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

**FAO-5461-2017 (O&M) and
XOBJC-74-CII-2018
Reserved on: 08.10.2025
Date of Decision: 29.10.2025**

THE ORIENTAL INSURANCE CO. LTD.

......Appellant

Vs.

SMT. ROSHNI AND ORS.

......Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Satpal Dhamija, Advocate,
for the appellant-Insurance Company.

None for respondents No.1 & 2.

Mr. Deepak Chaudhary, Advocate
for respondent No.3.

Mr. Ram Karan Sharma, DAG, Haryana,
for respondents No.4 & 5.

SUDEEPTI SHARMA J.

1. Vide this common judgment, this Court shall dispose of the appeal filed by the insurance company as well as cross objections filed by the respondents No.1 and 2-claimants.

2. The instant appeal has been preferred by the appellant-insurance company against the award dated 10.04.2017 passed by the learned Motor Accidents Claim Tribunal, Fatehabad (for short, 'the

Tribunal'), whereby the claimants/respondents No.1 & 2 were awarded compensation of Rs.14,21,000/- alongwith interest @ 7.5% per annum and Insurance company was held liable to pay the compensation, on the ground that compensation awarded is on higher side. However, the cross objections have also been filed by the claimants-cross objectors for enhancement of the amount of compensation awarded by the Tribunal.

3. 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 be reproduced here for the sake of brevity.

SUBMISSIONS OF THE COUNSELS FOR THE PARTIES

4. Learned counsel for the appellant-Insurance Company submits that the amount awarded by the learned Tribunal is on the higher side. He further argues that the learned Tribunal has erred in granting 50% as future prospects instead of 40% as per the settled law in ***Sarla Verma Vs. Delhi Transport Corporation and Another (2009) 6 Supreme Court Cases 121*.** Therefore, he prays that the present appeal be allowed and amount of compensation be modified as per latest law.

5. Further, learned counsel for respondent No.3 and respondents No.4 & 5 have vehemently argued that the compensation awarded by the learned Tribunal is on the higher side. Therefore, they prays for modification of the award as per latest law.

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

SETTLED LAW ON COMPENSATION

7. 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.*

8. 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.

9. 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.

* * * *

***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.*
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> ***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.*
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> ***59.6.*** *The selection of multiplier shall be as indicated in the Table in Sarla Verma*[1] *read with para 42 of that judgment.*
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> ***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 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.*

11. At the very outset, it is pertinent to note that though no one has put in appearance on behalf of respondents No.1 &

2/claimants/cross-objectors, still this Court in the interest of justice dealt with the cross-objections filed by them.

12. A perusal of the record shows that the respondents/claimants have filed cross-objections bearing No.XOBJC-74-CII-2018 challenging the quantum of compensation on the ground that the compensation awarded by the learned Tribunal is on lower side. Consequently, in the interest of justice, this Court shall also deal with the cross-objections filed by respondents/claimants along with the present appeal.

13. Adverting to the submissions advanced by the learned counsel for the appellant–Insurance Company with regard to the quantum of compensation, it is pertinent to note that the claimants respondents No.1 and 2 have also filed Cross Objections No.74-CII-2018 seeking enhancement of the award, contending therein that the compensation assessed by the learned Tribunal is on lower side and deserves to be suitably enhanced.

14. From the material available on record, it is revealed that the deceased was stated to be working as a Painter but no documentary evidence qua the same has been produced. Merely because claimants were unable to produce documentary evidence to show monthly income of deceased, same does not justify adoption of lowest tier of minimum wage while computing income, therefore, no reason to discard oral evidence of mother of deceased who deposed that deceased was earning around Rs.8,000/- per month. Therefore, the learned Tribunal has wrongly assessed the income of the deceased

as per the minimum wages prescribed for an unskilled labourer i.e. Rs.8,000/-per month. Even though no documentary evidence was produced by the claimants, still it is pertinent to note that the deceased was stated to be working in an unorganised sector, therefore, the formal documentation of earning is not always maintained, in view of this, the Ld. Tribunal erred in assessing the income of the deceased as Rs.8000/- per month. Support for this conclusion can also be drawn from the judgment rendered by this Court in ***FAO-2822-2006, titled as Tripta Rani and others Vs. Rajesh Kumar and another, decided on 15.10.2024***. The relevant portion of the same is reproduced as under:-

> *10. Though no documentary evidence was submitted by the claimants, still it is pertinent to note that the deceased was working in an unorganised sector, therefore, the formal documentation of earning is not always maintained, in view of this, the Ld. Tribunal erred in assessing the income of the deceased as Rs.3000/- per month. Support for this conclusion can also be drawn from the judgment rendered by Hon'ble Apex Court in the case of* ***Chandra @ Chanda @ Chandraram Vs. Mukesh Kumar Yadav, 2021 ACJ 2554,*** *wherein it has been held as under:-*
>
> *"Merely because claimants were unable to produce documentary evidence to show monthly income of deceased, same does not justify adoption of lowest tier of minimum wage while computing income. No reason to discard oral evidence of wife of deceased who deposed that deceased was earning around*

> *Rs.15000/- per month Deceased aged about 32 years on date of accident and..."*
>
> *11. In view of the facts and legal principles outlined hereinabove, the income of Rs.3000/- as determined by the Ld. Tribunal appears to be understated. Consequently, upon due consideration of the oral evidence on recod, it would be just and proper to assess the income of the deceased as Rs.8000/- per month. This assessment in my view, would better serve the ends of justice."*

15. In view of the facts and circumstances of the case and in the interest of justice, this court is inclined to assess the notional income of the deceased as of a skilled worker i.e. Rs.10,000/- per month.

16. A further perusal of the award shows that the learned Tribunal has erred in not granting any amount towards loss of Consortium. Moreover, the learned Tribunal has erred in awarding 50% for Future Prospects instead of 40% as per the settled law in ***Pranay Sethi (Supra)***. Therefore, the award requires indulgence of this Court.

17. In view of the above, the present appeal is ***dismissed***. However, the cross-objections bearing No.XOBJC-74-CII-2018 filed by the claimants/respondents No.1 and 2 are ***allowed***.

18. 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.10,000/-
2	Future prospects @ 40%	Rs.4000/- (40% of 10000)
3	Deduction towards personal expenditure 1/2	Rs.7,000/- (½ of 14000)
4	Total Income	Rs.7,000/-(14000-7000)
5	Multiplier	18
6	Annual Dependency	Rs.15,12,000/- (7000 X 12 X 18)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Filial: 48,400 X 2	Rs.96,800/-
10	**Total Compensation**	**Rs.16,45,100/-**
11	**Amount Awarded by the Tribunal**	**Rs.14,21,000/-**
12	**Enhanced amount**	**Rs.2,24,100/- (1645100-1421000)**

19. 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.

20. The 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 directed to disburse the same to the cross objectors/claimants in their bank account as per ratio settled

in the award dated 10.04.2017. The Cross Objectors/claimants are directed to furnish their bank accounts detail to the Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

29.10.2025
Ayub

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