IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-2881-2009 (O&M)
Reserved on : 15.10.2025
Date of Pronouncement: 31.10.2025

Resham Devi and others ......Appellants

Vs.

Rajesh and others ......Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Sudhanshu Makkar, Advocate,
for the appellants.

Mr. Ram Karan Sharma, DAG, Haryana.

Mr. Divyam Suri, Advocate, for
Mr. Sandeep Suri, Advocate,
for respondent No.4-Insurance Company.

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SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 19.01.2009 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') for enhancement of compensation, granted to the claimants/appellants to the tune of Rs.7,85,000/- along with interest at the rate of 7% per annum, on account of death of Vishnu Dutt in a Motor Vehicular Accident, occurred on 14.06.2006.

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 reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. The learned counsel for the appellants/claimants contends that the compensation assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present appeal be allowed and compensation be enhanced, as per latest law.

4. *Per contra*, learned counsel for the respondents, however, vehemently argue on the lines of the award and contends that the amount of compensation as assessed by the learned Tribunal has rightly been granted. Therefore, he prays for dismissal of the appeal.

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

SETTLED LAW ON COMPENSATION

6. 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.*
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> ***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.*
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> * * * * * *
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> ***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.*

7. 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 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.*
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> ***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."*

8. 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.*

9. A perusal of the record shows that the deceased-Vishnu Dutt was 38 years old at the time of accident and was employed under the Department of Education, Haryana. It is duly evident from the salary certificate (Ex.P-5) of the deceased-Vishnu Dutt that his gross monthly salary is Rs.15,329/- per month. However, after deduction, such as HRA, DA, MA, GPF and GIS, the carry home salary comes to Rs.10,799/- per month. The learned Tribunal has wrongly considered the carry home salary of the deceased while calculating the compensation, such approach of learned Tribunal is unsustainable in the eyes of law, as it is settled preposition of law that GPF Fund, House Rent, Insurance etc. must be added to the basic salary for determining the actual salary of the deceased and future prospectus must be applied thereafter. Reliance at this stage can be made to judgment of Larger Bench of the Apex Court rendered in **Manasvi Jain Vs. Delhi Transport Corporation, 2014(3) RCR (Civil) 313**. The relevant extract of the same is reproduced as under:-

> *"11. We have heard learned counsel for the parties and perused the orders passed by the Tribunal and the High Court. It is not in dispute that the deceased was getting an amount of Rs.26,924/- as monthly salary and Rs.11,140/- was being deducted under various heads such as GPF, House Rent, G.I.S. and Income Tax. After taking into account these deductions, the tribunal arrived at a conclusion that the net salary of the deceased is Rs.15,784/- and awarded a total compensation of Rs.10,25,176/-, including Rs.5,000/- towards funeral expenses and Rs.10,000/- towards mental agony. The High Court did not interfere with the judgment of the Tribunal.*
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> *12. This Court in **Shyamwati Sharma & Ors. Vs. Karam Singh & Ors., 2010(3) RCR (Civil) 741: (2010) 12 SCC 378,** while considering the issues of deduction of taxes, contributions etc., for arriving at the figure of net monthly income, held that "while ascertaining the*

income of the deceased, any deductions shown in the salary certificate as deductions towards GPF, life insurance premium, repayments of loans etc., should not be excluded from the income. The deduction towards income tax/surcharge alone should be considered to arrive at the net income of the deceased.

13. In the present case, there is no dispute about of the salary of the deceased. As per salary certificate, his monthly income and deductions are as under:-

Monthly Income Deductions	*Rs. 26,950-00*
Provident Fund	*8,000-00*
House Rent	*525-00*
G.I.S.	*120-00*
Income Tax	*2,500-00*

So, from the above table, it is clear that except an amount of Rs.2,500/- towards Income Tax, rest of the amounts were voluntarily contributed by the deceased for the welfare of his family. Considering the decision of this Court in Shyamwati Sharma & Ors., (supra), in our opinion, except contribution towards Income Tax, the other voluntary contributions made by the deceased, which are in the nature of savings, cannot be deducted from the monthly salary of the deceased to decide his net salary or take home salary. Hence, the take home salary of the deceased comes to Rs.24,450/- which can be rounded to Rs.25,000/-."

10. Moreover, Hon'ble the Supreme Court in its recent decision passed in **Meenakshi Vs. Oriental Insurance Company Ltd., 2024 INSC 583** has reiterated this position of law. The relevant extract of the same is reproduced as under:-

"9. *Recently in a judgment dated 11th July, 2024 in National Insurance Company Ltd. v. Nalini [Petition for Special Leave to Appeal (C) No. 4230/2019], this Court held that, allowances under the heads of transport allowance, house rent allowance, provident fund loan, provident fund and special allowance ought to be added while considering the basic salary of the victim/deceased to arrive at the dependency factor.*

> ***10.*** *Therefore, components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income by future prospects to determine the dependency factor. The Accident Claims Tribunal was justified in factoring these components into the salary of the deceased, before applying 50% rise by future prospects due to future prospects, while calculating the total compensation payable to the appellant.*
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> ***11.*** *Clearly, the High Court erred in accepting the appeal filed by the respondent No. 1- Insurance Company and reducing the compensation payable to the appellant from a sum of Rs. 1,04,01,000/- (Rupees One crore four lakh one thousand only) awarded by the Accident Claims Tribunal to Rs. 49,57,035/- (Rupees Forty nine lakh fifty seven thousand and thirty five only).*
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> ***12.*** *We, therefore, hold that the High Court has erred while omitting to add the components of house rent allowance, flexible benefit plan and Company contribution to provident fund to the basic salary of the deceased while applying the principle of rise in income by future prospects."*

11. Consequently, in view of the salary certificate (Ex.P-5) and settled preposition of law laid down by the Hon'ble Apex Court in ***Manasvi Jain's case (supra) and Meenakshi's case (supra)***, the monthly salary of the deceased is assessed as Rs.15,329/-.

12. Further, the learned Tribunal has erred in not awarding future prospects, which should be 50%, as per settled law in ***Pranay Sethi 's case (supra).***

13. A further perusal of the award reveals that the learned Tribunal has wrongly applied the multiplier of 13 instead of 15. Furthermore, the amount awarded under the conventional heads of funeral expenses and loss of consortium is on lower side and no amount has been awarded for loss of estate. Therefore, the award requires indulgence of this Court.

RELIEF

14. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is allowed and the award dated 19.01.2009 is modified accordingly. The appellants/claimants are entitled to the enhanced compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.15,329/-
2	Future prospects @ 50%	Rs.7,664/- (50% of 15,329)
3	Deduction towards personal expenditure 1/4	Rs.5,748/- {(15,329 + 7,664) X 1/4}
4	Total Income	Rs.17,245/- (22,993 – 5,748)
5	Multiplier	15
6	Annual Dependency	Rs.31,04,100/- (17,245 X 12 X 15)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Spousal : Rs. 48,400 x 1 Parental : Rs.48,400 x 3 Filial : Rs.48,400 x 2	Rs.2,90,400/-
	Total Compensation	**Rs.34,30,800/-**
	Amount Awarded by the Tribunal	**Rs.7,85,000/-**
	Enhanced amount	**Rs.26,45,800/- (Rs.34,30,800 – 7,85,000)**

15. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***<u>Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma</u>*** **2019 ACJ 3176** and ***<u>R.Valli and Others VS. Tamil Nadu State Transport Corporation</u>*** **(2022) 5 Supreme Court Cases 107,** the appellants/claimants

are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

16. Respondent No.4-Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the account of the appellants/claimants as per ratio settled in the award dated 19.01.2009. The appellants/claimants are directed to furnish their bank account details to the Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

31.10.2025
Virender

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