

FAO-6183-2024(O&M) 1

2025:PHHC:169061



IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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FAO-6183-2024(O&M)

Date of decision : 04.12.2025

Raj Kumar Vimal and others

... Appellants

Versus

Rajinder Kumar and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

Present: Mr.Govind Chauhan, Advocate  
for the appellants.

Mr.Rahul Pathania, Advocate for  
Mr. R.C. Kapoor, Advocate  
for respondent no.3.

**VIKAS BAHL, J.(ORAL)**

**CM-23284-CII-2024**

1. This is an application under Section 151 CPC readwith Section 5 of the Limitation Act for condonation of delay of 1142 days in refiling the appeal.

2. For the reasons stated in the application, which is supported by an affidavit, the application is allowed and delay of 1142 days in refiling the appeal is condoned.

**FAO-6183-2024**

1. The parents, sister and minor brother have filed the present



appeal for enhancement of compensation. An amount of Rs.22,98,000/- was awarded as compensation to the appellants on account of death of Varun Kumar Vimal, who had died in a motor vehicular accident.

2. The only issue which arises in the present case for consideration is as to whether the appellants are entitled to additional compensation. The other aspects have not been disputed before this Court.

3. On 17.11.2025, this Court was pleased to pass the following order:-

*“CM-22873-CII-2025*

*This is an application under Section 151 CPC for preponing the date of hearing from 23.03.2026.*

*For the reasons mentioned in the application, which is duly supported by an affidavit, the present application is allowed.*

*Hearing of the main case is preponed to today.*

*FAO-6183-2024*

*Learned counsel for the appellants has submitted that the present appeal has been filed for enhancement and the only plea raised by the appellants is with respect to non-grant of any amount on consortium, whereas there are four claimants.*

*Notice of motion for 02.12.2025.*

*Liberty is granted to the appellants to serve respondent No.3 through dasti process also.*

*To be taken up in the urgent list.*

*November 17th, 2025”*

4. Learned counsel for the appellants has reiterated that in the present case, the appellants are entitled to funeral expenses and loss of



estate to the extent of Rs.18,000/- each, whereas the amount which has been awarded by the Tribunal on the said two counts is Rs.15,000/- each. It is submitted that there are four claimants but no amount has been granted on account of consortium and has prayed that an amount of Rs.1,92,000/- (Rs.48,000/- x 4) be granted. It is further submitted that on the enhanced amount of Rs.1,98,000/-, interest at the rate of 9% per annum be granted. 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 ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others*** reported as ***(2018) 18 SCC 130***.

5. Learned counsel for respondent no.3 has submitted that the interest which is sought to be applied by the present appellants is highly excessive and the highest rate of interest which can be granted on the additional compensation is 6% per annum.

6. This Court has heard learned counsel for the appellants and learned counsel for respondent no.3 and has perused the paper book and finds that the limited prayer made by learned counsel for appellants deserves to be granted except with respect to the rate of interest.

7. The Hon'ble Supreme Court in ***Magma General Insurance Company Limited's case (Supra)*** had 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.



8. In the present case, there are four claimants and as per settled law, each one of them is entitled to consortium of an amount of Rs.48,000/- and thus, the four claimants are entitled to an amount of Rs.1,92,000/- on account of loss of consortium, whereas the Tribunal has not granted any amount on the said aspect. Even on account of loss of estate and funeral expenses, the amount to which the appellants are entitled to is Rs.18,000/- each whereas the Tribunal has granted an amount of Rs.15,000/- each on the said two counts. Accordingly, the present appellants are entitled to enhanced compensation of Rs.1,98,000/-. 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.

9. Keeping in view the above said facts and circumstances, the present appeal is partly allowed and the award dated 04.02.2020 is modified and respondent no.3 is directed to pay an additional amount of compensation of Rs.1,98,000/- 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 within a period of six weeks from today.

(VIKAS BAHL)  
JUDGE

December 04, 2025.  
*Davinder Kumar*

|                             |        |
|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |