111

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-9505-2014
Date of decision: 11.09.2025

Chameli and others

...Appellants

Versus

Ashu Rajput and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Saurabh Bahmani, Advocate for
Mr. Ramanpreet Singh Bara, Advocate for the appellants.

Mr. Punit Jain, Advocate for respondent No.3.

****

VIKAS BAHL, J. (ORAL)

1. Widow and eight children, out of which five are minor, of the deceased-Eadal Singh @ Kharak Singh have filed the present appeal for enhancement of the amount of compensation awarded on account of death of Eadal Singh @ Kharak Singh, which had taken place in an accident that had occurred on 08.01.2013.

2. The only issue which arises for consideration in the present appeal is as to how much additional amount of compensation the present appellants are entitled to. The Motor Accident Claims Tribunal, SAS Nagar, Mohali (hereinafter to be referred as "the Tribunal") had granted a total compensation of Rs.15,21,000/- along with interest @ 6% per annum.

3. Learned counsel for the appellants has submitted that in the

present case, no amount on account of loss of future estate had been granted by the Tribunal and the present appellants should be granted Rs.18,000/- on the said account. It is further submitted that on account of loss of consortium, only an amount of Rs.1,00,000/- had been awarded, although there were nine claimants who were all dependent upon the deceased and thus, total amount of Rs.4,32,000/- (Rs.48,000/- x 9) should have been granted on the said account to the present appellants. It is further submitted that the present appellants had led affirmative evidence to show that the deceased was employed by Harjit Singh @ Khazan Singh on a monthly salary of Rs.9,000/- and had even produced the said employer Harjit Singh @ Khazan Singh in the witness box who was running a Saw Mill at Banur and was also an owner of 45 acres of agricultural land and who had made a statement in favour of the present appellants to the effect that the deceased was earning Rs.9,000/- per month yet the Tribunal held the deceased to be earning Rs.6,000/- per month. It is submitted that in view of the said facts and circumstances, monthly income of the deceased should be taken as Rs.9000/- per month and not Rs.6,000/- per month. 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. On the other hand, learned counsel for respondent No.3-

Insurance Company has submitted that in the present case, future prospects, which the Tribunal had granted, was granted by taking an addition of 50% of the income of the deceased whereas since the age of the deceased was 39 years at the time of the accident, thus, the present appellants should have been granted future prospects at the rate of 40% in accordance with settled law. It is further submitted that funeral expenses to the extent of Rs.25,000/- had been awarded by the Tribunal which also deserves to be reduced to Rs.18,000/- as per ***Pranay Sethi and others's*** case (Supra). It is further submitted that on account of loss of love and affection, an amount of Rs.1,00,000/- had been awarded, however, as per ***Pranay Sethi and others's*** case (Supra), no amount on account of loss and affection is to be granted. It is submitted that as far as the income of the deceased is concerned, the highest income that can be claimed by the present appellants in view of the fact that there are nine claimants is Rs.7000/- per month and the claim made by the present appellants of Rs.9,000/- per month is highly excessive.

5. Learned counsel for the appellants, after taking into consideration the objections raised by learned counsel for the Insurance Company, has given a revised chart, which is reproduced hereinbelow:-

*"**REVISED CALCULATION ON BEHALF OF THE APPELLANTS/CLAIMANTS***
FAO No.9505 of 2014
Chameli and others Vs. Ashu Rajput and others

	MACT	*HIGH COURT*
MONTHLY INCOME	*Rs.6000/-*	*Rs.7000/-*
FUTURE PROSPECTS	*50%*	*40% (As per Pranay Sethi) = Rs.2800/-*
DEDUCTION	*1/5th*	*1/5th = Rs.1960/-*

MULTIPLIER	*15*	*15*
ANNUAL INCOME		*7000+2800-1960 = 7840*12 = Rs.94,080/-*
LOSS OF FUTURE INCOME	*Rs.12,96,000/-*	*Rs.94,080 * 15 = Rs.14,11,200/-*
LOSS OF FUTURE ESTATE	*NOT GRANTED*	*15000+20% = Rs.18,000/- (As per Pranay Sethi)*
FUNERAL	*Rs.25000/-*	*15000+20% = Rs.18,000/- (As per Pranay Sethi)*
LOSS OF CONSORTIUM	*Rs.1,00,000/-*	*(40000 + 20%) 48,000 x 9 claimants = Rs.4,32,000/-*
LOSS OF LOVE AND AFFECTION	*Rs.1,00,000/-*	*Nil (As per Pranay Sethi)*
TOTAL	*Rs.15,21,000/*	*Rs.18,79,200/-*

DIFFERENCE-Rs.3,58,200/- + INTEREST @ 7.5% AS AWARDED BY MACT"

6. This Court has heard learned counsel for the parties and has perused the paper book and has also considered the revised chart which has been submitted by learned counsel for the appellants after taking into consideration the objections raised by learned counsel for the Insurance Company and the same has been found to be fair and 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."*

8. A perusal of the above would show that for the age of 39 years, multiplier of 15 is to be applied.

9. 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."

10. 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.

11. 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."

12. 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.

13. In the present case, in spite of the fact that no cross

appeal/cross objection has been filed by respondent No.3-Insurance Company, the present appellants have submitted the revised chart as per the latest law and have deleted the entry of the amount of Rs.1,00,000/- on account of loss of love and affection granted by the Tribunal and have reduced the funeral expenses from Rs.25,000/- to Rs.18,000/- and have also claimed 40% on account of future prospects instead of 50% which is in sync with the law laid down by the abovesaid judgments. The amounts claimed on account of loss of consortium i.e., Rs.4,32,000/- (Rs.48,000/- x 9) as well as on account of loss of future estate i.e., Rs.18,000/- are in consonance with the law laid down in the abovesaid judgments. Although, it has come on record that the deceased-Eadal Singh @ Kharak Singh was employed by his employer Harjit Singh @ Khazan Singh who was running a Saw Mill at Banur and also had 45 acres of agricultural land and was giving monthly salary of Rs.9000/- per month to Eadal Singh @ Kharak Singh but since there is no documentary evidence to support the same and in view of objection raised by the counsel for the Insurance Company, the monthly income of Rs.7000/- as claimed in the revised chart is just and appropriate. It is not in dispute that the deceased had nine dependents, which included five minor children who were being maintained by him and all the said persons were dependent upon the deceased and thus, the monthly income in the said circumstances should be taken as Rs.7000/- per month. With respect to the rate of interest, this Court is consistently awarding interest at the rate of 7.5% per annum, which rate of interest is also reasonable in the present case.

14. Keeping in view the abovesaid facts and circumstances, the

present appeal is partly allowed and the award dated 10.04.2014 is modified and respondent No.3 is directed to pay enhanced amount of compensation to the tune of Rs.3,58,200/- 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.

15. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

11.09.2025 **(VIKAS BAHL)**
Pawan **JUDGE**

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

Whether reportable:- **Yes/No**