

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-2019-2024 (O&M)

TATA AIG GENERAL INSURANCE COMPAY LTD

.....Appellant

vs.

KOUSHLIYA AND ORS

.....Respondents

Reserved on:- 12.12.2025

Pronounced on:- 30.01.2026

Uploaded on :- 31.01.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sanjeev Kodan, Advocate
for the appellant.

Mr. Digvijay Singh, Advocate for
Mr. Ashish Gupta, Advocate
for respondent Nos.1 to 6.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 17.02.2024 passed by the learned Motor Accident Claims Tribunal, Nuh in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Tribunal') for wherein the appellant-Insurance Company was held liable to pay the amount of Rs.16,49,480/- along with interest @ 7.5% per annum, on account of death of Mordhawaj in a Motor Vehicular Accident, occurred on 06.05.2019 on the ground that quantum of compensation is on higher side.

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 be reproduced here for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

3. The learned counsel for the appellant-insurance company contends that the learned Tribunal has wrongly assessed the income of the deceased at ₹7,800 per month by considering him to be a skilled worker under the minimum wages notification issued by the Government of Rajasthan, without there being Documentary Evidence on record to justify such categorisation.

4. He further contends that, as per the minimum wages notification issued by the Government of Rajasthan, the minimum wages payable to an unskilled labourer are ₹5,850 per month in terms of Notification No. F.5(6)New.M./Labour/2000/Part/7/82 dated 06.03.2019.

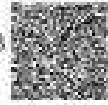
5. Therefore, he prays that the present appeal be allowed and the award dated 17/02/2024 is liable to be modified by reassessing the monthly income of the deceased in terms of the minimum wages prescribed by the State Government for unskilled labourer during the relevant period.

6. Per contra, learned counsel for respondents contends that learned Tribunal has rightly assessed the income of the deceased after taking into account the minimum wages for skilled labour and surrounding circumstances of the deceased. Therefore, he pray for dismissal of the appeal.

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

8. The relevant portion of the award is reproduced as under:-

“12. The petitioners have claimed that the deceased was earning Rs.15,000/- per month. The petitioners have not



produced any documentary evidence for proving the income of the deceased. As per record, deceased was a resident of District Bharatpur and in these circumstances it may be presumed that the deceased must have been earning minimum wages of Rajasthan Government, which were Rs.7,774/- (rounded of Rs.7,800/-) per month, at the time of accident. Therefore, income of the deceased is presumed to be Rs.7,800/- per month, which comes to Rs.93,600/- per annum.

13. Learned counsel for the petitioners has argued that the deceased was 30 years old at the time of accident. The age of deceased is recorded as 32 years in the inquest memo Ex.P15 prepared by police. As per Driving Licence Ex.R1 of deceased, the date of birth of the deceased was 12.07.1988. The accident took place on 06.05.2019 and the age of the deceased was about 30 years and 10 months on the date of alleged accident, hence the age of deceased is therefore, considered as 32 years. therefore, 40% of his income is to be added for future prospects. After adding 40% income of the deceased, total income of the deceased comes to Rs.1,31,040/-. Since there are six dependents of the deceased, 1/4th of his income is liable to be deducted for personal expenses. Therefore, annual loss of income comes to Rs.98,280/- only.

14. Since the age of the deceased was 32 years at the time of accident, multiplier of 16 is applicable. By applying the multiplier of 16, total loss of income comes to Rs.15,72,480/- only.

15. In view of the judgment of Hon'ble Supreme Court in case of National Insurance Company Versus Pranay Sethi 2017(4) RCR (Civil) 1009, the petitioners are also entitled to Rs.44,000/- for loss of consortium, Rs.16,500/- for funeral expenses and Rs.16,500/- for loss of estate. In view of above discussion, it is concluded that



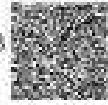
the petitioners are entitled to the compensation of Rs.16,49,480/- only, recoverable from the respondents jointly and severally. Hence, issue No. 2 is partly decided in favour of petitioners.

18. In view of my above discussion, the claim petition is partly allowed with costs. It is held that the petitioners are entitled to compensation of Rs.16,49,480/- (Rupees Sixteen Lakh, Forty Nine Thousand, Four Hundred and Eighty only) recoverable from the respondents jointly and severally along with interest @ 7.5% per annum from the date of institution of the claim petition till realization. Out of the awarded amount of compensation, petitioners shall be entitled to equal shares and the shares of the minors be deposited in shape of FDRs of nationalized bank. Memo of costs be prepared. After due compliance, file be consigned to the record room.”

SETTLED LAW ON COMPENSATION

9. 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:-

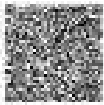
“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where 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 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.

10. 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:-

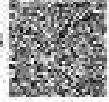
- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;



- (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:-

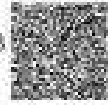
*“52. As far as the **conventional heads** are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating 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.”



11. 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".*

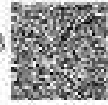
*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*



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*



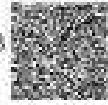
vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.

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.

12. Upon perusal of the impugned award, it is transpired that the claimants/respondents deposed before the learned tribunal that the deceased was earning a monthly sum of Rs.15,000/-, they failed to place any cogent documentary evidence on record to substantiate this claim.

13. This Court finds that the learned Tribunal correctly assessed the income of the deceased by appreciating the specific facts of the case and accounting for the prevailing economic realities of the country. The absence of strict documentary proof of income does not preclude the learned Tribunal from determining the income based on the standards applicable to a skilled worker.

14. Furthermore, the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in stricto sensu is not required. The Hon'ble Supreme Court in case of "**Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors.**", reported as (2022) 1 SCC 198, held that



in absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

“.....In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month.....”

15. As a sequel to above discussion, and relying on the judgments rendered by the Hon’ble Supreme Court, the present appeal is dismissed.

16. 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.

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

30.01.2026

Ayub/Saahil

(SUDEEPTI SHARMA)
JUDGE

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