IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-6631-2019
Decided on: December 18, 2023

Sukhwinderjit Kaur and others

...Appellants

Versus

Jaswinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Ruhani Chadha, Advocate,
for the appellants.

Mr. R.K. Bashamboo, Advocate,
for respondent No. 3 – Insurance Company.

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SANJAY VASHISTH, J.

1. Claimants have filed present appeal for modification of the award dated 03.09.2019, passed by the Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar, in MAC Petition No. 16 of 2019 (dated 26.04.2019), titled as "Sukhwinderjit Kaur and others v. Jaswinder Singh and others".

In paragraph No. 17 of the award, learned Tribunal has held that out of awarded amount of compensation, amount of Rs. 28,000/- received every month as 'family pension', is liable to be deducted under the head of 'loss of dependency of the claimants'.

2. Facts in brief are that during the intervening night of 15/16.02.2019, in a motor vehicular accident, one Shamsherpal Singh son of Arjan Singh expired and learned Tribunal held that respondents, i.e. owner,

driver and insurance company of the offending car bearing Registration No. PB-32-M-8267, are jointly and severally liable to pay the amount of compensation awarded by it, within a period of three months from the date of passing of the award. It has further been directed that the claimants shall also be entitled to interest @ 7.5% per annum on the awarded sum from the date of filing of the claim petition till the realisation of the whole compensation amount.

3. Relying upon the statement of Sukhwinder Singh, (CW-3), Clerk, posted in the office of the Block Primary Education Office, Shri Hargobindpur, Tehsil Batla, District Gurdaspur, learned Tribunal held that deceased Shamsherpal Singh was working as Head Teacher in Government Primary School, Momanwal. The said witness proved the salary statement of deceased Shamsherpal Singh for month of January, 2019 as Ex.C-7, which depicts as under:-

Block Primary Education Office SRI Hargobindpur Sahib	
SALARY STATEMENT January 2019	
Name	Shamsherpal Singh
Office Name	BPEO SRI HARGOBINDPUR SAHIB
Post	Head Teacher
Date of Joining	02-05-2002
Date of Birth	16-04-1979
Posting	GPS Momanwal, Block Sri Hargobindpur Sahib, Distt Gurdaspur

Basic Pay	22250
I.R.	1113
D.A.	30839
H.R.A.	2336
R.R.A.	1402

M.A.	500
Mobile Allowance	250
H.T. Allowance	200
GROSS	58890
GPF / EPF	5000
GIS	30
Tax	2000
Development Tax	200
Recovery	0
TOTAL Deduction	7230
NET PAYABLE	**51660**

After death of Shamsherpal Singh, his widow, i.e. claimant No.1 – Sukhwinderjit Kaur, started receiving an amount of Rs. 28,000/- per month as 'family pension', which has been deducted by the learned Tribunal while assessing the amount of compensation under the head of 'loss of dependency of the claimants'.

4. For the purpose of assessing the amount of compensation, admitted salary slip (Ex. C-7) has been relied upon by the learned Tribunal, which shows that in the month of January 2019, deceased had received a sum of Rs.58,890/- as his gross salary.

5. However, claimant No. 1 – Sukhwinderjit Kaur, who appeared in the witness box as CW-1, admitted in her cross-examination that she is receiving Rs. 28,000/- per month as 'family pension'. Thus, the Tribunal has held that 'family pension', amounting to Rs. 28,000/- is liable to be deducted while assessing the amount of compensation under the head 'loss of dependency of the claimants'. The findings recorded by the Tribunal in paragraph Nos. 16, 17, 18 and 19 of the impugned award, are reproduced

hereunder:-

> *"16. The claimants have further examined CW-3 Sukhwinder Singh - Clerk in the office of Block Primary Education Office, Shri Hargobindpur, Tehsil Batala, District Gurdaspur, who has deposed that deceased Shamsherpal Singh was working as Head Teacher in Government Primary School, Momanwal and proved the salary slip of Shamsherpal Singh for the years 2018-2019 as Ex.C-7.*
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> *17. Perusal of salary slip Ex.C-7 shows that in the month of January 2019, deceased Shamsherpal Singh received a sum of Rs.58,890/- as his gross salary. Further during her cross examination CW-1 Sukhwinderjit Kaur has admitted during her cross examination that she is receiving Rs.28,000/- per month as family pension and the same is liable to be deducted from the loss of dependency of the claimants, as the motor accident claim cases are based on the principle that claimants for the happening of the same incident may not gain twice from two sources. Further in saying so, this Tribunal finds support from **2018(3) Law Herald (P&H) page 2495 in case titled as Charanjit Singh v. Harish Kumar Sachdeva & Ors.**, where the deceased in the accident case was a pensioner, it was held by Honourable Punjab and Haryana High Court that in case family pension is not deducted out of pension drawn by the deceased, it would amount to giving double the benefit namely benefit of pension drawn by the deceased as well as family pension available to the family.*
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> *18. As per claimants, deceased Shamsherpal Singh was aged about 39 years at the time of his death, whereas, in the postmortem report proved on the record by the claimants, the age of Shamsherpal Singh has been mentioned as 40 years. No other document showing exact age of deceased Shamsherpal Singh has been placed on record by the claimants. Accordingly, deceased Shamsherpal Singh is taken as aged about 40 years at the time of his death.*
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> *19. Further gross salary of deceased Shamsherpal Singh has been taken as Rs.58,890/- per month. Now, since the deceased has been taken in the age group of 36-40 years of age at the time of his death, therefore, adding 30% of the future prospects, as per the law laid down in **2013 (3) CCC page 15 Rajesh Vs. Rajbir Singh**, which amount comes to Rs.17,667/- per month, thereby the total amount arrived is Rs.76,557/- per annum. Deducting ¼th., out of the same, on account of self expenditure of deceased, taking into consideration the number of dependents, as per the law laid down in **2009(3) RCR (Civil)***

> ***77 S.C. Sarla Verma v. Delhi Transport Corporation**, which amount comes to Rs.19,139/-, the amount of dependency arrived is Rs.57,418/- per month. Now by deducting Rs.28,000/- as family pension being received by the claimants, the actual loss of dependency of the claimants is comes to Rs.29,418/-. Guided by **Sarla Verma's Case**, a multiplier of 15 has to be applied as deceased Shamsherpal Singh at the time of his death was in the age bracket of 36-40 years of age. Arithmetically calculated, Rs.29,418/- x 12 (months) x 15 (multiplier) loss of dependency of claimants is worked out as Rs.52,95,240/-. Besides, this, the claimant no.1 is entitled to Rs.40,000/- towards loss of consortium and the claimants are further held entitled to Rs.15,000/- towards loss of estate and Rs.15,000/- to defray funeral expenses, as per law laid down by **Hon'ble Supreme Court of India in its judgment dated 31.10.2017 passed in Special Leave Petition (Civil) no.25590 of 2014 in case titled as National Insurance Company Limited Vs. Pranay Sethi and Others**, totaling Rs.53,65,240/- which is rounded off to Rs.53.66 lakh."*

From the above findings of the learned Tribunal, calculations made and amount(s) awarded by it under various heads, are tabulated as under:-

Sr. No.	Heads	% / fraction / multiplier applied	Detail of calculation	Amount (in Rs.)
(A)	(B)	(C)	(D)	(E)
1	Salary of the deceased		Per month	58,890
2	Future prospects	30%	of 1(E)	17,667
3	Monthly income after adding future prospects		1(E) + 2(E)	76,557
4	Monthly personal expenses of the deceased	1/4	of 3(E)	19,139
5	Net dependency (per month)		3(E) - 4(E)	57,418
6	Deduction of Family Pension from the loss of dependency of the claimants			28,000
7	Net Total		5(E) - 6(E)	29,418
8	Multiplier applied	15		

9	Compensation after applying the multiplier		7 (E) X 12 X 8(C)	52,95,240
10	Loss of consortium			40,000
11	Loss of Love and Affection including loss of estate			15,000
12	Funeral expenses			15,000
13	Total Compensation awarded			53,65,240

6. While assailing the award, Mr. Ruhani Chadha, learned counsel for the appellants submits that there are four claimants in the claim petition, namely –

Claimant No.	Name	Age (at the time of accident	Relation with deceased
1	Sukhwinderjit Kaur	41 years	Wife
2	Harsimrat Singh	15 years	Son
3	Barbir Kaur	69 years	Mother
4	Arjan Singh	67 years	Father

And, the learned Tribunal has held that claimant Nos. 1 to 4 (appellants herein) shall be entitled for apportionment of the awarded compensation in the ratio of 35:35:15:15 respectively.

7. Learned counsel for the appellants submits that as far as the happening of accident and death of deceased Shamsherpal Singh is concerned, there is no dispute in the present case. However, learned Tribunal has erred while assessing the age of the deceased at the time of accident as 40 years, by relying on the postmortem report (Ex. C-4) and not considering the age of the deceased as 39 years, inasmuch as, in the salary slip (Ex. C-7), date of birth of deceased Shamsherpal Singh has been mentioned as 16.04.1979. Thus, on the date of accident i.e. 15/16.02.2019,

proved age of the deceased was 39 years 10 months and 02 days.

8. Counsel for the appellants further submits that learned Tribunal also gravely erred while applying deduction of monthly family pension i.e. Rs.28,000/-, while assessing the amount of compensation under the head 'loss of dependency of the claimants', which is not sustainable in the eyes of law. While submitting so, Mr. Ruhani Chadha has relied upon judgment of Hon'ble the Apex Court in the case of **<u>Sebastiani Lakra and others</u> v. <u>National Insurance Company Ltd. and another</u>, Law Finder Doc Id # 1259445 : (2019) 17 SCC 465 [decided on 12.10.2018],** and referred **para Nos. 12, 13 & 14**, which are reproduced as under:-

> *"12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It can not be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to 'just compensation' under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his life time cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death.*
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> *13. As far as any amount paid under any insurance policy is concerned whatever is added to the estate of the deceased or his dependents is not because of the death of the deceased but because of the contract entered into between the deceased and the insurance company from where he took out the policy. The deceased paid premium on such life insurance and this amount would have accrued to the estate of the deceased either on maturity of the policy or on his death, whatever be the manner of his death. These amounts are paid because the deceased has wisely invested his savings. Similar would be the position in*

case of other investments like bank deposits, share, debentures etc.. The tortfeasor cannot take advantage of the foresight and wise financial investments made by the deceased.

14. As far as the amounts of pension and gratuity are concerned, these are paid on account of the service rendered by the deceased to his employer. It is now an established principle of service jurisprudence that pension and gratuity are the property of the deceased. They are more in the nature of deferred wages. The deceased employee works throughout his life expecting that on his retirement he will get substantial amount as pension and gratuity. These amounts are also payable on death, whatever be the cause of death. Therefore, applying the same principles, the said amount cannot be deducted."

Also relies upon the judgment of Jammu and Kashmir High Court in the case of **United India Insurance Company Limited v. Jawahira Begum and others, Law Finder Doc ID # 2026077 [decided on 17.08.2022],** and referred **para Nos. 12, 13, 14 & 15**, which reads as under:-

"12. The above submission of learned counsel for appellant Insurance Company qua salary/pensionary benefits is misconceived. Whether pensionary benefits can be deducted by calculating loss of income, is no longer res integra. Family pension received by family of deceased cannot be deducted while calculating the loss of income.

13. Law is now settled. The Supreme Court in ***Reliance General Insurance Company v. Shashi Sharma (2016) 9 SCC 627, Sebastiani Lakra v. National Insurance Company Limited, AIR 2018 SC 2079; and National Insurance Company Ltd v. Mannat Johal (2019) 15 SCC 260****, has held that family pension received by family of deceased employee cannot be deducted from calculating the loss of income and similarly other benefits, extended to dependents of deceased employee, viz. family pension, life insurance, provident fund etc., must remain unaffected and cannot be allowed to be deducted.*

14. The deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to kin of deceased. The main reason is that all these amounts are earned *by deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts have accrued to dependents or legal heirs of deceased on account of his death in a motor vehicle accident. The claimants/ dependents are entitled to just compensation under the Motor Vehicles Act as a result of death of deceased in a motor vehicle accident. Thus, the natural corollary is that the advantage that accrues to the estate of deceased or to his dependents as a result of some contract or act which deceased performed in his life time cannot be said to be the outcome or result of death of deceased even though these amounts may go into the hands of dependents only after his death.*

15. Insofar as the amounts of pension and gratuity are concerned, these are paid on account of the service rendered by deceased to his employer. It is now an established principle of Service Jurisprudence that pension and gratuity are the property of deceased. They are more in the nature of deferred wages. The deceased employee works throughout his life expecting that on his retirement he will get substantial amount as pension and gratuity. These amounts are also payable on death, whatever be the cause of death. Therefore, applying the same principles, the said amount cannot be deducted."

Also relies upon Single Bench judgment of this Court (Punjab and Haryana High Court) in the case of **Suresh Devi v. Girender Singh and another, Law Finder Doc ID # 1371267 : 2019 (1) Law Herald 792 [decided on 08.01.2019],** and **para Nos. 5 & 7** thereof says as under:-

"5. The Tribunal held that the accident in question took place due to rash and negligent driving of respondent No.1. Respondent No.2/Insurance Company could not rebut the evidence led by the driver of the offending vehicle which was duly insured with the Insurance Company for the relevant period. Respondent No.1 was having valid driving licence which was effective on the date of accident and there was no violation of terms and conditions of the Insurance policy. The deceased was getting Rs.24,016/- per month as his salary. Appellant is getting Rs.3500/- per month as family pension and the said amount was deducted from monthly income of the deceased.

6. xxx xxx xxx xxx xxx xxx xxx xxx xxx

> *7. During course of arguments, learned counsel for the appellant submitted that only grievance of the appellant is that the amount of family pension should not have been deducted from the monthly income of the deceased and for all intents and purposes, the monthly salary of the deceased i.e. Rs.24,016/- should have been taken into consideration while computing the payable amount of compensation in favour of the appellant. Learned counsel relied upon **Smt. Gurdev Kaur and others Vs. Jharmal Singh and another, 2017(3) PLR 8** and **Sebastiani Lakra and others Vs. National Insurance Company Ltd. and another, 2018 AIR (SC) 5034** and contended that family pension being received by the mother cannot be deducted from the income of the deceased for the purposes of computation of compensation payable to the appellant. Pecuniary advantages received by heirs cannot be deducted from the amount of compensation either on account of insurance or on account of pensionary benefits or gratuity or grant of employment to a kin of deceased. These amounts are earned by deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to dependents or legal heirs of deceased on account of his death in the vehicular accident."*

9. In addition to the said aspect, Mr. Ruhani Chadha, learned counsel for the appellants, also points out that under the head of 'Future Prospects', learned Tribunal has added 30% in the total salary of the deceased, i.e. Rs.58,890/- + Rs.17,667/- = Rs.76,557/-, whereas as per the Hon'ble Apex Court Constitutional Bench judgement in the case of **National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : R.C.R. (Civil) 1009**, addition in the income of deceased, under the head of Future Prospects, should have been 50%. Learned Tribunal has erred in law, therefore, the amount of compensation is liable to be enhanced on this count.

10. However, learned counsel for the appellants very fairly submits that apart Claimant No. 1 – Sukhwinderjit Kaur (widow of the deceased) and Claimant No. 2 – Harsimrat Singh (minor son of the deceased), Claimant

Nos. 3 and 4, are mother and father of deceased Shamsherpal Singh. Therefore, instead of applying the deduction of 1/4th, amount can be calculated by applying deduction to the extent of 1/3rd. Learned counsel also submits that apart the amount under the head 'Loss of love and affection including loss of estate', Rs.40,000/- towards 'Loss of Consortium', ought to have been awarded to all the claimants with 10% increase after three years, in view of the judgment of Hon'ble Apex Court in **Pranay Sethi's case (supra)**.

11. Learned counsel for the appellants has also produced a copy of the judgment dated 15.01.2020, passed by a Co-ordinate Bench of this Court in FAO No. 726 of 2020, titled as "**The New India Assurance Company Ltd. v. Sukhwinderjit Kaur and others"**, whereby appeal preferred by respondent No. 3 – Insurance Company against the same award, which is subject matter of challenge in the present appeal, has been dismissed.

12. On the other hand, Mr. R.K. Bashamboo, learned counsel representing respondent No. 3 – Insurance Company, opposed the contentions addressed by learned counsel for the appellants. He submits that the issue regarding deduction of family pension amount from the income of the deceased, is pending before Hon'ble Apex Court, for its reconsideration. Therefore, the judgments cited on behalf of the claimants/appellants are of no consideration at this stage. Also submits that once the issue is pending before Hon'ble the Apex Court, the observations made in the cited judgments is of no consequence. Therefore, learned Tribunal has rightly deducted the amount of 'family pension' i.e. Rs. 28,000/-, while assessing

the amount of compensation under the head of 'loss of dependency of the claimants'.

13. Learned counsel for respondent No. 3 – Insurance Company also submits that future prospects have been added @ 30%, as per assessed per month salary of Rs.58,890/-, and after adding the same, it comes to Rs.76,557/- (58,890+17,667= Rs.76,557). Further, after deduction on account of monthly personal expenses of the deceased, by applying the fraction of 1/4th, as well as amount of 'family pension' received by claimant No. 1, the amount under the head of dependency arrived at is Rs. 29,418/- per month (Rs.76,557 – Rs.19,139 = Rs.57,418 – Rs.28,000 = Rs.29,418).

14. Learned counsel for the insurance company further submits that after deducting the personal allowances, the net salary/income of the deceased should have been taken into consideration and then 50% future prospects are required to be added. Upon which instead of fraction of 1/4th, fraction of 1/3rd can be applied and thereupon, the multiplier of 15 can be applied.

Learned counsel, thus, argues that after deducting personal allowances mentioned in the salary slip of January, 2019, i.e. Rs.1402/- (RRA), Rs.500/- (M.A.), Rs.250/- (mobile allowance), Rs.200/- (HT allowance), Rs.2000/- (tax), Rs.200/- (development tax), which comes to Rs.4552/-, total monthly salary/income of the deceased should be assessed at Rs.54338/- instead of Rs.58890/-. Thereupon, after addition of 50% future prospects, i.e. Rs.27,169/-, it comes to Rs.81,507/-. After applying fraction of 1/3rd instead of 1/4th, for personal expenses and deducting monthly family pension, the net monthly income of the deceased comes to Rs.54338/- per month, instead of Rs.57418/-. Thereafter, amount of family pension, i.e. Rs. 28,000/-, is also liable to be deducted from monthly income of the deceased i.e. Rs.54338 – Rs. 28000 = Rs. 26338/-, which should be taken into account as net salary/income of the deceased at the time of death.

15. Learned counsel for respondent No. 3 relies upon judgment of Hon'ble Apex Court in the case of **Shri Ram General Insurance Co. Ltd. v. Bhagat Singh Rawat and others (Civil Appeal Nos. 2410-2412 of 2023, decided on 27.03.2023),** and submits that as per the said judgment, granting of Rs.50,000/- under the head of love and affection is not required once on account of loss of consortium, Rs.40,000/- has been granted by the Tribunal.

However, while taking note of the said judgment, I do not find any such observation made by their Lordships' of Hon'ble Apex Court, as sought to be raised by Mr. Bashamboo.

16. I have gone through the impugned award and submissions addressed by learned counsel from both sides.

17. It has already been held by Hon'ble the Apex Court that the amount received as 'gratuity' and 'family pension' is the contractual one. Rather, the same are in the nature of deferred wages of the employee. No benefit can be extended to the respondent-Insurance Company on account of the fact that victim's family has been receiving family pension or gratuity amount from the government/employer.

18. The observations made by Hon'ble the Apex Court in the case of **Sebastiani Lakra (supra)**, have been deeply noticed by the Jammu and

Kashmir High Court in the case of Jawahira Begum (supra), and after framing a specific question, answered the same in favour of the victims. Almost on the similar lines, as noticed by Hon'ble the Apex Court, Jammu and Kashmir High Court also held that any such amount on account of family pension or gratuity are paid to the employer on account of the service rendered by the deceased to his employer. Rather, as per settled law, pension and gratuity are the properties of the deceased employee. Thus, the same are to be treated as deferred wages.

Not only this, our own High Court (Punjab and Haryana High Court), in the case of **Suresh Devi (supra)**, has given a direct answer to the submissions made on behalf of respondent No. 3 - Insurance company in the present case.

19. This Court is also in agreement that pecuniary benefits received by the legal heirs or legal representatives of the deceased, i.e. victim's family members, cannot be deducted from the amount of compensation either on account of insurance or family pension or even on account of grant of compassionate employment to a kin of the deceased employee. It cannot be said that these benefits accrued to the dependents or legal heirs of the deceased, on account of his/her death in the motor vehicular accident.

20. Even otherwise also, taking note of the observations made by Hon'ble the Apex Court and then by different High Courts, I am of the considered view that in the present case, deceased Shamsherpal Singh, an employee, died in a motor vehicular accident, primarily on account of an act of rash and negligent driving, which is punitive under the Indian Penal Code.

At the first instance, it would be the owner of the offending vehicle, who would be liable to make payment of the loss caused by his agent i.e. driver of the vehicle, to the victim's family. In no manner, it can be held that principal i.e. owner or his/her agent i.e. driver, would be left free without fastening any liability to pay the amount of compensation, to rehabilitate members of the victim's family i.e. legal heirs/dependents. Therefore, the owner/driver cannot have an escape from making payment by saying that their liability is waived off once the victims are being looked after from other sources, which in no manner is dependent upon the owner/driver or nurtured by him. Rather, such a defence would be surprising on the face of it because no such defence lies in the mouth of a wrong doer that someone is looking after well-being of the victims so he/they be relieved from their tortuous liability.

21. Stretching it further, this Court views it from the aspect that to indemnify the owner of the vehicle, respondent No. 3 - insurance company entered into a contract on monetary basis with the owner of the vehicle and in lieu of the contract, certain amount is being received by the insurance company on certain terms and conditions on monthly or annual basis. Insurance company which is running its business after receiving of the contractual amount, is bound to indemnify the principal i.e. owner of the vehicle for the loss caused by him or his agent because of rash and negligent act. Therefore, taking such a defence by the insurance company that since, legal heirs of the deceased/victim are getting monthly family pension or gratuity, the same is liable to be deducted, does not appear to be a justified

defence in the eyes of law. Once, there is a tortuous liability upon the principal, he is directly answerable, rather, liable to pay for the damages caused by him or his agent to rehabilitate the victims.

22. Therefore, to the view of this Court also, deduction of the amount of Rs. 28,000/- (received by claimant No. 1 as family pension) from the loss of dependency of the claimants, is wrong and unsustainable. Accordingly, it is held that learned Tribunal has erred to that extent.

23. I also find force in the argument of learned counsel for the appellants, regarding age of the deceased at the time of death, which has been assessed as 40 years by the Tribunal, on the basis of postmortem report (Ex. C-4). Sukhwinder Singh (CW-3), Clerk, posted in the office of the Block Primary Education Office, Shri Hargobindpur, Tehsil Batla, District Gurdaspur, proved the salary slip for the month of January, 2019 (Ex. C-7), wherein exact date of birth of the deceased Shamsherpal Singh has been mentioned as 16.04.1979. Meaning thereby, deceased Shamsherpal Singh was less than 40 years of age at the time of death.

In the case of **Pranay Sethi (supra)**, their Lordships of Hon'ble the Apex Court have held that where the deceased is in a job of permanent in nature, and is below the age of 40 years at the time of accident, future prospects have to be assessed by applying addition of income @ 50%. Accordingly, the age of deceased Shamsherpal Singh is taken as below 40 years at the time of his death, and for the purpose of future prospects, addition @ 50% has to be applied instead of 30%.

24. Learned Tribunal has not applied any deduction of tax and

personal allowances, as clearly shown in the salary slip (Ex. C-7), while assessing income of the deceased. On this count, it is held that personal allowances mentioned in the salary slip (Ex. C-7), i.e. Rs.1402/- (RRA), Rs.500/- (M.A.), Rs.250/- (mobile allowance), Rs.200/- (HT allowance), Rs.2000/- (tax), Rs.200/- (development tax), total Rs.4552/-, are to be deducted from the income of the deceased Shamsherpal Singh.

25. This Court has already rendered a detailed judgment titled as ***Sangtari Muleem v. Karnail Singh, (FAO No. 2538 of 2006, decided on 07.07.2023) : Law Finder Doc Id # 2270482,*** in consonance with the settled proposition of law laid down by the Apex Court in ***Pranay Sethi's case (supra)*** and ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009 (3) R.C.R. (Civil)77 : Law Finder Doc Id #188882***, and ***Smt. Anjali and others v. Lokendra Rathod and others, 2023 (1) R.C.R. (Civil) 22 : Law Finder Doc Id #2081014***. Therefore, in the case in hand, same parameters as laid down by the Hon'ble Apex Court are applied for the purpose of calculation of compensation and the impugned award dated 03.09.2019, passed by the learned Tribunal, is modified as under:-

Sr. No.	Head	Compensation awarded by learned Tribunal	Compensation awarded by High Court
1.	Income	Rs. 58,890/-p.m.	Rs. 54,338/-p.m. (Rs. 58890 - Rs.4552 (tax and personal allowances)
2.	Future Prospects	Rs. 17,667/- (30% of the income of the deceased)	@ 50% (Rs.54338 + Rs. 27169 = Rs.81507)
3.	Deduction towards personal expenses	Rs. 19,139/- [i.e.1/4th (one-fourth) of	Rs. 54,338/- [Rs. 81507 - Rs.27169 (i.e.1/3rd (one-third)]

		Rs.58,890/- + Rs. 17,667/-]	
4.	Deduction towards family pension	Rs. 28,000/-	NIL
5.	Total Annual Income	Rs.3,53,016/- (Rs.29,418/- x12)	Rs. 6,52,056/- (Rs. 54338 x 12)
6.	Multiplier	15	15
7.	Loss of Dependency	Rs. 52,95,240/- (i.e.,Rs.3,53,016/- x 15)	Rs. 97,80,840/- (Rs. 652056 x 15)
8.	Funeral Expenses	Rs. 15,000/-	Rs. 25,000/-
9.	Loss of Estate	Rs. NIL	Rs. 20,000/-
10.	Loss of love and affection including loss of estate	Rs. 40,000/-	NIL
11.	Loss of Consortium	Rs. 40,000/-	Rs. 1,92,000/- [Rs. 48,000/- (Spousal Consortium) + Rs. 48,000/- (Parental Consortium) + Rs. 96,000/- (Filial Consortium]
12.	Total Compensation to be Paid	Rs. 53,65,240/-	Rs. 1,00,17,840/-

26. Learned counsel for the appellants further submits that the rate of interest awarded by the learned Tribunal, i.e. @ 7.5% per annum on the awarded sum, from the date of filing of the claim petition till its realization, is worth to be maintained in view of the settled proposition of law established by Hon'ble the Apex Court and applied by this Court.

However, learned counsel appearing on behalf of respondents submits that the rate of interest should not be over the awarded amount and therefore, it should be reduced to the rate of 6% per annum.

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

28. Thus, keeping in view the aims and objects of the beneficial legislation, namely, Motor Vehicles Act, 1988, for providing relief to the victims or their families, the total compensation payable to the appellants (claimants) is Rs. 1,00,17,840/- along with interest @ 7.5% per annum, from the date of filing of claim petition till the date of payment of compensation to the appellants (claimants).

29. 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 and the amount of compensation awarded shall be distributed among the claimants in the same ratio as has been held by the learned Tribunal.

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

31. Pending Miscellaneous applications, if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

December 18, 2023
Pkapoor

Whether speaking/reasoned? ✓**Yes/~~No~~**
Whether reportable? ✓**Yes/~~No~~**