2025:PHHC:106748

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

FAO-4117-2023(O&M)
Date of decision : 18.08.2025

Ramgiri and another

... Appellants

Versus

Vikas Yadav and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Prashant Singh Chauhan, Advocate
for the appellants.

Mr.Nigam K. Bhardwaj, Advocate
for respondent no.3.

VIKAS BAHL, J.(ORAL)

CM-13626-CII-2023

1. Present application has been filed under Section 5 of the Limitation Act for condonation of delay of 20 days in filing the present appeal.

2. For the reasons mentioned in the application, which is duly supported by an affidavit, present application is allowed and the delay of 20 days in filing the present appeal is hereby condoned.

FAO-4117-2023

1. The parents of Manjeet have filed the present appeal seeking enhancement. The Motor Accident Claims Tribunal, Jhajjar, vide order

dated 04.01.2023 had awarded compensation of Rs.12,12,400/- along with interest for the death of Manjeet who died on 22.04.2019 in a motor vehicular accident which took place on 15.04.2019.

2. The fact that the death of the deceased had taken place in the motor vehicular accident which was being driven by respondent no.1 and was owned by respondent no.2 and was insured by respondent no.3 is not in dispute. The only issue which arises in the present appeal is with respect to the fact, as to whether the present appellants are entitled to any enhanced compensation or not. The other aspects are not disputed before this Court.

3. Learned counsel for the appellants has submitted that in the present case, the income of the deceased has been taken as Rs.8000/- per month, whereas at the relevant time the minimum wages of semi skilled labour were Rs.9268.75/- and even of unskilled labour were Rs.8827.40/-. It is submitted that a perusal of the documents Ex.P8, P9 and P10 would show that the deceased was educated and had studied upto 12th class. It is submitted that in the said circumstances, the monthly income of the deceased should have been assessed at least at Rs.9268.75/- per month. It is further submitted that even the amount on account of loss of estate and funeral expenses as granted by the Tribunal is on the lesser side, as on each of the said two counts, the present appellants are entitled to Rs.18,150/- whereas Rs.15,000/- each has been awarded for the same. It is argued that on the aspect of loss of consortium, the total amount which is payable to the appellants is Rs.96,800/- whereas only an amount of Rs.40,000/- has been

awarded to the appellant. It is submitted that the enhanced amount should be paid to the appellants along with interest at the rate of 9%. In support of his 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***.

4. Learned counsel for respondent no.3, on the other hand, has submitted that the deceased cannot be taken to be a skilled labourer and has further submitted that the rate of interest which the present appellants have sought for the enhanced compensation is highly excessive and the highest rate of interest which can be granted to the present appellants for the enhanced compensation is 6% per annum.

5. Learned counsel for the appellants, keeping in view the objections raised by the learned counsel for respondent no.3, has submitted a revised chart which is reproduced hereinbelow:-

CALCULATION CHART

FAO NO.4117 OF 2017

APPELLANT HEREIN : CLAIMANT(S)

DATE OF ACCIDENT: 15.04.2019

NATURE OF CASE: DEATH

AGE OF DECEASED: 29 years (Manjeet)

DRIVING LICENCE / ROUTE PERMIT/INSURANCE : NIL

TOTAL DEPENDANTS: 2

LIABILITY TO PAY COMPENSASTION : Respondent 3 (Insurer of offending vehicle) Shri Ram General Insurance Co. Ltd.

DETAILS OF RELIEF GRANTED / CLAIMED

DETAILS	*BEFORE THE TRIBUNAL*	*ENHANCED COMPENSATION*	*DIFFERENCE*
INCOME	MONTHLY: 8,000/- ANNUAL: 96,000/-	MONTHLY: 9,000/- ANNUAL: 1,08,000/-	MONTHLY: 1000/- ANNUAL: 12,000/-
DEDUCTION	½	½	--
FUTURE PROSPECTS	40%	40%	--
MULTIPLIER	17	17	--
LOSS OF DEPENDENCY	8,000+40%+ ½ deduction x 12 x 17 multiplier (Rs.11,42,400/-)	9,000+40%+ ½ deduction x 12 x 17 multiplier (Rs.12,85,200/-)	Difference Rs.1,42,800/-
LOSS OF ESTATE	Rs.15,000/-	Rs.18,150/-	Rs.3,150/-
FUNERAL EXPENSES	Rs.15,000/-	Rs.18,150/-	Rs.3,150/-
LOSS OF CONSORTIUM	Rs.40,000/-	Rs.96,800/- (Rs.48,400 X 2)	Rs.56,800/-
TOTAL COMPENSATION	Rs.12,12,400/- @ 9%	Rs.14,18,300/- @ 9%	Difference Rs.2,05,900/- + INTEREST

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

7. 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."*

A perusal of the above would show that for the age of 29 years, multiplier of 17 respectively is 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."

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.

9. 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."*

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.

10. A perusal of the revised chart would show that all the aspects have been rightly taken into consideration in the same as the appellants have rightly claimed that they are entitled to loss of consortium of Rs.96,800/- (there being two claimants), Rs.18,150/- on account of loss of estate, Rs.18,150/- on account of funeral expenses. The said aspect has not been disputed before this Court. Even with respect to monthly income of the deceased, it has not been disputed that the minimum wages for unskilled worker was Rs.8827.40 per month at the relevant time and that of the semi skilled worker was Rs.9268.75 per month. In the said circumstances, the revised claim made by the present appellants by taking the income to be

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Rs.9000/- per month is reasonable and deserves to be upheld. Thus, the present appellants are entitled to Rs.2,05,900/- as additional compensation. 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.

11. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and award dated 04.01.2023 is modified and respondent no.3 is directed to pay an additional amount of compensation to the tune of Rs.2,05,900/- 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

August 18, 2025.
Davinder Kumar

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