IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO-149-2001 (O&M) and
X-Objections No.29-CII-2002
Date of Decision: July 22, 2025

United India Insurance Company Ltd. **......Appellant**

Vs.

Smt. Parkash Kaur and others **......Respondents**

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Suman Jain, Advocate
for the appellant.

Ms. Anamika Sheoran, Advocate for
Mr. Vikas Singh, Advocate
for respondents No.1 to 4.

SUDEEPTI SHARMA J. (ORAL)

1. The case is listed before this Court for referral to the "Special Mediation Drive-Mediation 'For the Nation' List".

2. Learned counsel for the parties contend that the matter cannot be referred to Mediation and Conciliation Centre of this Court.

3. In view of above, with the consent of the parties the appeal as well as cross-objection are taken up for hearing today itself.

FAO-149-2001 & XOBJC-29-CII-2002

4. Vide this common judgment, this Court shall dispose of the appeal filed by the Insurance Company as well as cross objections filed by the claimants.

5. The instant appeal has been preferred by the Insurance Company for setting aside the award dated 05.12.2000 passed by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal'), whereby the claimants were awarded compensation of Rs.5,80,000/- alongwith interest @ 12% per annum and Insurance company was held liable to pay the compensation. However, the cross objections have also been filed by the claimants-cross objectors for enhancement of the amount of compensation awarded by the Tribunal.

FACTS NOT IN DISPUTE

6. The brief facts of the case as mentioned in the claim petition are that on 21.04.1998 Mukhtiar Singh being driver of bus bearing registration No. PB-11-E-9658 started his journey from Patiala to Gurdaspur and while returning at about 2:50 p.m. when the said bus reached in the area of Batala near Petrol Pump Achal Sahib Gurudwara, P.S. Batala near Misarpur on G.T. Road Jalandhar, in the meantime, a truck bearing registration No.PJP-5791 being driven by respondent No.1 Sewa Sewa Singh in a rash and negligent manner came there and hit against the bus being driven by Mukhtiar Singh. Due to impact of the said hit, the driver side of the bus badly damaged and Mukhtiar Singh virtually sandwiched. The other occupants including the conductor of the bus also sustained injuries.

7. Upon notice of the claim petition, the respondents appeared and filed their separate written replies denying the factum of accident/compensation.

8. From the pleading of the parties, the Tribunal framed the following issues:-

> *1. Whether respondent No.1 caused the death of Mukhtiar Singh by driving truck No.PJF-5791 negligently? OPP*
> *2. Whether the petitioners are the legal representatives of Mukhtiar Singh deceased? OPP*
> *3. Whether respondent No.1 was holding a valid driving licence at the time of accident. If so to what effect?OPP*
> *4. Whether truck No.PJF-5791 was not having any valid route permit and fitness certificate. If so to what effect ?OPR (respondent No.3)*
> *5. How much compensation the petitioners are entitled to recover and from which of the respondents? OPR*
> *6. Relief.*

9. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation of Rs.5,80,000/- alongwith interest @ 12% per annum. The respondents were held jointly and severally liable to pay the amount of compensation. Hence, the appellant-Insurance Company filed the present appeal challenging the liability fastened upon it to pay the compensation.

10. At the very outset, it is evident from the report of the Registry that, with respect to service of notice upon respondent no. 6, the driver of the offending vehicle, service has been effected through publication in two newspapers, in accordance with the applicable rules. Insofar as respondent no. 7, the registered owner of the

offending vehicle, is concerned, the Registry report indicates that he has left the country.

11. In view of the aforesaid this Court finds it appropriate to proceed ex parte against the said respondents and continue with the adjudication of the matter on merits.

SUBMISSIONS OF THE COUNSELS FOR THE PARTIES

12. Learned counsel for the appellant-Insurance Company contends that the learned Tribunal held that the respondent No.1-driver was not having a valid driving licence at the time of the accident, still the liability has been fixed upon the Insurance Company to pay the amount of compensation and no recovery rights have been granted to appellant-Insurance Company. Therefore, he prays that the present appeal be allowed.

13. The learned counsel for the cross objectors/claimants contends that the learned Tribunal has wrongly assessed the income of the deceased as Rs.9644/- per month. He further contends that the deceased-Mukhtiar Singh was having agricultural land from which he was earning Rs.1 lac per annum.

14. He further contends that the deceased was aged 53 years at the time of accident and the learned Tribunal has wrongly applied the multiplier of 7 instead of 11. He further contends that no amount was granted for loss of estate and future prospects and the amount granted for funeral expenses, loss of consortium is also on lower side. Therefore, he prays that the cross objections filed by the claimants be allowed and compensation be enhanced as per latest law.

15. I have heard learned counsel for the parties and perused the whole record of this case.

16. The relevant paragraphs of the award dated 05.12.2000 are as under:-

> *"ISSUE NO.3*
>
> *18. Onus of this issue was upon the third respondent.*
> *19. Photo copy of the driving licence of respondent No.1 Sewa Singh is available on record as Mark-F. This bears number 35842 dated July 27,1988 and claims to have been issued by District Transport Office Amritsar. The respondents, by bringing on record Ex.R1, report from their surveyor and by examining RW2 Surinder Kaur, an official of the office of District Transport Officer, Amristar, have proved that no such licence was issued by District Transport Officer Amritsar. RW2 Surinder Kaur was not cross-examined on this aspect of the matter, on behalf of the petitioners. That being so, it has to be held that respondent Sewa Singh was not holding a valid driving licence at the time of the accident. However, the driving licence of respondent No.1 Sewa Singh being not valid cannot be pressed into service to dislodge the claim of the petitioners as the third respondent, the insurer of the truck in question cannot be absolved of its liability to pay the compensation to the petitioners on account of death of Mukhtiar Singh deceased in the accident only because the insured i.e. respondent No.2 has breached a term of the contract of insurance (Ex.R4) because the petitioners were not privy to the contract and the contract as such is not binding upon them. The*

respondent insurance company may, however if so advised, take appropriate remedy as may be availed to it in law in this respect.

20. This issue is decided, accordingly.

17. A perusal of the impugned award reveals that the learned Tribunal has categorically returned finding that respondent No.1, Sewa Singh was not holding a valid driving licence at the time of the accident. Despite this finding, the learned Tribunal proceeded to fasten the liability to pay compensation solely upon the appellant–insurance company, without granting insurance company the right to recover the amount of compensation from the owner of the offending vehicle (Respondent No.2).

18. It is a settled position in law, as reiterated by the Hon'ble Supreme Court in ***Pappu & Ors. v. Vinod Kumar Lamba & Anr., (2018) 3 SCC 208***, that where the driver of the offending vehicle is found not to possess a valid driving licence, the insurer may still be directed to pay the compensation to the third-party/claimant in the first instance in order to protect the rights of the victim. However, in such cases, the insurance company is entitled to be granted recovery rights against the insured/owner of the vehicle for breach of policy conditions.

19. In the present case, the learned Tribunal, having recorded a clear finding that the driver did not possess valid driving licence at the time of accident, erred in not granting recovery rights to the insurance company.

20. Consequently, the failure of the learned Tribunal in granting recovery rights to the appellant/Insurance Company, despite recording a finding of absence of a valid driving licence, is therefore, legally unsustainable in the eyes of law and warrants interference of this Court.

21. Accordingly, the finding of the learned Tribunal fastening liability solely upon the insurance company to pay amount of compensation is set aside to that extent only. While the Insurance company shall remain liable to satisfy the award amount in favour of the claimants in the first instance, it shall be entitled to recover the same from respondent No.7, the owner of the offending vehicle, in accordance with law.

22. Now coming to the cross-objections, a perusal of the award further shows that deceased-Mukhtiar Singh was 53 years old at the time of accident and was employed as a driver with Pepsu Road Transport Corporation, Patiala. He was getting a salary of Rs.9,644/- per month, which is evident from record (Ex.P2) proved by PW2 clerk-Raghbir Singh. Consequently, Ld. Tribunal has rightly assessed the income of the deceased to the tune of Rs.9644/- per month by taking into account his salary certificate Ex.P-2.

23. It is transpired from the record that no amount was granted for loss of estate and future prospects and the amount granted for funeral expenses, loss of consortium is on lower side. Therefore, it requires indulgence of this Court.

SETTLED LAW ON COMPENSATION

24. 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 d 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 Thomas[3], 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.*

25. 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.

26. The relevant portion of the judgment is reproduced as under:-

> "***52.*** *As far as the* ***<u>conventional heads</u>*** *are concerned, we find it difficult to agree with the view expressed in Rajesh[2]. 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 Verma*[4] *which we have reproduced hereinbefore.*

59.6. *The selection of multiplier shall be as indicated in the Table in Sarla Verma*[1] *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."*

27. 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 Sethi*[2] *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 Sethi[2]. 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.*

28. In view of the above, the present appeal is ***allowed***. Moreover, the cross-objections bearing No.XOBJC-29-CII-2002 filed by the claimants are ***allowed***. Accordingly, as per the settled principles of law as laid down by Hon'ble Supreme Court as mentioned above, the cross objectors are held entitled to the enhanced amount of compensation as calculated below:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.9644/-
2	Future prospects @ 10%	Rs.964/- (10% of 9644)
3	Deduction towards personal expenditure ¼	Rs.2652/- (¼ of 10608) (9644+964)
4.	Total Income	Rs.7956/-(10608-2652)
4	Multiplier	11
5	Annual Dependency	Rs.1,050,192/- (7956 X 12 X 11)
6	Loss of Estate	Rs.18,000/-
7	Funeral Expenses	Rs.18,000/-
8	Loss of Consortium Parental : 48,000/-x 4 Spousal : 48,000/- x 1 Filial : Rs. 48,000/- -----	Rs.2,40,000/-
	Total Compensation	**Rs.13,26,192/-**
	Amount Awarded by the Tribunal	**Rs.5,80,000/-**
	Enhanced amount	**Rs.7,46,192/-**

29. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma*** **2019 ACJ 3176** and ***R.Valli and Others VS. Tamil Nandu State Transport Corporation*** **(2022) 5 Supreme Court Cases 107,** the amount so calculated shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.

30. The Insurance Company is directed to deposit the enhanced amount of compensation alongwith interest with the Tribunal within a period of two months from the date of receipt of

copy of this judgment. The Tribunal is directed to disburse the same to the cross objectors/claimants in their bank account as per ratio settled in the award dated 05.12.2000. The Cross Objectors/claimants are directed to furnish their bank accounts detail to the Tribunal.

31. Respondent No.3-Insurance Company is entitled to recover the enhanced amount of compensation from owner of the offending vehicle.

32. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Suman Jain, Advocate, within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024, passed in FAO-1682-2007, by this Court.

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

(SUDEEPTI SHARMA)
JUDGE

July 22, 2025
sonia arora/Ayub

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