

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-2308-2019(O&M)
XOBJC-129-CII-2019
Reserved on:- 12.12.2025
Pronounced on:- 18.12.2025
Uploaded on:- 19.12.2025

New India Assurance Company LimitedAppellant
vs.
Bhupinder Kaur and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. R. C. Kapoor, Advocate
for the appellant.

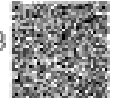
Mr. Inderjit Sharma, Advocate
for cross-objector/respondent No.1.

SUDEEPTI SHARMA J.

1. Vide this common judgment, this Court, shall dispose of the appeal filed by the appellant-Insurance Company as well as cross-objections filed by the cross-objector/claimant (mother of the deceased)

2. The present appeal has been preferred against the Award dated 01.12.2018 passed by the learned Motor Accident Claims Tribunal, SAS Nagar Mohali (for short, 'the Tribunal') in the claim petition under Section 166 of the Motor Vehicles Act, 1988, wherein the appellant-Insurance company was held liable with the liability to pay the compensation to the claimant/Respondent to the tune of Rs.17,43,600/- along with interest @ 7.5% per annum.on the ground of quantum of compensation to be on higher side.

3. The present cross-objection has been preferred by respondent No.1/cross-objector/claimant against the award dated 01.12.2018 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, by the



-2-

compensation, granted to respondent No.1 (mother of the deceased) to the tune of Rs.17,43,600/- along with interest @ 7.5% per annum on account of death of deceased-Kulwinder Kaur in a motor vehicular accident, occurred on 09.12.2017.

4. As sole issue for determination in the present appeal and cross-objection 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

5. The learned counsel for the appellant-Insurance Company contends that the amount assessed by the learned Tribunal is on the higher side and deserves to be reduced. Therefore, he prays that the present appeal be allowed and amount of compensation be reduced as per latest law.

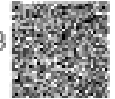
6. Per contra, the learned counsel for the claimant/cross objector contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present cross-objection be allowed, present appeal be dismissed and amount of compensation be enhanced as per latest law.

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

SETTLED LAW ON COMPENSATION

8. 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:-

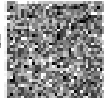
“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units



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



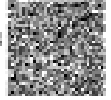
in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

** * * * **

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 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.

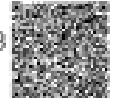
9. Hon’ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]** has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (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*



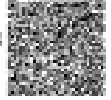
revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that 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.

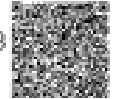
59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 42 of that judgment.

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.”

10. 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.



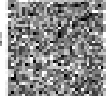
21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".

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



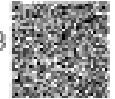
loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation 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.

11. This Court deems it appropriate to first deal with the cross-objections (XOBJC-129-CII-2019) filed in the present appeal.

12. A perusal of the award reveals that the deceased-Kulwinder Kaur was stated to be 29 years old at the time of accident since the same was not disputed by the Insurance Company therefore, the learned Tribunal has rightly assessed the age of the deceased-Kulwinder Kaur as 29 years by relying in the matriculation examination certificate (PW-1/E).

13. A further perusal of the award reveals that the deceased was stated to be running a beauty parlour and was stated to be earning Rs.30,000/- per month. To substantiate the same, the claimant (mother of the deceased) produced certificate relating to beautician training Centre (Ex.PW-1/P) and certificate of participation in beauty spot (Ex.PW-1/O). Along with that the claimant/appellant has proved voluminous educational certificates including certificates of Bachelors

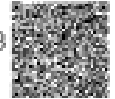


certificates of course in computers (Ex.PW-1/J to Ex.PW-1/L), certificate of participation in Painting and Writing Competition (Ex.PW-1/M) and certificate of moral education examination (Ex.PW-1/N). It is transpired from the record that no documentary evidence qua income is placed on record, however, the claimant has placed on record beautician training Centre certificate (Ex.PW-1/P).

14. A perusal of the award further reveals that learned Tribunal has erred in assessing notional income of deceased-Kulwinder Kaur as Rs.10,000/- per month. It is settled proposition of law as held by Hon'ble Apex Court in the case of ***Sharad Singh (Dead) Through LR Vs. H.D. Narang and another; 2025 INSC 1164*** that simply taking minimum wages would not suffice for justice and Court needs to take into account the Educational Qualification of the deceased for calculation of income. The relevant portion of the same is reproduced as under:-

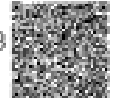
“4. The next contention is regarding the loss of income computed. The appellant was a final year B.Com student who had also enrolled with the Institute of Chartered Accountants of India. The Tribunal adopted an income of Rs.3,339/- per month being the minimum wages applicable to a workman. The High Court found that though he had academic prospects, the victim was yet to attain the qualification, which places the Court at a disadvantage in adopting the income of a Chartered Accountant. The High Court adopted an income of Rs.3,352/ While the Tribunal adopted a multiplier of 17, the High Court correctly increased it to 18 as is laid down by a Constitution Bench in National Insurance Company Limited v. Pranay Sethi and Others, (2017) 16 SCC 680.

5. The Tribunal awarded a total amount of Rs.18,03,512/- which was the total of the medical bills and the loss of income computed as hereinabove mentioned as also Rs.1 lakh for pain and suffering. The High Court increased the quantum of income and awarded a total amount of



Rs.7,24,032/- as loss of income with 100% disability. The High Court further awarded an amount of Rs.14 lakhs which included attendant charges, loss of amenities, compensation for pain and suffering, loss of marriage prospects and disfigurement occurred, in addition to the total medical expenses of Rs.11,22,356/-. The total compensation awarded by the High Court came to Rs.32,46,388/-.

6. The learned Senior Counsel for the appellant argued that there was no rationale in adopting the minimum wages for determining the income of a bright student who was in the process of completing his graduation and proceeding to sit for the Chartered Accountants examinations. The learned Counsel for the Insurance Company first argued that the amounts determined as minimum wages, is as per the schedule in Delhi relatable to a graduate. We were not convinced that the minimum wages would be determined on the basis of the educational qualification alone without reference to the nature of work carried on. The learned Counsel after further verification submitted that minimum wages adopted is of the year 2001 applicable to a skilled worker. We are not convinced that even that can be adopted for a graduate who was in the process of sitting for the Chartered Accountant examination which would have placed him in a good employment with immense prospects. The aspirations of the young man were shattered by the accident which left him paraplegic and fighting for breath, which also prompted the parents to relocate to another part of the country. We are of the opinion that even if he had not obtained the certificate as a Chartered Accountant, upon graduation, he could have been employed as an Accountant, who would have, on any reasonable estimate, received an amount of Rs.5,000/- as monthly income in the year 2001, if the minimum wages prescribed for a skilled worker was Rs.3,352/- Adopting Rs.5,000/- as monthly income, we are of the opinion that, as has been held in Pranay Sethi, 40% has



to be computed as future prospects. The loss of income for the 100% disabled paraplegic would be Rs.15,12,000/- (Rs.5,000/- x 140% x 12 x 18). To this is to be added an amount of Rs.14 lakhs granted by the High Court under conventional heads and the medical expenses of Rs.11,22,356/- totalling to Rs.40,34,356/-. The total award carrying interest @ 9% per annum from the filing of the petition till realisation, as awarded by the Tribunal & the High Court and enhanced by us will be paid to the substituted appellant within a period of four months from today.”

15. Having regard to the undisputed evidence on record that the deceased was highly qualified, possessing a Bachelor of Arts degree, and having successfully completed courses in beautician training and computer applications, besides actively participating in various extracurricular activities including beauty competitions as well as painting and drawing competitions, it is manifest that she was a young woman of considerable talent and promise with her entire future ahead of her to excel in any chosen field.

16. In such circumstances, where the deceased was a beautician at the time of the fatal accident but endowed with substantial educational qualifications and multifaceted skills, this Court, in the interest of justice and following the settled principles laid down by the Hon’ble Supreme Court for assessing notional income in cases of young persons with bright prospects, deems it just and appropriate to fix the notional monthly income of the deceased at Rs.16,000/-.

17. A perusal of the award further reveals that learned Tribunal has erred in deducting 2/5 instead of 1/2 of amount towards personal expenses as per the settled law.

18. A further perusal of the award further reveals that the amount awarded under the heads of loss of estate and funeral expenses is on lower side

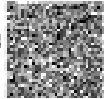
and no amount has been awarded for loss of consortium, therefore, the award requires indulgence of this Court.

CONCLUSION

19. In view of the law laid down by the Hon’ble Supreme Court in the above referred to judgments, the present cross-objections are allowed. Since cross-objections are allowed, therefore the present appeal no longer survives and accordingly dismissed. The award dated 01.12.2018 is modified accordingly. The cross-objector/claimant is entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.16,000/-
2	Future prospects @ 40%	Rs.6,400/- (40% of 16,000)
3	Deduction towards personal expenditure 1/2	Rs.11,200/- (22,400X 1/2)
4	Total Income	Rs.11,200/- (22,400-11,200)
5	Multiplier	17
6	Annual Dependency	Rs.22,84,800/- (11,200X12X17)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Filial: 48,400 x 1	Rs.48,400/-
10	Total Compensation	Rs.23,69,500/-
11	Deduction Amount Awarded by the Tribunal	Rs.17,43,600/-
12	Enhanced amount	Rs.6,25,900/-(23,69,500-17,43,600)

20. 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



Supreme Court Cases 107, the cross-objector/claimant is granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

21. The Insurance Company-appellant is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in the accounts of the claimant/cross-objector, as per ratio settled by the learned Tribunal, vide its award dated 01.12.2018. The claimant/cross-objector is directed to furnish their bank account details to the Tribunal.

22. The statutory amount of Rs.25,000/- deposited by the appellant-Insurance Company at the time of admission of the appeal, is ordered to be refunded to them.

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

18.12.2025

Saahil

(SUDEEPTI SHARMA)
JUDGE

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