



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

FAO No. 59-2025

Reserved on:-12.08.2025

Pronounced on:-22.08.2025

Rekha Kaushik and anr.

.....Appellants

vs.

Suresh and anr.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Rajesh Bansal, Advocate, for the appellants.

Mr. Devesh Nehra, Advocate
for respondent Nos. 1 and 2.

Mr. Punit Jain, Advocate
for respondent No. 3.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 12.08.2024 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal') for enhancement of compensation granted to the claimants to the tune of Rs.10,78,000/- along with interest @ 7% per annum, on account of death of Ram Narain in a Motor Vehicular Accident, occurred on 06.12.2021.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced here for the sake of brevity.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES**

3. The learned counsel for the claimants-appellants contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present appeal be allowed and amount of compensation be enhanced as per latest law.

4. Per contra, learned counsel for the respondents, however, vehemently argues that the award has rightly been passed and the amount of compensation, as assessed by the learned Tribunal has rightly been granted. Therefore, he prays for dismissal of the appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

SETTLED LAW ON COMPENSATION

6. Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation and Another** [(2009) 6 Supreme Court Cases 121], laid down the law on assessment of compensation and the relevant paras of the same are as under:-

“30. 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 standardised deductions. Having a 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 exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

* * * * *



42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas³, 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.

7. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) *Deduction of personal and living expenses to determine multiplicand;*
- (B) *Selection of multiplier depending on age of deceased;*
- (C) *Age of deceased on basis for applying multiplier;*
- (D) *Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;*
- (E) *Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.*

The relevant portion of the judgment is reproduced as under:-

*“52. As far as the **conventional heads** are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000*



towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that 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 principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on



percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

** * * * **

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 paras 30 to 32 of Sarla Verma⁴ which we have reproduced hereinbefore.



59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 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.”

8. Hon’ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

“21. A Constitution Bench of this Court in Pranay Sethi² 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. Modern jurisdictions world-over have recognised 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. 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 Sethi². 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.

9. A perusal of the records establishes that the deceased was aged 63 years at the time of his demise. He retired as an ex-serviceman from the Indian Army and was subsequently employed as a security guard at the Panipat Refinery. It is evident from the records that the Tribunal has committed an error in determining the income of the deceased by unlawfully deducting his pensionary benefits in the calculation of his salary. The Hon'ble Supreme Court, in plethora of



judgments, has unequivocally settled the legal position that pensionary benefits are not to be deducted while computing the salary for the purposes of awarding compensation.

10. Reliance can be placed to a recent judgment of Hon'ble the Supreme Court in a case of *Hanumantharaju B (Dead) By Lr. Versus M Akram Pasha & Anr., 2025(3) PLJR 37*. The operative part of the judgment reads as under:-

“19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefits is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.

For this proposition of law, we may refer to the decision in Vimal Kaanwar & Ors.. v.. Kishore Dan && Ors. (2013) 7 SCC 476, wherein this Court, by referring to the earlier decision in Helen C. Rebello vs. Maharashtra SRTC (1999) 1 SCC 90 held as follows,

"19. The aforesaid issue fell for consideration before this Court in Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90: 1999 SCC (Cri) 197]. In the said



case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. The following was the observation and finding of this Court: (SCC pp. 111-12, para 35)

"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No



co-relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnities to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any co-relation. The insured (the deceased) contributes his own money for which he receives the amount which



has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual." Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in Reliance General Insurance Co. Ltd. v. Shashi Sharma & Ors. (2016) 9 SCC 627 and National Insurance Company Ltd. v. Birender & Ors. (2020) 11 SCC 356.

20. Keeping the aforesaid legal position in mind, we shall examine the issues at hand.

21. As regards computing the loss of income, in the light of the above referred decisions, it would not be permissible to deduct the



pensionary amount of Rs. 15,247/- from the salary of Rs. 36,231/- as was done by the High Court. Hence, for the purpose of computing the loss of earning, the said monthly salary of Rs. 36,231/- has to be accepted without deducting the pension amount.”

11. It is well-settled, as held in the judgment referred to above that compensation should be calculated based on the last drawn salary of the deceased or injured in case of salaried individuals. The pension and other retirement benefits are statutory entitlements, which cannot be deducted when computing income for compensation purposes. These benefits are the rights of the employee or their legal heirs, regardless of any unforeseen accidents or injuries.

12. Upon due consideration of the aforementioned judgment, along with a catena of precedents laid down by the Hon'ble Apex Court, this Court finds it just, fair, and necessary in the interest of justice to reassess the monthly income of the deceased by taking into account both the last drawn salary and the admissible pensionary benefits.

13. As per the salary slip placed on record as Exhibit PW7/C, the deceased was drawing a monthly salary of Rs.18,121/- at the time of his death. Additionally, the pensionary benefit receivable was to the tune of Rs. 25,000/- per month. Accordingly, this Court assesses the total monthly income of the deceased at **Rs.43,121/- (i.e., Rs.18,121/- + Rs.25,000/-)**, for the purpose of determining just compensation.

14. A further perusal of the award reveals that no compensation has been granted to the married daughters of the deceased. The counsel for the respondent insurance company also contends that the married daughters are not entitled to compensation following the demise of their father. The contention of learned



counsel for the respondent/Insurance Co. is not only misplaced but also devoid of any merit.

15. In this regard, it is pertinent to refer to the recent judgment of the Hon'ble Supreme Court in ***Jitender Kumar v. Sanjay Prasad passed in Civil Appeal No. 7199 of 2025 (Arising Out of SLP(C)No. 27779 of 2023), decided on 22.05.2025***, wherein the Court held that married daughters are too entitled to claim compensation. The Court emphasized that the entitlement to compensation extends to both married sons and daughters, irrespective of whether they are financially dependent on the deceased or not. The Apex Court unequivocally held that the status of being married does not bar a daughter from receiving compensation in MACT cases. The relevant paragraphs of ***Jitender Kumar's case (supra)*** are reproduced as under:

*"13. In our considered opinion, the view on this issue cannot be faulted. The exposition of law in **Birender (Supra)** is clear, wherein it was observed as under:*

"14. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only."



14. Such exposition came to be followed by this Court in Seema Rani and Ors. v. Oriental Insurance Co. Ltd. and Ors., 2025 SCC Online SC 283., wherein it was observed that the application for compensation, even by married sons and daughters, must be considered, irrespective of whether they are fully dependant or not. In the present case, it cannot be disputed that the claimant-appellant(s) became partner in the consultancy firm run by the deceased. Moreover, it is not in dispute that that the Flour Mill being run by the deceased, is still being run by the claimant-appellant(s). In such a factual circumstance, it cannot be said that the claimant-appellant(s) were financially dependent upon the deceased.”

16. In view of judgment referred to above, it is abundantly clear that married daughters are equally entitled to compensation, as they too remain dependent on their parents. In our societal framework, parents continue to provide care and support not only to their married sons and daughters but also to their grandchildren. The assertion that, upon marriage, sons and daughters are no longer dependent on their parents is a fallacy that fails to reflect the practical realities of familial bonds.

17. Consequently, it is evident that married daughters, just like their unmarried counterparts, remain within the fold of dependency and, therefore, are justifiably entitled to compensation.

18. Further, the learned Tribunal has wrongly deducted 1/3rd instead of 1/4th towards personal expenditure of the deceased out of his monthly income, as per settled law. Moreover, the learned Tribunal has also erred in law in awarding



the less amount towards loss of estate, funeral expenses and loss of consortium. Therefore, the award requires indulgence of this Court.

CONCLUSION

19. In view of the law laid down by the Hon’ble Supreme Court in the above referred to judgments, the present appeal is allowed. The award dated 12.08.2024 is modified accordingly. The appellants-claimants are entitled to enhanced amount of compensation as per the calculations made here-under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.43121/-
2	Deduction towards personal expenditure 1/4th	Rs.10856/- (43121X1/4)
3	Total Income	32265 (43121-10856)
4	Multiplier	7
5	Annual Dependency	Rs.2710260/- (32265X7X12)
6	Loss of Estate	Rs.18,000/-
7	Funeral Expenses	Rs.18,000/-
8	Loss of Consortium Spousal: Rs. 48,000/-x1 Parental: Rs. 48,000/-x4	Rs.2,40,000/-
	Total Compensation	Rs.2986260/-
	Deduction Amount Awarded by the Tribunal	Rs.10,78,000/-
	Enhanced amount	Rs.1908260/- (2986260-1078000)

20. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nandu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the appellants-claimants are granted the interest



@ 9% per annum on the enhanced amount of compensation from the date of filing of claim petition till the date of its realization.

21. The Insurance Company-respondent No. 2 is directed to deposit the enhanced amount of compensation, as per award dated 12.08.2024 along with interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in the accounts of the claimants/appellants as well as respondent Nos. 4 to 6 in equal ratio. The claimants/ appellants as well as respondent Nos. 4 to 6 are directed to furnish their bank account details to the Tribunal.

22. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

August 22, 2025
Gaurav Arora

Whether speaking/non-speaking :	Yes/No
Whether reportable :	Yes