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

**(205)**

**FAO-1461-2001**
**Date of decision:- 04.04.2025**

Simla Devi and another

...Appellants

Versus

Jai Singh and others

...Respondents

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

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

Mr. Amit Jaiswal, Advocate
for respondent No.3-Insurance Company.

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

1. Parents of the deceased Harpal have filed the present appeal for modification of the award dated 03.10.2000 vide which the Motor Accident Claims Tribunal, Karnal had awarded the compensation of Rs.1,09,000/- to the claimants alongwith interest. A prayer has been made for enhancement of the said amount. The only issue which arises for consideration in the present appeal is as to what compensation the present appellants/claimants are entitled to, as the other issues are not disputed before this Court.

2. Learned counsel for the appellants/claimants has submitted that

in the present case, the Tribunal had considered the salary of the deceased as Rs.1600/- per month, whereas, as per the Minimum Wages Act, at the relevant time, it should have been Rs.1730/- per month. It is further submitted that the multiplier of '15' had been applied, which is against settled law, inasmuch as, the deceased was 20 years of age, thus, the multiplier which should have been applied is '18'. It is stated that the Tribunal has been given the claimants any benefit of future prospects and at least an addition of 40% of the salary should have been taken into consideration on account of future prospects. It is argued that on conventional heads an amount of Rs.1,32,000/- is also due, which would include loss of estate, funeral expenses as well as loss of consortium. It is submitted that an amount of Rs.4600/- on account of funeral expenses had been given which is inadequate. It is further submitted that on the basis of the same, the present appellants/claimants are entitled to an additional compensation of Rs.2,84,576/-. It is stated that the said amount be released to the appellants/claimants alongwith interest @ 9% per annum. In support of her 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***. On behalf of the appellants, a chart has been submitted, the relevant portion of which has been reproduced herein below:-

*"Death Case*

| | | |
|---|---|---|
| *Deceased* | : | *Harpal (unmarried)* |
| *Age* | : | *20* |
| *Date of Accident* | : | *20/10/1998* |
| *Total Claimants* | : | *2 (Parents)* |
| *Award* | : | *Rs.1,09,000/-* |
| *Salary* | : | *Rs.1730 x 12 = Rs.20,760/-* |
| *Multiplier* | : | *Rs.20,760 x 18 = Rs.3,73,680/-* |
| *Deduction* | : | *Rs.3,73,680 - ½ = Rs.1,86,840/-* |
| *Future Prospects* | : | *40% of Rs.1,86,840 = Rs.2,61,576/-* |
| *Conventional Heads* | : | *Rs. 1,32,000*<br>*[Rs.48,000 x 2*<br>*= Rs. 96000 Loss of Consortium]*<br>*[Rs.18,000 – Loss of Estate]*<br>*[Rs.18,000 – Funeral Expenses]* |
| | | *Rs.3,93,576/-* |
| *Difference* | : | *Rs.3,93,576 - Rs.1,09,000 = Rs.2,84,576/-"* |

3. Learned counsel appearing for respondent No.3-Insurance Company, on the other hand, has submitted that the interest sought to be claimed by the appellants is highly excessive and since the appellants are also taking the benefit of increase in the conventional heads, thus, rate of interest only @ 6% per annum should be allowed on the additional amount.

4. This Court has heard learned counsel for the parties and has gone through the Chart and is of the opinion that the entries made in the chart are in accordance with law and deserve to be approved and only the rate of interest which requires adjudication by this Court.

5. 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."*

6. A perusal of the above would show that for the age of 20 years, multiplier of '18' is to be applied.

7. 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 and 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."*

8. 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.

9. In the above chart, the salary of Rs.1730/- per month has rightly been taken into consideration and the multiplier of '18' has also been rightly applied as deceased was stated to be 20 years of age. The future prospects as well as the conventional heads, which have been mentioned in the chart, are also in accordance with law. Although, this Court consistently awards interest @ 7.5% per anum on the additional amount but in view of the argument raised on behalf of the respondent No.3-Insurance Company to the effect that the benefit of increase of conventional heads has also been taken by the appellants, thus, this Court is of the opinion that in the present case, interest @ 7% per annum would be appropriate.

10. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and the impugned award dated 03.10.2000 is modified and respondent No.3-Insurance Company is directed to pay an additional amount of compensation to the tune of Rs.2,84,576/- to the appellants/claimants along with interest at the rate of 7% per annum from

the date of filing of the claim petition till the date of actual payment within a period of six weeks from today, in the same proportion as has been directed in the award.

**April 04, 2025** **(VIKAS BAHL)**
*naresh.k* **JUDGE**

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