2025:PHHC:152516

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

***

FAO-1645-2019
Date of decision : 06.11.2025

Tabsum and others

... Appellant

Versus

Usman and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ajay Gupta, Advocate and
Mr. Vishal Walia, Advocate
for the appellant.

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

VIKAS BAHL, J.(ORAL)

1. The widow, minor children and mother of the deceased Shokeen have filed the present appeal for enhancement. Vide award dated 11.01.2018, an amount of Rs.22,12,000/- was awarded to the appellants-claimants in equal share along with interest at the rate of 7.5% per annum as compensation on account of death of Shokeen, which had taken place in a road accident on 22.01.2017 due to being hit by the motor vehicle which was owned by respondent no.2 and was being driven by respondent no.1 and was insured by respondent no.3.

2. The only issue which arises for consideration in the present

case is as to whether the present appellants are entitled to any enhanced amount of compensation as the other aspects have not been disputed before this Court.

3. Learned counsel for the appellants has submitted that in the present case, the amounts on accounts of loss of estate and funeral expenses have been awarded as Rs.15,000/- each, whereas on the said counts, the appellants should have been awarded Rs.18,000/- each in view of settled law. It is further submitted that there are as many as six claimants, who were all dependent upon the deceased and on account of loss of consortium, only an amount of Rs.40,000/- had been awarded whereas the same should have been awarded to the tune of Rs.2,88,000/- (Rs.48,000 x 6). It is further submitted that on the additional compensation, interest at the rate of 9% per annum should be awarded. In support of his arguments, learned counsel for the appellants has relied upon the law laid down by the Hon'ble Supreme Court in cases titled as ***Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another*** reported as ***(2009) 6 SCC 121***, ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported as ***(2017) 16 SCC 680***, and ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others*** reported as ***(2018) 18 SCC 130***.

4. Learned counsel for respondent no.3, on the other hand, has referred to the order dated 29.10.2025 passed by this Court, vide which notice of motion was issued and has highlighted the fact that since there was delay of 169 days in filing the appeal, thus, as per the statement made at the

time of condoning the delay, the interest for the above said period of 169 days is not to be given to the appellants. It is further submitted that the interest sought to be charged for the enhanced compensation is highly excessive and the highest rate of interest which can be granted to the present appellants for the enhanced compensation is 6% per annum.

5. The order dated 29.10.2025 which has been highlighted by learned counsel for respondent no.3 is reproduced hereinbelow:-

> *"Present:- Mr. Ajay Gupta, Advocate*
> *for Mr. Gourav Verma, Advocate,*
> *for the appellants.*
>
> *Mr. Punit Jain, Advocate, for respondent No.3.*
>
> ***
>
> *CM-4963-CII-2019*
>
> *This is an application filed under Section 151 CPC for condonation of delay of 22 days in re-filing the present appeal.*
>
> *For the reasons stated in the application, the same is allowed and the delay of 22 days in re-filing the present appeal is condoned.*
>
> *CM-4966-CII-2019*
>
> *This is an application filed under Section 5 of the Limitation Act for condonation of delay of 169 in filing the present appeal.*
>
> *Learned counsel for the appellants has submitted that for the period of 169 days, the appellants would not claim any interest and has prayed that the said delay be condoned.*
>
> *For the reasons mentioned in the application, which is duly supported by an affidavit as well as on account of the fair statement made on behalf of the appellants, the present*

application is allowed and the delay of 169 days in filing the present appeal is hereby condoned.

As stated before this Court, the appellants would not claim interest for the said period of 169 days.

FAO-1645-2019

Learned counsel for the appellant has submitted that in the present case, the only prayer of the appellant is that the amount on the conventional heads have not been given.

At this stage, notice of motion be issued to respondent No.3 only.

Mr. Punit Jain, Advocate, appears and accepts notice on behalf of respondent No.3.

Adjourned to 06.11.2025.

To be shown in the urgent list.

October 29, 2025"

6. Learned counsel for the appellants has submitted a revised chart, which is reproduced hereinbelow:-

"FAO NO.1645 OF 2019 DELAY 172

*APPELLANT HEREIN: **CLAIMANTS** / INURED / INSURANCE COMP / OWNER / DRIVER*

CHALLENGE HEREIN: Conventional head.

Tabsum & ors. …Appellant

V/s

Usman & Ors. …Respondents

DATE OF ACCIDENT: 22.01.2017

NATURE OF CASE: DEATH / INJURY/ DAMAGE TO VEHICLE – Death

AGE OF DECEASED/ INJURED: 28

DRIVING LICENCE / ROUTE PERMIT / INSURANCE: The Oriental

Insurance Co.

DETAIL OF RELIEF GRANTED /CLAIMED

DETAIL	*BEFORE THE TRIBUNAL*	*Compensation payable as per judgments*
Income	*Monthly: 10,000* *Annual: 1,20,000*	*Monthly: 10,000* *Annual: 1,20,000*
Deduction	*25% (Rs.30,000)*	*25% (Rs.30,000)*
Future prospects	*40% (Rs.36,000)*	*40% (Rs.36,000)*
Multiplier	*17*	*17*
Loss of estate	*15000*	*18,000*
Funeral expenses	*15000*	*18,000*
Loss of consortium	*Parental-* *Filial- 40,000/-* *Spousal*	*48,000 x 6 =2,88,000*
Total compensation	*Rs.22,12,000/-*	*Rs.24,66,000/-*
Interest	*@ 7.5%*	*+ 3%*

Difference Rs.24,66,000

22,12,000

2,54,000

Interest 66, 675

Rs.3,20,675/-

7. This Court has heard learned counsel for the parties and has perused the paper book and has also considered the said revised chart and the same has been found to be in accordance with law.

8. Hon'ble the Supreme Court in para 42 of ***Sarla Verma's case*** (Supra) had observed as under:-

"We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is ***M-17 for 26 to 30 years****, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."*

A perusal of the above would show that for the age of 28 years, multiplier of 17 is to be applied.

9. The Hon'ble Supreme Court in ***Pranay Sethi's case*** (Supra), has held as under:-

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

59.1 The two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

59.2 As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.

59.3 While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition *should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*

59.4 ***In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years.*** *An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.*

59.5 For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

59.6 The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

59.7 The age of the deceased should be the basis for applying the multiplier.

59.8 Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.

60. The reference is answered accordingly. Matters be placed before the appropriate Bench."

A perusal of the above judgment would show that it was observed by the Hon'ble Supreme Court that addition of some percentage of the actual salary to the income of the deceased towards future prospects was also required to be taken into consideration and the said percentage was specifically defined with respect to persons who were having a permanent job or/were self-employed or on a fixed salary.

10. The Hon'ble Supreme Court in ***Magma General Insurance Company Limited's case (Supra)*** had further observed that in death case, under the head of loss of consortium, the parents of the deceased are entitled to be awarded loss of consortium under the head of filial consortium, children are entitled to parental consortium. To the widow, spousal consortium is to be given. Relevant portion of the said judgment is reproduced hereinbelow:-

> "*21. A Constitution Bench of this Court in Pranay Sethi dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium. In legal parlance, "consortium" is a compendious term which encompasses'spousal consortium', 'parental consortium', and 'filial consortium'. The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.*
>
> *21.1 Spousal consortium is generally defined as rights pertaining to the relationship of a husband wife which allows compensation to the surviving spouse for loss of "company, society,co-operation, affection, and aid of the other in every conjugal relation."*

21.2 Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training."

21.3 Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium. Parental Consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count 5. However, there was no clarity with respect to the principles on

> *which compensation could be awarded on loss of Filial Consortium.*
>
> *24. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down in Pranay Sethi (supra). In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs.40,000 each for loss of Filial Consortium."*

In the abovesaid judgment, a specific amount was awarded to the father and sister of the deceased and thus, the amount of consortium awarded was made dependent upon the number of claimants/legal representatives.

11. The revised chart produced by the learned counsel for the appellants in so far as the amounts on accounts of loss of estate, funeral expenses and loss of consortium has been mentioned is in accordance with law and deserves to be granted to the appellants. There are six claimants who were dependent upon the deceased and thus, the present appellants are entitled to Rs.2,88,000/- under the account of loss of consortium, whereas they were granted only Rs.40,000/- on the said account. Thus, the present appellants are held to be entitled for additional compensation of Rs.2,54,000/-. With respect to the rate of interest, this Court is consistently awarding interest at the rate of 7.5% per annum, which rate of interest is also reasonable in the present case.

12. Keeping in view the above said facts and circumstances, the present appeal is partly allowed and the award dated 11.01.2018 is modified

and respondent no.3 is directed to pay an additional amount of compensation of Rs.2,54,000/- to the appellants along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation after subtracting 169 days, within a period of six weeks from today.

(VIKAS BAHL)
JUDGE

November 06, 2025.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No