



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-2151-2019

Reserved on:- 04.11.2025

Pronounced on:- 14.11.2025

RELIANCE GENERAL INSURANCE CO. LTD

.....Appellant

vs.

SUNITA AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

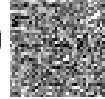
Present: Mr. Sanjeev Kodan, Advocate
for the appellant.

Mr. Sushil Jain, Advocate
for respondents No.1 to 4.

Mr. Rajesh Sharma, Advocate
for Mr. Balkar Singh, Advocate
for respondent No.5 and 6.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 09.01.2019 passed by the learned Motor Accident Claims Tribunal, Sonapat (for short, 'the Tribunal') in the claim petition filed under Section 166 and 140 of the Motor Vehicles Act, 1988 (in short '1988 Act') on the ground that amount of compensation awarded under Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2006 (in short



‘2006 Rules’) was not deducted by learned Tribunal while calculating the compensation awarded to claimants.

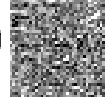
2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced here for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

3. Learned counsel for the appellant–Insurance Company submits that the learned Tribunal erred in law and on facts in deducting only 50% of the financial assistance received by the claimants under the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2006 (in short ‘2006 Rules’). He further contends that the entire amount of financial assistance ought to have been deducted while computing the compensation payable under the 1988 Act. In support of this contention, reliance has been placed upon the judgment of the Hon’ble Supreme Court in **Reliance General Insurance Co. Ltd. v. Shashi Sharma and Others, (2016) 9 SCC 627.**

4. Learned counsel further argues that the computation of compensation by the learned Tribunal is not in accordance with the settled principles of law. On these grounds, it is urged that the present appeal deserves to be allowed and the impugned award be suitably modified.

5. Per contra, learned counsel for the respondent–claimants vehemently opposes the appeal and submits that the compensation awarded under the 1988 Act cannot be reduced by deducting the amount received under the 2006 Rules, as both have distinct purposes and objects. It is contended that the financial assistance under the 2006 Rules is a welfare



measure intended to provide immediate relief to the dependents of a deceased government employee who dies in harness, whereas compensation under the 1988 Act is granted to compensate for the death caused by a motor accident. In support of this submission, reliance is placed upon the judgment of the Hon'ble Supreme Court in **Sebastian Lakra v. National Insurance Company Limited, (2019) 17 SCC 465.**

6. He further submits that the amount of compensation awarded by the learned Tribunal is on the lower side. He points out that the claimants have already filed a separate appeal, being FAO-4186-2019, titled as "Sunita and others Vs. Ramphal and others", challenging the quantum of compensation awarded by the Tribunal and seeking its enhancement. He, therefore, prays that the present appeal filed by the Insurance Company be dismissed and that the compensation be suitably enhanced in accordance with the latest law laid down by the Hon'ble Supreme Court.

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

8. The issue to be decided by this Court in the present appeal is as to whether the compensation awarded under the Motor Vehicles Act, 1988 can be reduced by deducting the amount received under the 2006 Rules.

9. At the outset, it is pertinent to note that the question as to whether compensation awarded under the Motor Vehicles Act, 1988 is to be reduced by the amount received under the 2006 Rules is no longer *res integra*.

10. The Hon'ble Supreme Court in **Reliance General Insurance Co. Ltd. v. Shashi Sharma and Others, (2016) 9 SCC 627,** has authoritatively settled this issue, wherein, it has been held that where the dependents of a deceased Government employee receive ex-gratia financial assistance under



the 2006 Rules, which are intended to provide compassionate financial relief in lieu of the loss of service income of the deceased, it would be unjustified to permit them to again claim the same loss of income by way of compensation under the 1988 Act. The Court observed that such dual benefits would amount to double compensation for the same loss, which the law does not countenance.

11. The relevant observations from **Shashi Sharma (supra)**, particularly paragraphs 17 to 22, make it abundantly clear that the amount received by the dependents of the deceased under the 2006 Rules must be deducted from the compensation determined under the 1988 Act.

12. The relevant extract of the **Shashi Sharma (supra)** is reproduced as under:-

“17. A perusal of the scheme of Rules of 2006 would reinforce the position that the dependents of the deceased Government employee are suitably compensated for a specified period by way of financial assistance in the form of ex-gratia payment on compassionate grounds equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Here, we may advert to the recital of the Rules of 2006, which reads thus:

"No. G.S.R. 19/Const./Art. 309/2006.-In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, The Governor of Haryana hereby makes the following rules to grant the compassionate assistance by way of ex-gratia financial assistance on compassionate grounds to members of the family of a deceased Government employee who dies while in service/missing Government employee, namely:-



(emphasis supplied)

Rule 2 stipulates the objects of the Rules, namely, to assist the family of a deceased/missing Government employee of Group C and D category, in tiding over the emergent situation, resulting from the loss of the bread-earner while in regular service by giving financial assistance. Rule 3 of the said Rules provides for eligibility to receive financial assistance under the Rules. As per Rule 4, the eligible family members are required to submit an application in Form A for compassionate financial assistance. Rule 5, is of some significance which provides for the extent of financial assistance. The same reads thus:

"5.(1) On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim.,-

(a) for a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty- five years;

(b) for a period of twelve years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee at the time of his death had attained the age of thirty-five years but had not attained the age of forty-eight years;

(c) for a period of seven years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty-eight years.



(2) The family shall be eligible to receive family pension as per the normal rules only after the period during which he receives the financial assistance as above is completed.

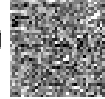
(3) The family of a deceased Government employee who was in occupation of a Government residence would continue to retain the residence on payment of normal rent/license fee for a period of one year from the date of death of the employee.

(4) Within fifteen days from the date of death of a Government employee, an ex-gratia assistance of twenty five thousand rupees shall be provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner.

(5) House Rent Allowance shall not be a part of allowance for the purposes of calculation of assistance."

18. Rule 6 pertains to pending cases of ex-gratia assistance, with which we are not concerned in the present appeals. But to complete the narrative, we may refer to the said provision. It postulates that all pending cases of ex-gratia assistance shall be covered under the new Rules (i.e. Rules of 2006). Further, the calculation of the period and payment shall be made to such cases from the date of notification of the new Rules. It further provides that the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the new Rules.

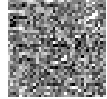
19. Reverting back to Rule 5, sub-clause (1) provides for the period during which the dependents of the deceased employee may receive financial assistance equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a



specific claim. Sub-rule (2) provides that the family shall be eligible to receive family pension as per the normal Rules only after the period during which they would receive the financial assistance in terms of sub-rule (1). Sub- rule (3) guarantees the family of a deceased Government employee of a Government residence in occupation for a period of one year from the date of death of the employee, upon payment of normal rent/license fee. By virtue of sub-rule (4), an ex-gratia assistance of 25,000/- is provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner. Sub-rule (5) clarifies that house rent allowance shall not be a part of allowance for the purposes of calculation of assistance.

20. Rule 5 broadly deals with two aspects. Firstly, to compensate the dependents of the deceased Government employee by granting ex-gratia financial assistance on compassionate grounds for the loss of pay and other allowances for a specified period. The second part of Rule 5 is to compensate the dependents of the deceased Government employee by way of allowances and concessions - of retaining occupation of the Government residence on specified terms, of family pension and other allowance. As regards the second part, it deals with income from other source which any way is receivable by the dependants of the deceased Government employee. That cannot be deducted from the claim amount, for determination of a just compensation under the Act of 1988.

21. The claimants are legitimately entitled to claim for the loss of "pay and wages" of the deceased Government employee against the tortfeasor or Insurance Company, as the case may be, covered by the first part of Rule 5 under the Act of 1988. The claimants or dependents of the

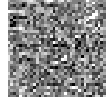


deceased Government employee (employed by State of Haryana), however, cannot set up a claim for the same subject falling under the first part of Rule 5 - "pay and allowances", which are receivable by them from employer (State) under Rule 5 (1) of the Rules of 2006. In that, if the deceased employee was to survive the motor accident injury, would have remained in employment and earned his regular pay and allowances. Any other interpretation of the said Rules would inevitably result in double payment towards the same head of loss of "pay and wages" of the deceased Government employee entailing in grant of bonanza, largesse or source of profit to the dependants/claimants. Somewhat similar situation has been spelt out in Section 167 of the Motor Vehicles Act, 1988, which reads thus:

"167. Option regarding claims for compensation in certain cases.--- Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both."

(emphasis supplied)

22. Indeed, similar statutory exclusion of claim receivable under the Rules of 2006 is absent. That, however, does not mean that the Claims Tribunal should remain oblivious to the fact that the claim towards loss of Pay and wages of the deceased has already been or will be compensated by the employer in the form of ex-gratia financial assistance on compassionate grounds under Rule 5 (1). The Claims Tribunal has to adjudicate the claim and determine the



amount of compensation which appears to it to be just. The amount receivable by the dependants/claimants towards the head of pay and allowances in the form of ex-gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, that the Rules of 2006 would come into play if the Government employee dies in harness even due to natural death. At the same time, the Rules of 2006 do not expressly enable the dependents of the deceased Government employee to claim similar amount from the tortfeasor or Insurance Company because of the accidental death of the deceased Government employee. The harmonious approach for determining a just compensation payable under the Act of 1988, therefore, is to exclude the amount received or receivable by the dependents of the deceased Government employee under the Rules of 2006 towards the head financial assistance equivalent to "pay and other allowances" that was last drawn by the deceased Government employee in the normal course. This is not to say that the amount or payment receivable by the dependents of the deceased Government employee under Rule 5 (1) of the Rules, is the total entitlement under the head of "loss of income". So far as the claim towards loss of future escalation of income and other benefits, if the deceased Government employee had survived the accident can still be pursued by them in their claim under the Act of 1988. For, it is not covered by the Rules of 2006. Similarly, other benefits extended to the dependents of the deceased Government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, Life Insurance, Provident Fund etc., that must remain unaffected and cannot be allowed to be deducted, which, any way would be paid to the dependents of the deceased Government



employee, applying the principle expounded in Helen C.Rebello and Patricia Jean Mahajan's cases (supra).”

13. Furthermore, the Hon’ble Supreme Court in **Krishna v. Tek Chand, 2024 ACJ 443**, has reaffirmed this settled legal position and reiterated that the benefits received under the 2006 Rules are liable to be deducted from the compensation assessed under the Motor Vehicles Act.

14. The relevant extract of the **Krishna’s case (supra)** is reproduced as under:-

“4. By way of response, learned counsel for the petitioners also brought to our notice another three Judge Bench judgment of this Court in Sebastiani Lakra and Ors. v. National Insurance Company Limited [(2019) 17 SCC 465] and particularly paragraph '12' therein to contend that the deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased and contended that having regard to the latter decision of this Court, the earlier decision in Shashi Sharma (supra) may not be relied upon.

*5. We have perused closely the judgment of this Court in Sebastiani Lakra (supra) and **we find that the** three-judge Bench of this Court in the said case has clearly distinguished the reasoning of this Court in Shashi Sharma (supra) and in paragraphs 18 and 20 thereof has observed in that case it was a employers' family benefit scheme which was totally different from the Rules under consideration in Shashi Sharma (Supra).*

*6. **We find that the** observations of this Court in Sebastiani Lakra (supra) distinguishing the case of Shashi Sharma (supra) clearly applies to the case in hand. It is observed that the amount of Rs. 31,37,665/- (Rupees Thirty One*



Lakhs, Thirty Seven Thousand and Six Hundred and Sixty Five only) was paid to the dependents of the deceased-employee who are the petitioners herein under the aforesaid Rules since the said Rule was by way of compassionate assistance owing to the sudden death of the employee in harness for any reason whatsoever including as a result of a road traffic accident. This is in order to compensate the loss of the bread earner of the family who dies in harness.

*In the case of a motor vehicle accidents, when negligence is proved, loss of dependency is compensated for the very same reason. **In our view, there cannot** be a duplication in payments or a windfall owing to a misfortune. In another words, on the death of the person in harness, owing to a road traffic accident the dependents of a deceased cannot be doubly benefited as opposed to those who are dependents of a deceased who dies owing to illness or any other reason under the Rules formulated by the Haryana Government.”*

15. As regards the reliance placed by the learned counsel for the respondents on the decision in **Sebastian Lakra v. National Insurance Company Limited, (2019) 17 SCC 465**, this Court finds that the said judgment is clearly distinguishable on facts. The Hon'ble Supreme Court in **Sebastian Lakra's case (supra)** was dealing with an employer's family benefit scheme, which is materially different from the statutory framework of the 2006 Rules. The three-Judge Bench of Apex Court in **Sebastian Lakra's case (supra)** specifically noted, in paragraphs 18 and 20, that **Shashi Sharma's case (supra)** dealt with ex-gratia assistance governed by statutory rules of the State, unlike the voluntary benefit scheme considered therein.



Accordingly, **Sebastian Lakra's case (supra)** cannot be construed to dilute or override the ratio laid down in **Shashi Sharma's case (supra)**.

16. The relevant extract of the **Sebastian Lakra's case (supra)** is reproduced as under:-

“18. The EFB Scheme is totally different from the rules which were under consideration of this Court in Shashi Sharma case (supra). Under this Scheme, the nominee or legal heir(s) of the deceased employee have to deposit the entire amount of gratuity and all other benefits payable to them on the death of the employee.

19. In the present case, it stands proved that the claimants have deposited a sum of L 27,43,991/- received by them on the death of the deceased with the employer and are now getting about L 50,082/- per month. This amount of L 50,082/- is to be paid to the legal heirs under the EFB Scheme only till date of retirement of the deceased. Even if an interest @ of 12% per annum is calculated on the amount of L 27,43,991/-, that would amount to L 3,30,000/- per year or L 27,500/- per month. The appellants-claimants are getting about L 50,000/- per month i.e. about L 22,500/- per month more, but this is only to be paid for a period of about 7 years till 30.04.2021. This payment will cease thereafter.

*20. The aforesaid payment is totally different to the payment made by the employer in Shashi Sharma case (supra) which was statutory in nature. Therefore, **we hold** that this amount cannot be deducted.”*

17. In view of the above authoritative pronouncements, it stands conclusively settled that the compensation awarded under the Motor Vehicles Act, 1988 must be reduced by deducting the financial assistance received



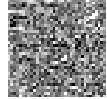
under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006.

18. Further, the Apex Court in **National Insurance Company Ltd. v. Birender Singh and Others, 2020 INSC 34** held that the entire amount payable under the said Rules is required to be deducted from the compensation payable under the Motor Vehicles Act, 1988.

19. The relevant extract of the **Birender Singh's case (supra)** is reproduced as under:-

“16. The next issue is about the deduction of the amount receivable by the legal representatives of the deceased under the 2006 Rules from the compensation amount determined by the Tribunal in terms of the decision of three-Judge Bench of this Court in Shashi Sharma (supra). This Court, after analysing the relevant rules, opined as follows:-

"23. Reverting back to Rule 5, sub-rule (1) provides for the period during which the dependants of the deceased employee may receive financial assistance equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Sub-rule (2) provides that the family shall be eligible to receive family pension as per the normal Rules only after the period during which they would receive the financial assistance in terms of sub-rule (1). Sub-rule (3) guarantees the family of a deceased government employee of a government residence in occupation for a period of one year from the date of death of the employee, upon payment of normal rent/licence fee. By virtue of sub-rule (4), an ex gratia assistance of L 25,000 is provided to the family of the deceased employee to meet the

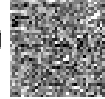


immediate needs on the loss of the bread earner. Sub-rule (5) clarifies that house rent allowance shall not be a part of allowance for the purposes of calculation of assistance.

24.As regards the second part, it deals with income from other source which any way is receivable by the dependants of the deceased government employee. That cannot be deducted from the claim amount for determination of a just compensation under the 1988 Act.

25. The claimants are legitimately entitled to claim for the loss of "pay and wages" of the deceased government employee against the tortfeasor or insurance company, as the case may be, covered by the first part of Rule 5 under the 1988 Act. The claimants or dependants of the deceased government employee (employed by the State of Haryana), however, cannot set up a claim for the same subject falling under the first part of Rule 5-"pay and allowances", which are receivable by them from employer (the State) under Rule 5(1) of the 2006 Rules. In that, if the deceased employee was to survive the motor accident injury, he would have remained in employment and earned his regular pay and allowances. Any other interpretation of the said Rules would inevitably result in double payment towards the same head of loss of "pay and wages" of the deceased government employee entailing in grant of bonanza, largesse or source of profit to the dependants/claimants.....

26. Indeed, similar statutory exclusion of claim receivable under the 2006 Rules is absent. That, however, does not mean that the Claims Tribunal should remain oblivious to the fact that the claim



towards loss of pay and wages of the deceased has already been or will be compensated by the employer in the form of ex gratia financial assistance on compassionate grounds under Rule 5(1). The Claims Tribunal has to adjudicate the claim and determine the amount of compensation which appears to it to be just. The amount receivable by the dependants/claimants towards the head of "pay and allowances" in the form of ex gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, that the 2006 Rules would come into play if the government employee dies in harness even due to natural death. At the same time, the 2006 Rules do not expressly enable the dependants of the deceased government employee to claim similar amount from the tortfeasor or insurance company because of the accidental death of the deceased government employee. The harmonious approach for determining a just compensation payable under the 1988 Act, therefore, is to exclude the amount received or receivable by the dependants of the deceased government employee under the 2006 Rules towards the head financial assistance equivalent to "pay and other allowances" that was last drawn by the deceased government employee in the normal course. This is not to say that the amount or payment receivable by the dependants of the deceased government employee under Rule 5(1) of the Rules, is the total entitlement under the head of "loss of income". So far as the claim towards loss of future escalation of income and other benefits is concerned, if the deceased government employee had survived the accident can still be pursued by



them in their claim under the 1988 Act. For, it is not covered by the 2006 Rules. Similarly, other benefits extended to the dependants of the deceased government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, life insurance, provident fund, etc., that must remain unaffected and cannot be allowed to be deducted, which, any way would be paid to the dependants of the deceased government employee, applying the principle expounded in Helen C. Rebello v. Maharashtra SRTC, 1998(4) RCR (Civil) 177 : (1999) 1 SCC 90 and United India Insurance Co. Ltd. v. Patricia Jean Mahajan, 2002(3) RCR (Civil) 534 : (2002) 6 SCC 281 cases.

27. A priori, the appellants must succeed only to the extent of amount receivable by the dependants of the deceased government employee in terms of Rule 5(1) of the 2006 Rules, towards financial assistance equivalent to the loss of pay and wages of the deceased employee for the period specified."

(emphasis supplied)

The learned Judge of the High Court has, however, after adverting to the decision of the same High Court in Ajmero (supra), went on to observe that 50% of the amount receivable by the legal representatives of the deceased towards financial assistance under the 2006 Rules is required to be deducted from the compensation amount. In the relied upon decision, the same learned Judge had occasion to observe as follows:-

"... However, perusal of the judgment would reveal that the Court has not adverted to the issue that had the Rules of 2006 extending assistance to family of a deceased employee been not in existence, family would have been entitled to pension to the extent of



50% of the last drawn pay. As per the settled position in law, the pensionary benefits available to family of a deceased employee are not amenable for deduction for computing loss of dependency. There is nothing on record suggestive of the fact that in addition to compassionate assistance under the Rules, family of the deceased is being paid pension till the age of superannuation. Rather Rule 5(2) of the 2006 Rules specifically denies family pension as per normal rules..."

(emphasis supplied)

17. The view so taken by the High Court is not the correct reading of the decision of three-Judge Bench of this Court in Shashi Sharma (supra) for more than one reason. First, this Court was conscious of the fact that under Rule 5(2) of the 2006 Rules, the family pension receivable by the family would be payable, however, only after the period, during which the financial assistance is received, is completed. In that context, in paragraph 24 of the reported decision, the Court clearly noted that the amount towards family pension cannot be deducted from the claim amount for determination of a just compensation under the Act. Further, the High Court has erroneously assumed that the family of the deceased would be entitled for family pension amount immediately after the death of the deceased employee. That is in the teeth of the scheme of the 2006 Rules, in particular Rule 5(2) thereof. The said Rules provide for financial assistance on compassionate grounds, as also, other benefits to the family members of the deceased employee and as a package thereof, Rule 5(2) stipulates that the family pension as per the normal rules would be payable to the family members only after the period of delivery of financial assistance is completed. The validity of this provision is not put in issue. Suffice it to say



that the view taken by the High Court in Ajmero (supra) is a departure from the scheme envisaged by the 2006 Rules, in particular, Rule 5(2). That cannot be countenanced.

18. As a matter of fact, in the present case, the High Court committed manifest error in assuming that the respondent Nos. 1 and 2 would be eligible to receive financial assistance under the 2006 Rules. The eligibility to receive such financial assistance has been spelt out in Rule 3 of the 2006 Rules read with the provision of Pension/Family Pension Scheme, 1964. It appears that major sons and married daughters are not included in the definition. However, we need not dilate on that aspect in the present proceedings any further. It has come in the evidence of Gobind Singh, Clerk in SDM Office (PW-1) that the legal representatives of the deceased have not submitted any request for getting financial assistance till he had deposed. Indeed, respondent No. 1, who had entered the witness box, did depose that they had applied for getting salary of their deceased mother. The fact remains that there is no clear evidence on record that respondent Nos. 1 and 2 are held to be eligible to get financial assistance or in fact, they are getting such financial assistance under the 2006 Rules. The High Court, therefore, instead of providing for deduction of the amount receivable by the legal representatives of the deceased on this count (under the 2006 Rules), from the compensation amount, should have independently determined the compensation amount and ordered payment thereof subject to legal representatives of the deceased filing affidavit/declaration before the executing Court that they have not received nor would they claim any amount towards financial assistance under the 2006 Rules, so as to become entitled to withdraw the entire compensation amount.”



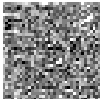
20. Accordingly, in light of the settled legal position as referred to above by Hon'ble Apex Court, this Court holds that the entire amount received or receivable under the 2006 Rules shall be deducted while determining the quantum of compensation payable under the Motor Vehicles Act, 1988.

SETTLED LAW ON COMPENSATION

21. 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



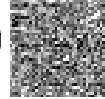
and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced 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.

22. 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:-

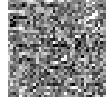
- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, 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.



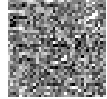
We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

** * * * **

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.

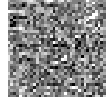
59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 42 of that judgment.

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.”

23. 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.



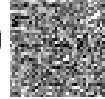
With respect to a spouse, it would include sexual relations with the deceased spouse.

*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

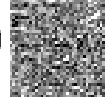


consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

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.

24. Now, coming to the compensation granted by learned Tribunal, after considering the facts of the present case, it is evident from the record that the age of the deceased was not in dispute. The learned Tribunal has



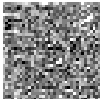
rightly assessed his age as 43 years and 4 months on the basis of the service record, which finding is hereby affirmed.

25. The deceased was employed as an EHC (Head Constable) in the Haryana Police, and as per the evidence of PW-10, the last drawn monthly salary of the deceased for July 2009 was Rs.19,073/-, as reflected in the salary slip (Ex.P-1). The ld. Tribunal, therefore, rightly assessed the monthly income of the deceased at Rs.19,073/-, which assessment warrants no interference.

26. It also stands proved from the testimony of PW-10 that in terms of Rule 5(1) of the 2006 Rules, the Director General of Police, Haryana, vide order dated 14.10.2009 (Ex.P-7), granted financial assistance to the wife of the deceased equal to the last drawn pay and allowances for a period of 12 years, i.e., up to 31.08.2021. The record further reveals that a sum of Rs.31,41,074/- was already disbursed towards such assistance for the period from 28.08.2009 to 30.09.2018, and an additional sum of Rs.13,73,190/- was payable for the remaining period up to 31.08.2021. Thus, the total financial assistance receivable under the 2006 Rules amounts to Rs.45,14,264/-.

27. Accordingly, the claimant-wife of the deceased is entitled to receive a total of Rs.45,14,264/- as financial assistance under the 2006 Rules.

28. A perusal of the award further reveals that the learned Tribunal correctly added 30% towards future prospects, deducted 1/4th towards personal and living expenses, and applied a multiplier of 14, which is in consonance with the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680** and **Sarla Verma v. DTC, (2009) 6 SCC 121**. However, the compensation granted under the conventional heads is on the lower side and warrants appropriate enhancement in accordance with prevailing jurisprudence.



29. That being said, the ld. Tribunal committed a legal error in deducting only 50% of the amount payable under the 2006 Rules, contrary to the settled law as discussed above. The entire amount received under the said Rules ought to have been deducted from the compensation assessed under the Motor Vehicles Act, 1988.

Recalculation of Compensation

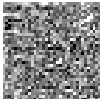
<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.19,073/-
2	Future prospects @ 30%	Rs.5,722/- (19,073 X 30%)
3	Deduction towards personal expenditure 1/4 th	Rs.6,198/-(24795/4)
4	Total Income	Rs.18,597/-
5	Multiplier	14
6	Annual Dependency	Rs.31,24,296/- (18597x12x14)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Filial: Rs.48,400 x 4	Rs.1,93,600/-
10	Total Compensation	Rs.33,54,196/-
11	Amount received under 2006 Rules	Rs.45,14,264 /-

30. It is evident from the above computation that the respondents have already received a greater amount under the 2006 Rules than what would have been payable under the Motor Vehicles Act, 1988.

31. It is further noted that vide interim order dated 19.03.2019, this Court stayed the operation of the impugned award, and no payment has been made to the respondents pursuant thereto.

Conclusion

32. In view of the foregoing discussion and the settled position of law, the appeal filed by the appellant–Insurance Company is allowed to the



extent that compensation awarded under 2006 Rules is to be deducted from the compensation calculated under 1988 Act. Consequently, the award of compensation to the tune of Rs.10,57,700/- as passed by the learned Tribunal is hereby set aside.

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

14.11.2025

Ayub

(SUDEEPTI SHARMA)
JUDGE

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