

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-5204-2009 (O&M)

ORIENTAL INSURANCE COMPANY LTD.

.....Appellant

vs.

LEELAWATI AND ORS.

.....Respondents

Reserved on:- 13.02.2026

Pronounced on:- 24.02.2026

Uploaded on:- 25.02.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

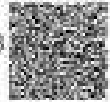
CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ashwani Talwar Sr. Advocate
with Mr. Deepak Goyat, Advocate
Mr. Nikhil Sehrawat, Advocate
Ms. Vaishnavi Sikka, Advocate
for the appellant

Mr. Arvind Bansal, Advocate
for respondents No.1 to 5

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 04.09.2009 passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein, the appellant/insurance company was held liable to pay the compensation to the claimants/respondents No.1 to 5 to the tune of Rs.6,09,000/- along with interest @ 7.5 % per annum, on the ground of quantum of compensation to be 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. Learned counsel for the appellant-Insurance Company contends that the learned Tribunal has erred in adding monthly pension amount of Rs.5,625/- received by claimant-widow of deceased Nafe Singh while assessing monthly income of deceased as Rs.7,486/-, therefore, he prays that the present appeal be allowed and amount of compensation be reduced.

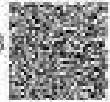
4. Per contra, learned counsel for claimants/respondents No.1 to 5 contends that compensation awarded by the learned Tribunal is on the lower side hence warrants enhancement. He further contends that they have preferred separate appeal bearing FAO-162-2010, titled as “Leelawati and others Vs. Om Prakash and others” seeking enhancement of compensation he therefore, prays that the present appeal be dismissed and compensation be enhanced.

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:-

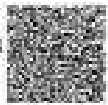
“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the



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.

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



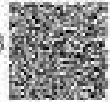
restricted to one-third and contribution to the family will be taken as two-third.

* * * * *

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.

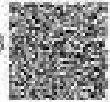
7. Hon’ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Sethi & Ors. [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (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 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*

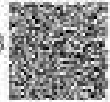


consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should 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.

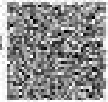
59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 42 of that judgment.

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.”

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 Sethi² dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss

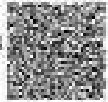


of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. 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".*

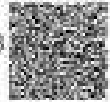
*21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their 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

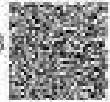


Pranay Sethi². In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.

9. A perusal of the award reveals that the contention of learned counsel for appellant-Insurance Company to the effect that while assessing loss of dependency, the family pension received by dependents of deceased is to be deducted is bereft of any merit. This Court in FAO-4272-2018, titled as Chameli Devi and others Vs. Sanjeev Kumar and others” decided on 28.01.2026 has held that deduction cannot be allowed from the amount of compensation on the account of pensionary benefits. The relevant extract of the same is reproduced as under:-

*“11. The pivotal question that thus arises for consideration is **whether the family pension being received by the widow can be taken into account while computing the loss of dependency.***

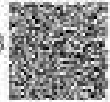
*12. This aspect was considered in the case of **Mrs. Helen C. Rebello & Ors. v. Maharashtra State Road Transport Corpn. & Anr. AIR, 1998 SC 3191** wherein it was observed that while calculating the compensation on account of death, the pecuniary advantage accruing under the Act, had to be deciphered by co-relating it with the accidental death. The compensation payable under the Motor Vehicles Act is on account of the pecuniary loss to the claimant by accidental injury or death **and not other forms of death.** The pecuniary advantage cannot be interpreted and co-related to any other source/form of death such as natural death or death by suicide, serious illness, including even death by accident, through train, air flight not involving motor vehicle because the same would dilute all possible benefits conferred on the claimant and*



would be contrary to the spirit of law. If the pecuniary advantage resulting from death was to include all forms of amounts whether by way of inheritance, succession or any other manner, then it could obliterate both, all possible conferment of economic security to the claimant by the deceased and the intention of the legislature. By such an interpretation, the tortfeasor, despite his wrongful act or negligence which contributed to the death of the victim, would have in many cases no or meagre liability and would benefit from the same. Thus, any amount which the Claimants received on account of other forms of death, would not be included while considering the loss of pecuniary benefit in case of accidental amount. Any amount receivable or received not on account of accidental death but would have in any case be received by the Claimant, cannot be construed as a "pecuniary advantage" liable for deduction.

13. With specific reference to deduction of "pensionary benefits", it was further explained that a person becomes entitled to pension on account of the services rendered in the Department during the tenure of his service. The employee or his heirs are entitled to this amount irrespective of the accidental death. Similarly, family pension is also earned by an employee for the benefit of his family in the form of contribution of his services in terms of service conditions, which becomes receivable by the heirs on his demise. **There is no co-relation between the family pension, which in any case the family would have got and the amount which is paid on account of accidental death.**

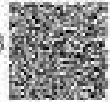
14. Helen C. Rebello (supra) was referred to by the Apex Court in the Case of **United India Insurance Co. Ltd. etc. v. Patrica Jean Mahajan & Ors., 2002 (6) SCC 281** wherein it was endorsed that there is no co-relation



between the compensation payable on account of accidental death and the amounts receivable irrespective of such accidental death which otherwise in the normal course one would be entitled to receive. It was further highlighted an amount receivable under a statute has no co-relation with an amount earned by an individual.

15. *In the case of **Lal Dei & Ors. v. Himachal Road Transport, (2007) 8 SCC 319**, the Apex Court set-aside the Impugned Order of deduction of the family pension, by observing that the **family pension** is earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death and is receivable even otherwise than the accidental death. There is no co-relation between the two and **therefore, the family pension amount paid to the family cannot be deducted while calculating the compensation awarded to the claimants.***

16. *In **Vimal Kanwar & Ors. v. Kishore Dan & Ors., AIR 2013 SC 3830**, the issue arose before the Hon'ble Apex Court that "whether Provident Fund, **Pension** and Insurance receivable by claimants come within the periphery of the Motor Vehicles Act to be termed as "Pecuniary Advantage" liable for deduction." While relying on the judgment of Mrs. Helen C. Rebello (supra) it was concluded that Provident Fund, **Pension**, Insurance and similarly any Cash, Bank Balance, Shares, Fixed Deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death, but all these have no correlation with the amount receivable under a Statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. It was also held that salary receivable by the*

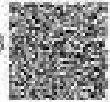


claimant on compassionate appointment, may have nexus with the death of an employee while in service but it has no co-relation with the accidental death and hence, not liable to be deducted.

17. *Similar observations have been made in the Case of **Sebastiani Lakra v. National Insurance Company Ltd., AIR 2018 SC 5034** wherein it was observed that **deductions cannot be allowed** from the amount of compensation either on account of insurance, **or on account of pensionary benefits** or gratuity or grant of employment to a kin of the deceased, because these amounts are earned by the deceased on account of contractual relations entered into by him with others and do not accrue to the heirs on account of his death in a motor vehicle accident. It was further explained that **amounts of pension and gratuity** are paid on account of the service rendered by the deceased to his employer and are more like the property of the deceased. Since these amounts are also payable on death, irrespective of the form or cause of the death, the same is not liable to be deducted. **If the deduction towards the family pension is permitted, it would amount to a tort fissure being given the benefit of munificence or gratuity of others.***

18. *More recently, the Hon'ble Supreme Court in **Hanumantharaju B (Dead) by LRs v. M. Akram Pasha & Anr. 2025 INSC 682**, has once again reaffirmed the settled legal position. The relevant extract of the judgment passed in **Hanumantharaju B's case (supra)** is reproduced as under:-*

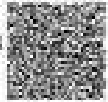
“19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension



and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as “pecuniary advantage” liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.

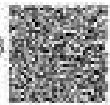
*For this proposition of law, we may refer to the decision in **Vimal Kanwar & Ors. v. Kishore Dan & Ors. (2013) 7 SCC 476**, wherein this Court, by referring to the earlier decision in **Helen C. Rebello v. Maharashtra SRTC (1999) 1 SCC 90**, held as follows:-*

*“19. The aforesaid issue fell for consideration before this Court in **Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90: 1999 SCC (Cri) 197]**. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a “pecuniary advantage” receivable by the heirs on*

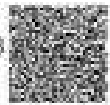


account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. The following was the observation and finding of this Court: (SCC pp. 111-12, para 35)

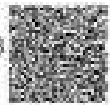
"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by



an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No correlation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency

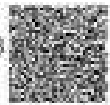


in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all Page 13 of 20 a pecuniary advantage receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any co-relation. The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for



his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual.”

*Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in **Reliance General Insurance Co. Ltd.***



v. Shashi Sharma & Ors. (2016) 9 SCC 627 and National Insurance Company Ltd. v. Birender & Ors. (2020) 11 SCC 356.”

20. Keeping the aforesaid legal position in mind, we shall examine the issues at hand.

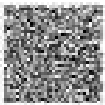
21. As regards computing the loss of income, in the light of the above referred decisions, it would not be permissible to deduct the pensionary amount of Rs. 15,247/- from the salary of Rs. 36,231/- as was done by the High Court. Hence, for the purpose of computing the loss of earning, the said monthly salary of Rs. 36,231/- has to be accepted without deducting the pension amount.

19. Applying the above settled principles to the facts of the present case, it is evident that the learned Tribunal committed a manifest error in deducting the family pension while computing the compensation, which is wholly impermissible in law and warrants interference.

Therefore, income of the deceased Kehar Singh is assessed as Rs.24,000/- per month.”

10. In view of the above settled law, the learned Tribunal has rightly assessed the income of the deceased-Nafe Singh as Rs.7,486/- and the same is hereby affirmed.

11. A perusal of the award further reveals that nothing has been awarded for future prospects and compensation awarded for loss of estate,



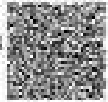
funeral expenses and loss of consortium is on the lower side, therefore, the award requires indulgence of this Court.

CONCLUSION

11. In view of the law laid down by the Hon’ble Supreme Court in the above referred to judgments, the present appeal is **dismissed**. The award dated 04.09.2009 is modified accordingly. In view of the aforesaid discussion, the compensation is liable to be recalculated as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.7,486/-
2	Future Prospects @ 15%	Rs.1,122/- (15% of 7486)
3	Deduction towards personal expenditure 1/4	Rs.2,152/- (8,608 X 1/4)
4	Total Income	Rs.6,456/- (8,608 – 2,152)
5	Multiplier	11
6	Annual Dependency	Rs.8,52,192/- (6456 X 12 X 11)
7	Loss of estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000/-
9	Loss of Consortium 40,000 x 5	Rs.2,00,000/-
10	Total Compensation	Rs.10,82,192/-
11	Amount Awarded by the Tribunal	Rs.6,09,000 /-
12	Enhanced amount	Rs.4,73,192/- (Rs. 10,82,192 - Rs.6,09,000)

12. 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 respondent No.1 to 5-



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.

13. The appellant-Insurance Company is directed to deposit the enhanced amount of compensation alongwith interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the enhanced amount of compensation alongwith interest in the account of the claimants/respondents No.1 to 5 as per award dated 04.09.2009. The claimants/respondent No.1 to 5 are directed to furnish their bank account details to the Tribunal.

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

24.02.2026

Ayub

**(SUDEEPTI SHARMA)
JUDGE**

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