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

1. FAO-1531-1993
Date of decision: 07.01.2025

Suresh Devi and others

...Appellants

Versus

Roshan Lal and others

...Respondents

2. FAO-1571-1993
Date of decision: 07.01.2025

Savitri Devi and others

...Appellants

Versus

Roshan Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Gursimran Walia, Advocate for the appellants.

Mr. Rajneesh Kumar Malhotra, Advocate
for the Insurance Company.

VIKAS BAHL, J. (ORAL)

1. The present order would dispose of two appeals i.e., FAO Nos.1531 and 1571 of 1993 as in both the appeals, prayer has been made for modification of common award dated 03.06.1993.

2. FAO-1531-1993 has been filed by Suresh Devi along with sons



and daughter of the deceased-Jabar Singh for enhancement of the awarded amount which had been awarded to the said claimants to the extent of Rs.2,30,400/-.

3. Learned counsel for the appellants has submitted that in the said case, the Tribunal had wrongly made a deduction of 1/3rd instead of 1/4th and even the multiplier had been wrongly applied as 16 instead of 17 as the deceased-Jabar Singh was 30 years of age and thus, multiplier of 17 was applicable. It is further submitted that the Tribunal had not granted any amount on account of future prospects and 40% of the income on the said aspect is also required to be granted. It is submitted that no amount on account of loss of consortium and loss of estate and transportation had been awarded and amounts of Rs.1,92,000/- and Rs.36,000/- respectively are also required to be granted on the said aspects. It is submitted that in view of the same, an additional amount of Rs.3,83,160/- should be granted to the claimants/appellants and the same should be granted along with the interest at the rate of 12% per annum from the date of filing of the claim petition till its realisation. In support of his arguments, learned counsel for the appellants has relied upon the law laid down by the Hon'ble Supreme Court in case 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. Learned counsel for the appellants has also submitted a chart, relevant portion of which is reproduced hereinbelow:-



“Suresh Devi and othersAppellant

VERSUS

Roshan Lal and othersRespondents

SYNOPSIS

Nature of case: Death Case

Date of Accident:- 30.08.1992 @ 7:30 PM

Deceased- Jabar Singh

Age: 30 years

Award: Rs. 2,30,400/- along with 12% P.A. interest w.e.f. 11.11.1992

Date of Award: 03.06.1993

Occupation:- Running Motor repair shop by the name of Narwal Electricals, Karnal, labour and agriculture income.

Brief Facts:-

1. Jai Singh and Jabar Singh were travelling from Karnal City towards Sugar Mill, Karnal on correct left side of the road.
2. In the meantime, one truck being driven by respondent no. 1 came from opposite side and struck the motorcycle of the deceased. Resulting in the death of the deceased.
3. The accident has occurred due to rash and negligent driving of driver of the truck who was driving the truck at a very high speed.

Total Claimants – 4

Appellant no 1- Suresh Devi (Wife)

Appellant no. 2- Sandeep Kumar (son)

Appellant no. 3- Pardeep Kumar (son)

Appellant no. 4- Neelam Devi (daughter)

Offending Driver - Roshan Lal (Respondent no. 1)

Offending owner- M/s Liberty Group, Marketing Division (Respondent no.2)

CALCULATION

S.No.	Head	Trial calculation	Court	Proposed
1.	Salary	1800x12 Rs.21,600/-	=	1800x12= Rs.21,600/-



2.	Deduction	$21,600 - \frac{1}{3rd} \times \frac{21,600}{21,600} = Rs.14,400/-$	$21,600 - \frac{1}{4th} \times 21600 = Rs.16,200/-$
3.	Multiplier	$14400 \times 16 = Rs.2,30,400/-$	$16200 \times 17 = Rs.2,75,400/-$
4.	Future Prospects	Nil	$2,75,400 + 40\% = Rs.3,85,560/-$
5.	Loss of Consortium	Nil	1,92,000/-
6.	Loss of estate and transportation	--	36,000/-
7.	Total	Rs.2,30,400/-	Rs.6,13,560/-
	Total amount after deducting the awarded amount	Rs.3,83,160/-	

Thus, as per the calculation done by the appellant, the proposed amount of compensation comes to Rs.3,83,160/- + 12% P.A. for 34 years.”

4. On the other hand, learned counsel for the Insurance Company has submitted that the rate of interest sought to be claimed by the appellants is highly excessive and at best, the rate of interest at the rate of 6% per annum can be granted to the claimants on the enhanced amount.

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

6. 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.”*

7. A perusal of the above would show that for the age of 30 years and 45 years, multiplier of 17 and 14 respectively are to be applied.

8. 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.”

9. 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. The chart as reproduced in para 42 of the judgment of **Sarla Verma’s case** (Supra) was approved and a total amount of Rs.70,000/- on conventional heads namely loss of estate, loss of consortium or funeral expenses was also mentioned which required



to be enhanced at the rate of 10% in every three years.

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."*

11. In the abovesaid judgment, an amount of Rs.40,000/- each 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.

12. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the only issue which arises for consideration in the present case is as to whether the amount awarded by the Tribunal to the claimants deserves to be enhanced or not as the other aspects including the aspect of the deceased-Jabar Singh having died in the accident which had taken place on 30.08.1992 by the offending vehicle which was insured by respondent No.3-Insurance Company are not disputed. In view of the settled law, this Court is of the opinion that the chart submitted by the counsel for the appellants deserves to be approved and the deduction which is required to be made in the present case should be 1/4th and the multiplier to be applied is required to be 17 as the age of the deceased was 30 years and the claimants on account of future prospects are also entitled to 40% of the income and are also entitled to an amount of Rs.1,92,000/- on account of loss of consortium and an amount of Rs.36,000/- on account of loss of estate and transportation and thus, the claimants are entitled to an additional amount of Rs.3,83,160/-. With respect to the rate of interest, this Court is consistently awarding the rate of interest at the rate of 7.5% per annum, which rate of interest is also reasonable in the present case.

FAO-1571-1993

13. FAO-1571-1993 has been filed by the widow, three daughters and son of the deceased-Jai Singh, who had died in an accident which had taken place on 30.08.1992.



14. Learned counsel for the appellants-claimants has submitted that in the present case, the amount of compensation which had been awarded by the Tribunal to the claimants i.e., Rs.3,10,600/- is inadequate, inasmuch as, the deduction of 1/3rd had been made by the Tribunal instead of deduction of 1/4th. It is further submitted that future prospects to the extent of 25% are also required to be taken into consideration for assessing the total compensation and loss of consortium to the extent of Rs.2,40,000/- as well as loss of estate and transportation to the extent of Rs.36,000/- are also required to be paid to the present claimants. It is submitted that in view of the same, the abovesaid additional amounts should be granted to the claimants/appellants and the same should be granted along with the interest at the rate of 12% per annum from the date of filing of the claim petition till its realisation.

15. Learned counsel for the Insurance Company has submitted that in the present case, the multiplier which had been applied by the Tribunal is 16 whereas since the deceased was 45 years of age thus, the multiplier which is to be applied in the present case should be 14 and further submits that the rate of of interest which is sought to be claimed by the appellants is highly excessive and at best, the rate of interest at the rate of 6% per annum can be granted on the enhanced amount.

16. Learned counsel for the appellants has submitted a revised chart after taking into consideration the objections raised by learned counsel for the Insurance Company, the relevant portion of which is reproduced hereinbelow:-

“Savitri and others

....Appellant

VERSUS

Roshan Lal and others

.....Respondents

SYNOPSIS

Nature of case:- Death Case

Date of Accident:- 30.08.1992 @ 7:30 PM

Deceased - Jai Singh

Age: 45 years

Award: Rs. 3,10,600/- along with 12% P.A. interest w.e.f 28.10.1992 i.e date of filling of petition

Date of Award:- 03.06.1993

Occupation- Running Motor repair shop by the name of Narwal Electricals, Karnal, labour and agriculture income.

Brief Facts:-

1. Jai Singh and Jabar Singh were travelling from Karnal City towards Sugar Mill, Karnal on correct left side of the road.
2. In the meantime, one truck being driven by respondent no. 1 came from opposite side and struck the motorcycle of the deceased. Resulting in the death of the deceased.
3. The accident has occurred due to rash and negligent driving of driver of the truck who was driving the truck at a very high speed.

Total Claimants – 5

Appellant no 1- Savitri devi (Wife)

Appellant no. 2- Namita (Daughter)

Appellant no. 3- Wazita Kumari (daughter)

Appellant no. 4- Manita (daughter)

Appellant 5- Mandeep singh (Son)

Offending Driver - Roshan Lal (Respondent no. 1)

Offending owner- M/s Liberty Group, Marketing Division (Respondent no. 2)

CALCULATION

S.No.	Head	Trial Court calculation	Proposed
1.	Salary	Rs.2252/- P.M.	2252/- P.M.



2.	<i>Deduction</i>	$2252 - \frac{1}{3rd} \times 2252 = Rs.1501/-$	$2252 - \frac{1}{4th} \times 2252 = Rs.1689/-$
3.	<i>Income</i>	$1501 \times 12 = 18,012/-$	$1689 \times 12 = 20,268/-$
4.	<i>Add on income</i>	<i>Rs.1400</i>	<i>Rs.1400</i>
5.	<i>Multiplier</i>	$19,412 \times 16 = Rs.3,10,600/-$	$21,668 \times 14 = Rs.3,03,352/-$
6.	<i>Future Prospects</i>	<i>Nil</i>	$3,03,352 + 25\% = Rs.3,79,190/-$
7.	<i>Loss of Consortium</i>	<i>Nil</i>	<i>2,40,000/-</i>
8.	<i>Loss of estate and transportation</i>	<i>--</i>	<i>36,000/-</i>
9.	<i>Total</i>	<i>Rs.3,10,600/-</i>	<i>Rs.6,55,190/-</i>
	<i>Total amount after deducting the awarded amount</i>	<i>Rs.3,44,590/-</i>	

Thus, as per the calculation done by the appellant, the proposed amount of compensation comes to Rs.3,44,590/- + 12% P.A. for 34 years.”

17. This Court has considered the said revised chart and finds that the same is in accordance with law and this Court is of the opinion that the deduction which is required to be made in the present case should be 1/4th and multiplier to be applied is required to be 14 as age of the deceased-Jai Singh was 45 years and the claimants on account of future prospects are also entitled to 25% of the income and are also entitled to an amount of Rs.2,40,000/- on account of loss of consortium and Rs.36,000/- on account of loss of estate and transportation and thus, the claimants are entitled to an additional amount of Rs.3,44,590/-. With respect to the rate of interest, this Court is consistently awarding the rate of interest at the rate of 7.5% per annum, which rate of interest is also reasonable in the present case.

18. Keeping in view the abovesaid facts and circumstances, both the appeals bearing FAO Nos.1531 and 1571 of 1993 are partly allowed and



the common award dated 03.06.1993 is modified and the Insurance Company is directed to pay the additional amount of compensation to the tune of Rs.3,83,160/- to the appellants in FAO No.1531 of 1993 along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation within a period of six weeks from today and Rs.3,44,590/- to the appellants in FAO No.1571 of 1993 along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation within a period of six weeks from today.

07.01.2025

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No