimant was dependent on her husband Mukhtiar Singh who owns agricultural land and therefore,

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Maya Kaur claimant was also not entitled to any compensation.”

33. Be that as it may, both the Counsels are *ad-idem* to the fact that in view of the law laid down by the Apex Court in **Sarla Verma’s case (supra)**, the amount of deduction is same if the dependents fall in the category of four to six. Thus, this Court assesses deduction for the personal expenses of the deceased as $\frac{1}{4}$ th of the income of the deceased. Therefore, Appellants (petitioners/claimants) would be entitled to receive $\frac{3}{4}$ th of the remnant amount of salary of the deceased, which comes out to Rs. 1,485/- per month.

Accordingly decided.

I.(D) Annual Salary of Deceased:

34. Now, by multiplying the monthly salary of the deceased – Surjit Singh i.e. Rs. 1,485/- with 12 months i.e. one year period, the total entitlement of compensation of appellants (claimants) would be of Rs. 17,829/- per annum.

Accordingly decided.

II. MULTIPLIER:

35. Counsel for the appellants (claimants) submits that multiplier of 14 as applied by the Ld. Tribunal is in consonance with the law laid down by Hon’ble Apex Court, and is thus, worth to be maintained.

Said submission of the Counsel for the appellants is also not opposed by the learned counsel for respondent No.3 - Insurance Company.

36. This Court has gone through the submissions and the findings recorded by the Hon’ble Apex Court in **Pranay Sethi's case (supra)** as well

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as in **Sarla Verma's Case (supra)**. Undoubtedly, as per the schedule given in Sarla Verma's case (supra), for the age group of 40 to 50 years, applicable multiplier is 14.

Thus, this Court is of the view that multiplier as applied by the Ld. Tribunal is worth to be maintained.

III. LOSS OF FUTURE INCOME:

37. This way, total amount of compensation, by applying the multiplier of 14, would be of Rs. 2,49,606/- (Rs. 1,485 x 12 x 14).

Accordingly decided.

IV. ASSESSMENT QUA COMPENSATION OF LOSS OF ESTATE, FUNERAL EXPENSES AND LOSS OF CONSORTIUM:

38. Out of all the aforesaid three heads, Ld. Tribunal has awarded only Rs. 2000/- qua funeral expenses. Surprisingly, no amount of compensation was even assessed towards loss of estate and loss of consortium. Keeping in view the amount awarded in another judgment by the Hon'ble Apex Court i.e. **Smt. Anjali and others v. Lokendra Rathod and others 2023 (1) R.C.R. (Civil) 229: Law Finder Doc ID #2081014** lump-sum amount towards of Rs. 20,000/- can be considered towards loss of estate. The amount of Rs. 2000/- awarded by the Ld. Tribunal seems to be very nominal, thus, considering the date of accident i.e. 07.02.2000, an appropriate amount of Rs. 25,000/- for funeral expenses is justified. For the accident, which took place in the year 2010, the Hon'ble Apex Court in **Smt. Anjali's case (supra)** awarded Rs. 50,000/- towards funeral expenses.

39. The term “consortium” has been defined by the Hon'ble Apex

Court in **Magma General Insurance Company Limited v. Nanu Ram alias**

Chuhru Ram and others, (2018) 18 SCC 130. For the sake of convenience,

the relevant extract of the judgment is reproduced herebelow:

“21. A Constitution Bench of this Court in Pranay Sethi (supra) 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.

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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.

40. As far as, awarding of amount of compensation towards the head of 'loss of consortium' is concerned, in **Pranay Sethi's case (supra)**, Hon'ble Apex Court decided it as Rs. 40,000/- without clarifying the different relations of the claimants with the deceased. However, subsequently, in **Smt. Anjali's case (supra)**, the Hon'ble Apex Court, awarded amount of compensation in the form of 'spousal consortium' and 'parental consortium', separately Rs. 40,000/- to each of the claimants, along with 10% increase after every three years. In the present case also, if the same principle is applied, in that situation, all the four appellants (claimants in FAO-1619-2002) would be entitled for Rs. 44,000/- each, towards the heads of 'loss of spousal consortium' and 'loss of parental consortium'. Therefore, it is held that appellants (claimants) are entitled for an amount of Rs. 44,000/- each under the heads of 'loss of spousal consortium' and 'loss of parental consortium'.

At this stage, counsel for the respondents argues that in Para Nos. 25 & 26 of the MACT award, it has been explicitly held that the father and the mother of the deceased are not entitled to any compensation, which has already been reproduced.

41. This Court is well satisfied with the reasoning given by the Ld.

Tribunal. Moreover, once the mother has died ever before the institution of appeal, and is not a party in appeal, question of granting compensation to her doesn’t even arise.

As far as, father of the deceased – Mukhtiar Singh, is concerned (who has died during the pendency of the appeal) he could have been entitled to only ‘filial consortium’ to the tune of Rs.44,000. However, with the death of the father – Mukhtiar Singh during the pendency of the appeal, the same cannot be awarded to him. Thus, in view of the facts discussed above, appeal (FAO-1618-2002) is rendered infructuous. A separate order in this regard has already been passed in FAO-1618-2002.

42. For the sake of convenience, a comparative table representing the amount of compensation awarded by the Ld. Tribunal and this Court is given below:-

Sr. No.	Head	Compensation awarded by Ld. Tribunal	Compensation Awarded by this Court
1.	Income	Rs. 1200/1300/- per month	Rs. 1,585/- per month
2.	Future Prospects	NIL	Rs. 396/- (i.e. 25% of the income)
3.	Deduction towards personal expenses	Rs. 200/300/-	Rs. 495/- (i.e. 1/4th of [Rs. 1,585/- + Rs. 396/-])
4.	Total Annual Income	Rs. 12,000/-(Rs. 1,000 x 12)	Rs. 17,829/- (i.e. 3/4th of [Rs. 1,585/- + Rs. 396] x 12)
5.	Multiplier	14	14
6.	Loss of Dependency	Rs. 1,68,000/-	Rs. 2,49,606/- (i.e. Rs. 17,829 x 14)
7.	Funeral Expenses	Rs. 2000/-	Rs. 25,000/-
8.	Loss of Estate	NIL	Rs.20,000/-
9.	Loss of Spousal Consortium	NIL	Rs. 44,000/-

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10.	Loss of Parental Consortium to each of the three children	NIL	Rs. 1,32,000/- (Rs. 44,000 x 3)
11.	Loss of Filial Consortium to parents i.e. mother and father of the deceased	NIL	-NIL-
12.	Total Compensation to be Paid	Rs. 1,70,000/-	Rs. 4,70,606/-

CALCULATION OF INTEREST:

43. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 12% per annum from the date of filing of the claim petition till its realization is worth to be maintained. However, learned counsel appearing on behalf of respondent No.3 - Insurance Co., submits that the rate of interest should not be over the awarded amount and therefore, it should not be more than 6% per annum.

44. I have gone through the judgments cited by counsel for the appellants (claimants) and thus, I deem it appropriate to grant the rate of interest at 7.5% per annum.

45. Thus, keeping in view the aim of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (claimants) is Rs. 4,70,606/- along with interest at 7.5% per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (petitioners/claimants).

46. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award would be adjusted.

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Therefore, by partly modifying the award, appeal is allowed with the terms indicated here-above.

Civil Miscellaneous applications, if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

August 08, 2023
J.Ram

Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: Yes/~~No~~

PARAMJIT KAUR AND ORS V/S SATPAL AND ORS

Present: Mr. Lalit Garg, Advocate
for the applicant/respondent No.3-Insurance company.

Mr. Vivek Suri, Advocate
for the non-applicant/appellants.

-.-

1. This is an application under Section 152 read with Section 151 CPC for correction of typographical error in the judgment dated 08.08.2023 passed by this Court in FAO-1619-2002.

2. Briefly stated while hearing and deciding the aforementioned appeal, this Court had come to the conclusion that mother of the deceased expired prior to filing of the appeal and even Mukhtiar Singh, who is father of the deceased, also expired during pendency of the appeal, therefore, no compensation under the head '**Filial Consortium**' could be awarded. Specific observation/finding in this regard was recorded in para No.41 of the judgment dated 08.08.2023 which reads as under:-

*“41. This Court is well satisfied with the reasoning given by the Ld. Tribunal. Moreover, once the mother has died ever before the institution of appeal, and is not a party in appeal, question of granting compensation to her doesn't even arise. As far as, father of the deceased – Mukhtiar Singh, is concerned (who has died during the pendency of the appeal) he could have been entitled to only 'filial consortium' to the tune of Rs.44,000. **However, with the death of the father – Mukhtiar Singh during the pendency of the appeal, the same cannot be awarded to him.** Thus, in view of the facts discussed above, appeal (FAO-1618-2002) is rendered infructuous. A separate order in this regard has already been passed in FAO-1618-2002.”*

3. However, while drawing comparative table in para No.42 of the said judgment, an error crept in due to inadvertent typographical

mistake, and at Serial No. 11 of the table, an amount of Rs.44,000/- has been stated to be awarded on account of loss of ‘Filial Consortium’ to the father of the deceased, which is factually incorrect. Existing para 42 of the judgment reads as under:-

Sr. No.	Head	Compensation awarded by Ld. Tribunal	Compensation awarded by this Court
1.	<i>Income</i>	<i>Rs. 1200/1300/- per month</i>	<i>Rs. 1,585/- per month</i>
2.	<i>Future Prospects</i>	<i>NIL</i>	<i>Rs. 396/- (i.e. 25% of the income)</i>
3.	<i>Deduction towards personal expenses</i>	<i>Rs. 200/300/-</i>	<i>Rs. 495/- (i.e. 1/4th of [Rs. 1,585/- + Rs. 396/-])</i>
4.	<i>Total Annual Income</i>	<i>Rs. 12,000/- (Rs. 1,000 x 12)</i>	<i>Rs. 17,829/- (i.e. 3/4th of [Rs. 1,585/- + Rs. 396] x 12)</i>
5.	<i>Multiplier</i>	<i>14</i>	<i>14</i>
6.	<i>Loss of Dependency</i>	<i>Rs. 1,68,000/-</i>	<i>Rs. 2,49,606/- (i.e. Rs. 17,829 x 14)</i>
7.	<i>Funeral Expenses</i>	<i>Rs. 2000/-</i>	<i>Rs. 25,000/-</i>
8.	<i>Loss of Estate</i>	<i>NIL</i>	<i>Rs.20,000/-</i>
9.	<i>Loss of Spousal Consortium</i>	<i>NIL</i>	<i>Rs. 44,000/-</i>
10.	<i>Loss of Parental Consortium to each of the three children</i>	<i>NIL</i>	<i>Rs. 1,32,000/- (Rs. 44,000 x 3)</i>
11.	<i>Loss of Filial Consortium to parents i.e. mother and father of the deceased</i>	<i>NIL</i>	<i>Rs. 44,000 (to the father of the deceased)</i>
12.	<i>Total Compensation to be Paid</i>	<i>Rs.1,70,000/-</i>	<i>Rs. 5,14,606/-</i>

Pointing out the above discrepancy, present application has been filed.

4. Mr. Vivek Suri, Advocate, who is present in the Court, also points out that while recording presence of the respective counsel in the judgment dated 08.08.2023, his name did not find mention, and appearance of Ms. Kirandeep Kaur, Advocate and Mr. Kamal Deep Singh Sidhu, Advocate, has been marked for the appellants, whereas they put in appearance on behalf of respondent No. 1 – Satpal son of Ram Labh. Thus, Mr. Vivek Suri also prays that necessary correction in the presence may also be carried out in the final judgment dated 08.08.2023, and his presence may be marked for the appellants, while presence of Ms. Kirandeep Kaur, Advocate, and Mr. Kamal Deep Singh Sidhu, Advocate, may be marked for respondent No. 1.

5. I have heard learned counsel for the parties and perused the record to ascertain the factual position as noticed here-in-above.

In the paper book of FAO-1619-2002, Power of Attorney/Vakalatnama of Mr. Kamaldip Singh Sidhu, Advocate, is available, which was filed on 15.12.2018, and signed by Satpal – respondent No. 1.

6. An error, on both counts indeed has occurred in the judgment dated 08.08.2023, which is typographical one, and needs to be rectified.

7. Accordingly, present application is allowed and it is ordered as under:-

(a) In the judgment dated 08.08.2023, instead of earlier

recorded presence of respective counsel for the parties, the same be read as under:-

**“PRESENT: Mr.Vivek Suri, Advocate,
for the appellants.**

**Mr. Kamal Deep Singh Sidhu,
Advocate,
and Ms. Kirandeep Kaur, Advocate,
for respondent No. 1.**

**Mr. Lalit Garg, Advocate,
for respondent No. 3-Insurance
Company.”**

(b) Amount of **Rs. 44,000/-** as recorded/depicted at Serial No. 11 of the table in paragraph No. 42 of the judgment dated 08.08.2023 be read as ‘**Nil**’, and at Serial No. 12 of the said table, the amount of ‘**Rs. 5,14,606**’ be read as ‘**Rs.4,70,606/-**’. Accordingly, the correct table in para 42 of the judgment shall read as under:-

“Sr . No.	Head	Compensation awarded by Ld. Tribunal	Compensation awarded by this Court
1.	<i>Income</i>	<i>Rs. 1200/1300/- per month</i>	<i>Rs. 1,585/- per month</i>
2.	<i>Future Prospects</i>	<i>NIL</i>	<i>Rs. 396/- (i.e. 25% of the income)</i>
3.	<i>Deduction towards personal expenses</i>	<i>Rs. 200/300/-</i>	<i>Rs. 495/- (i.e. 1/4th of [Rs. 1,585/- + Rs. 396/-])</i>
4.	<i>Total Annual Income</i>	<i>Rs. 12,000/- (Rs. 1,000 x 12)</i>	<i>Rs. 17,829/- (i.e. 3/4th of [Rs. 1,585/- + Rs. 396] x 12)</i>
5.	<i>Multiplier</i>	<i>14</i>	<i>14</i>
6.	<i>Loss of Dependency</i>	<i>Rs. 1,68,000/-</i>	<i>Rs. 2,49,606/- (i.e. Rs. 17,829 x 14)</i>

7.	<i>Funeral Expenses</i>	<i>Rs. 2000/-</i>	<i>Rs. 25,000/-</i>
8.	<i>Loss of Estate</i>	<i>NIL</i>	<i>Rs.20,000/-</i>
9.	<i>Loss of Spousal Consortium</i>	<i>NIL</i>	<i>Rs. 44,000/-</i>
10.	<i>Loss of Parental Consortium to each of the three children</i>	<i>NIL</i>	<i>Rs. 1,32,000/- (Rs. 44,000 x 3)</i>
11.	<i>Loss of Filial Consortium to parents i.e. mother and father of the deceased</i>	<i>NIL</i>	<i>-NIL-</i>
12.	<i>Total Compensation to be Paid</i>	<i>Rs.1,70,000/-</i>	<i>Rs. 4,70,606/-”</i>

(c) In paragraph No. 45 of the judgment dated 08.08.2023, the total amount of compensation payable to the appellants (claimants) be read as ‘**Rs.4,70,606/-**’ instead of ‘**Rs.5,14,606/-**’. Accordingly, para 45 of the judgment, after its correction shall read as under:-

“45. Thus, keeping in view the aim of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (claimants) is Rs.4,70,606/- along with interest at 7.5% per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (petitioners/claimants).”

8. After carrying out aforementioned corrections, correct copy of the judgment dated 08.08.2023, in FAO-1619-2002, be again uploaded on the web portal of this Court, along with this order.

Disposed of.

(SANJAY VASHISTH)
JUDGE

September 04, 2023
Lavisha