



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

FAO-3544-2024 (O&M)
Date of Decision:-**02.08.2024**

THE NEW INDIA ASSURANCE COMPANY LTD.

... Appellant

Versus

MAMTA AND OTHERS

... Respondent(s)

-.-

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present:- Mr. Rajneesh Malhotra, Advocate
for the appellant.

RITU TAGORE, J. (Oral)

1. Appellant-Insurance Company has filed this appeal against the Award dated 07.03.2024, passed by Motor Accident Claims Tribunal, Karnal in MACT Case CIS No.498 of 2022, titled as Mamta and Others vs. Angrej Singh Cheema and Others.

2. Learned Counsel for the appellant-Insurance Company contends that central issue in this appeal pertains to the consortium awarded to each of the claimants. Relying on the judgment in **Shri Ram General Insurance Co. Ltd. vs. Bhagat Singh Rawat and Ors. 2023(4) PLR 404**, learned counsel contends that compensation awarded for consortium to each claimant should be revised, as it is inconsistent with the observations made in aforementioned judgment.

3. I have considered the submissions made by learned counsel for the appellant-Insurance Company and have gone through the record with his able assistance.
4. The relevant facts of the case are that Sanjeev Kumar aged about 28 years, died in a motor vehicular accident on 21.07.2022 with offending truck bearing registration No.HR-67-A-6257, being driven by respondent No.5/driver, in a rash and negligent manner. The family members of the deceased filed claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 against respondents (driver, owner and insurer).
5. Upon being put to the notice by the learned Tribunal, respondents appeared and filed their respective response and contested the claim petition. The Learned Tribunal framed the issues and the parties presented their evidence as detailed in the Award. On perusal of the evidence, the learned Tribunal partly allowed the claim petition and awarded following compensation.

Sr. No.	Particulars	Calculation
1.	Gross Monthly Salary	₹18,473/-
2.	Gross Annual Income	₹2,21,676/- (18,473 x 12)
3.	Add Future Prospects	40% = ₹3,10,346/- (2,21,676 +88,670)
4.	Less	¼ = ₹2,32,760/- (3,10,346 – 77,586)
5.	Multiplier	17 = ₹39,56, 920/- (2,32,760 x 17)
6.	Loss of consortium	₹1,60,000/- (40,000 x 4)
7.	Loss of estate	₹15,000/-
8.	Funeral expenses	₹15,000/-
9.	Total	₹41,46,920/-



6. To effectively address the issue raised in the present appeal, it is essential to consider latest judicial precedents. In **National Insurance Company Ltd. Vs. Pranay Sethi and others'** (2017) 16 SCC 680, Constitutional Bench of Hon'ble the Supreme Court delivered the judgment on 31.10.2017 and observed that reasonable figures on the conventional heads, namely, loss of estate ₹15,000/-; loss of consortium ₹40,000/- and funeral expenses ₹15,000/- should be granted and further observed that aforesaid amounts should be enhanced at the rate of 10% in every three years.

7. In, **Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram and others'** (2018) 18 Supreme Courts Cases 130, while relying on **Pranay Sethi** (supra) awarded compensation of ₹40,000/- each to father and sister of the deceased for loss of filial consortium. Thereafter, three Judge Bench of Hon'ble the Supreme Court in '**United India Insurance Company Ltd., vs. Satinder Kaur @ Satwinder Kaur and others'** 2021 (11) SCC 780, granted ₹40,000/- to each of the three children for loss of parental consortium. Again, in '**N. Jayasree and other vs. Choramandalam MS General Insurance Company Ltd.** 2021 (4) R.C.R. (Civil) 642 awarded Rs.44,000/- towards loss of spousal consortium and ₹44,000/- each to two children towards loss of parental consortium. In **Rajwati alias Rajjo and others vs. United India Insurance Company Ltd. And Others'** 2023(1) R.C.R. (Civil) 205, Hon'ble the Supreme Court, while relying upon **Satinder Kaur @ Satwinder Kaur and others** (supra), granted ₹44,000/- to each appellant towards loss of consortium. Again, in



recent pronouncement in '**Rahul Ganpatrao Sable vs. Laxman Maruti Jadhav (Dead) through LRs and others**' 2023 (3) R.C.R. (Civil) 573, the Hon'ble the Supreme Court held that all the dependents should be separately awarded towards loss of consortium and an amount of ₹40,000/- was awarded to each of the four dependents towards loss of consortium.

8. In **Shri Ram General Insurance Company Ltd. (supra)**, the Insurance company, had raised two fold issue before Hon'ble the Supreme Court. The Hon'ble Court issued notice in terms as "The notice in terms of order dated 13.10.2020 was confined only to two aspects i.e. the sum for loss of love and affection being ₹50,000/- and for loss of consortium for ₹40,000/- could not have been granted to each of the three dependents separately but in toto and that would be the amount quantified. This was in terms of the judgment in **National Insurance Company Ltd. Vs. Pranay Sethi and others**' (2017) 16 SCC 680." While answering to the aforesaid query Hon'ble the Supreme Court observed on 27.03 2023 as under;

5. *Learned counsel for the respondents did endeavour to persuade so that it should be per the legal heir by relying on **Magma General Insurance Company Lak. Vs. Nanu Ram alias Chahru Ram and others** (2018) SCC Online SC 13466.*
6. *We are, however, of the view that the total amount has to be assigned under a particular heading and that will go depending on the number of legal heirs present.*
7. *The amounts fixed in terms of Pranay Sethi's case (supra) are ₹50,000/- and ₹40,000/- respectively under the two heads and that should be the total amount payable."*



9. In **Shri Ram General Insurance Company Ltd. (supra)**, a three Judge Bench decision of Hon'ble the Supreme Court in **Satinder Kaur @ Satwinder Kaur and others (supra)** was not brought to the notice of Hon'ble Bench. In view of the consistent view taken by Hon'ble the Supreme Court, followed in **Rahul Ganpatrao Sable (supra)**, elaborating on the issue, the contention of learned counsel for the Insurance Company that a consolidated sum of ₹40,000/- with applicable increase under the head of 'loss of consortium be awarded and not separately to each claimant, cannot be accepted. Loss of consortium, be filial, parental or spousal affects each individual in its own way. Indeed, said loss cannot be measured in terms of money, suffered by each individual relation in a death case. In a recent judgment of Hon'ble the Supreme Court delivered on 05.07.2023 in **Rahul Ganpatrao Sable (supra)**, it has been categorically observed that all the dependents be separately awarded for loss of consortium.

10. In view of the aforesaid discussion, compensation under the conventional heads given to each of the claimant is justified and call for no intervention in view of the various decision given by this Court and Hon'ble Supreme Court.

11. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

02.08.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No