

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-2532-2021 (O&M)

ARITA SHARMA AND ORS

.....Appellants

Vs.

KAMAL KHERA AND ANR

.....Respondents

Reserved on: 04.02.2026

Pronounced on: 06.02.2026

Uploaded on : 06.02.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

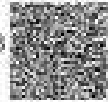
Present: Ms. Ekta Thakur, Advocate
Ms. Kulwinder Kaur, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.2-Insurance Company.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 06.08.2021 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short '1988 Act'), by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') for enhancement of compensation granted to the claimants to the tune of Rs.26,58,200/- along with interest @ 6% per annum, on account of death of Jeevan Sharma in a Motor Vehicular Accident, occurred on 24.07.2018.

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. Leaned counsel for appellants-claimants contends that the ld. Tribunal has computed total income of the deceased by taking the average of Income Tax Return (ITR) for the last four years preceding the accident, i.e. Assessment Year 2014-15 to 2017-18. She further contends that by adopting the said method, less income has been worked out, whereas the ITR immediately preceding the date of accident/death should have been taken into reckoning. Therefore, she prays that the present appeal be allowed and amount of compensation be enhanced as per latest law.

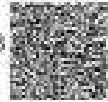
4. Per contra, learned counsel appearing for the respondent No.2— Insurance Company submits that the learned Tribunal has rightly assessed the income of the deceased by taking the average of the last three Income Tax Returns and that no interference is warranted with the impugned award. Therefore, they pray 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:-

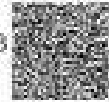
“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general



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.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a

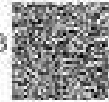


dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning 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.

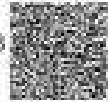
59.4. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between 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".*

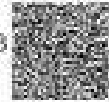
*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*



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



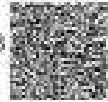
awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.

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. Upon a careful perusal of the impugned award, this Court finds merit in the submissions advanced on behalf of the appellants–claimants. It is a settled proposition of law that, for the purpose of determination of just compensation under the Motor Vehicles Act, the income reflected in the last Income Tax Return filed by the deceased prior to the accident is required to be taken into consideration.

10. The Hon'ble Supreme Court, in **Rupali Kailas Mamode v. National Insurance Company Ltd., 2023 ACJ 327**, has categorically held that the income disclosed in the last Income Tax Return of the deceased constitutes the most reliable evidence for assessing the monthly income for computation of compensation under the Motor Accident Claims Tribunal. The relevant extract reads as under:

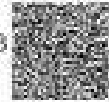
*“2. **Heard learned counsel for the parties** and perused the appeal papers. The husband of the appellant No.1 died in the accident which occurred on 31.07.2006. The deceased was aged about 32 years and was undertaking the work as a contractor though he was an architect. The MACT*



having taken into consideration the evidence available on record had reckoned the income based on the income-tax return for the years 2006- 2007 wherein it was indicated that the income was Rs.1,67,582/-. Having taken into consideration the other parameters the MACT awarded a sum of Rs.31,15,335/-.

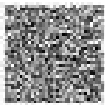
*3. The High Court while reducing the compensation has arrived at the conclusion that the income as indicated in the last returns would not be justified and the average of three years is taken and therefore has reduced the compensation. Though learned counsel for the respondent Insurance Company seeks to contend that the High Court having taken note of the decisions rendered by this Court has arrived at such conclusion, **we are of the opinion that** in the present facts of the case, in any event such conclusion by the High Court was not justified. This is for the reason that as noted the deceased was an architect and he was doing contract work, the income-tax returns which he had filed from the period 2004- 2005 onwards indicated that there was a steep increase in his income as compared to a sum of Rs.89,964/- declared in the year 2004-2005 and that benefit cannot be denied. If this aspect of the matter is kept in perspective, the income was bound to increase many folds if he had survived and such income which is denied to the family is the loss of dependency which was required to be determined.”*

11. The aforesaid legal position has been reiterated by the Hon’ble Supreme Court in **Meenakshi v. Raj Kumar, Law Finder Doc Id #2570662**, wherein it has been reaffirmed that the income immediately preceding the date of death ought to form the basis for computation of compensation. The relevant portion of the judgment reads thus:



“2. In respect of the accident which occurred on 01.06.2014, the claimants had filed the claim petition seeking compensation. The MACT having taken into consideration that the deceased was running a 'Kirana' shop and was aged about 42 years, has on that basis arrived at the compensation. However, the MACT while taking note of the documents at Exhibits- PA to PF has discarded the Income Tax Returns which had been filed by the petitioners to prove the income of the deceased from the year 2009 to 2015 stating that they are not the authentic proof of income since the sale particulars relating to 'Kirana' shop has not been provided. In that light, the notional income was taken at Rs. 8,100/- and the compensation was thereafter determined through its award dated 31.10.2015. The High Court though has enhanced the compensation, has also not relied upon the Income Tax Returns which had been produced but has taken the notional income at Rs. 10,000/- per month. It is in that light a consideration is required in this appeal.

*3. The learned counsel for the appellant has taken us to the judgment of the MACT to point out the reasoning as contained in paragraph 25 of the judgment whereby the Income Tax Returns produced was eschewed from consideration. **In our opinion, the** said reason which is assigned therein to indicate that the sales tax returns or the purchase and sales particulars of the shop has not been produced in fact is fallacious in as much as the Income Tax Returns filed itself will indicate the income by the assessee earned and thereby the tax paid. Hence, the documents produced will indicate the income of the deceased in the instant case. Therefore, in that circumstance **we are of the opinion that** the manner of consideration made is not been justified and the income as indicated through the Income*



Tax Returns for the relevant years is to be taken into consideration.”

12. In the present case, the claimants have placed on record Income Tax Returns for Assessment Years 2014–15 to 2017–18. A perusal of the said ITRs clearly indicates a consistent upward trend in the income of the deceased. In such circumstances, adoption of an average of multiple years, as done by the learned Tribunal, cannot be sustained, as it does not reflect the true earning capacity of the deceased at the time of the accident.

13. Accordingly, this Court is of the considered view that the monthly income of the deceased deserves to be assessed on the basis of the Income Tax Return for the Assessment Year immediately preceding the accident, i.e. Ex. P-13. On such assessment, the monthly income of the deceased is determined at ₹30,000/-.

14. A further perusal of the award reveals that the compensation awarded under the conventional heads is on the lower side and not in consonance with the settled principles laid down by the Hon’ble Supreme Court. The same, therefore, deserves to be enhanced appropriately.

CONCLUSION

15. In view of the law laid down by the Hon’ble Supreme Court in the above referred to judgments, the present appeal is allowed. The award dated 06.08.2021 is modified accordingly. The appellants-claimants are entitled to enhanced compensation as per the calculations made hereunder:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.30,000/-
2	Future prospects @ 25%	Rs.7,500/- (25% of 30,000)



3	Deduction towards personal expenditure 1/3	Rs.12,500/- (37,500 X 1/3)
4	Total Income	Rs.25,000/- (37500-12500)
5	Multiplier	13
6	Annual Dependency	Rs.39,00,000/- (25000 X 12 X 13)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Spousal : 1 x 48,400 Filial : 2 x 48,400	Rs.1,45,200/-
10	Total Compensation	Rs.40,81,500/-
11	Deduction Amount Awarded by the Tribunal	Rs. 26,58,200/-
12	Enhanced amount	Rs.14,23,300/-(40,81,500-26,58,200)

16. 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 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.

17. The respondent No.2-Insurance Company is directed to deposit the enhanced amount along with interest at the rate of 9% 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 appellants-claimants in their bank accounts. The appellants-claimants are directed to furnish their bank account details to the Tribunal.

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

06.02.2026

Ayub/Saahil

(SUDEEPTI SHARMA)
JUDGE

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