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

FAO-2941-2012 (O&M)

Tara Devi and ors ......Appellants

Vs.

Rajesh and others ......Respondents

Date of Reserve: 09.03.2026
Date of Pronouncement: 10.03.2026
Uploaded on:- 12.03.2026

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. Akashdeep Singh, Advocate, for the appellants.

Mr. Akshay Sharma, Advocate for Mr. Rajbir Singh, Advocate for respondent No.3-Insurance Company.

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SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 04.01.2012 passed by the learned Motor Accident Claims Tribunal, Rohtak in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Tribunal') for enhancement of compensation granted to the claimants/appellants to the tune of Rs.13,11,000/- along with interest @ 6% per annum, on account of death of Pawan Kumar in a Motor Vehicular Accident, occurred on 09.02.2011.

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 claimants-appellants contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present appeal be allowed and compensation be enhanced as per latest law.

4. Per contra, learned counsel for respondent No. 3-Insurance Company however, vehemently argues that the award has rightly been passed and the amount of compensation, as assessed by the learned Tribunal has rightly been granted. Therefore, they prays for dismissal of the appeal.

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

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 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.

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 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.*

***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.*

***59.6.** The selection of multiplier shall be as indicated in the Table in Sarla Verma[1] 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 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.*

9. A perusal of the impugned award reveals that the deceased, Pawan Kumar, was 30 years 2 months at the time of the accident. The learned Tribunal has, therefore, rightly assessed the age of the deceased as 31 years (Rounded off) by placing reliance upon the Matriculation Certificate (Exhibit P-16) and has correctly applied the multiplier of 16 in accordance with the settled law.

10. A further perusal of the impugned award reveals that the deceased was stated to be earning Rs. 50,000/- per month by cultivating agricultural land on a contract basis and by running a dairy in the village. In order to substantiate the said income, the claimants/appellants placed on record Ex.P-1, the Income Tax Return for the year 2010–2011 (relating to the assessment year 2009–2010) and Ex.P-2, the Income Tax Return for the year 2009–2010 (relating to the assessment year 2008–2009).

11. However, the learned Tribunal declined to place reliance upon the Income Tax Returns on the ground that the same were filed only two months prior to the death of the deceased. The learned Tribunal also did not place reliance upon Receipt Ex.P-7 for Rs. 1,85,786/- issued for sale of cane and Receipt Ex.P-8 for Rs. 3,03,206/- issued by Rajni Enterprises, merely observing that such receipts could easily be procured. Thereafter, the learned Tribunal has assessed the monthly income of the deceased as Rs. 9,000/-. However, such approach adopted by the learned Tribunal is unsuitable in the eyes of the law.

12. Reference at this stage can be made to the recent judgment passed by Hon'ble Supreme Court in ***Nidhi Bhargava & Ors. Vs National Insurance Company Ltd. & Ors. 2025 INSC 526***. The relevant extract of the same is reproduced below :-

"12. Just because on the date of the accident i.e., 12.08.2008, the Return for the Assessment Year 2008-2009 had not been filed, cannot disadvantage the appellants, for the reason that the period for which the Return is to be submitted covers the period starting 1s of April, 2007 and ending 31 March, 2008. Thus, for obvious reasons, the Return would be only for the period 01.04.2007 to 31.03.2008, and date of submission would be post-31.03.2008. No income earned beyond 31.03.2008 would reflect in the Income Tax Return for the Assessment Year 2008-2009. To reject the Return on the sole ground of its submission after the date of accident alone, in our considered view, cannot be legally sustained.

13. The Income Tax Return is a legally admissible document on which the income assessment of the deceased could be made. This Court in ***Malarvizhi v United India Insurance Co. Ltd., (2020) 4 SCC 228*** *affirmed that the determination of income must proceed on the basis of Income Tax Return(s), when available, being a statutory document. In* ***S Vishnu Ganga v Oriental Insurance Company Limited, 2025 SCC OnLine SC 182****, we opined:*

> *11. ...It is no longer res integra that Income Tax Returns are reliable evidence to assess the income of a deceased, reference whereof can be made to Amrit Bhanu Shali v. National Insurance Co. Ltd., (2012) 11 SCC 738 [Para 17]; Kalpanaraj v. Tamil Nadu State Transport Corporation, (2015) 2 SCC 764 [Para 7], and K Ramya (supra) [Para 14 of 2022 SCC OnLine SC 1338]'*

14. In ***Malarvizhi (supra)****, the Madras High Court relied upon the Returns 'for Assessment Year 1997-1998 and not 1999-*

2000 and 2000-2001 which reflected a reduction in the annual income of the deceased' therein.

15. The High Court interfered and reduced the compensation as awarded by the Tribunal only on the ground that Return for the Assessment Year 2008-2009 had to be excluded from consideration. It is not in dispute that the deceased was a businessman. The relevance of the Income Tax Return stems, in the context of the Act, for the period which it relates to i.e., the Financial Year concerned, and not on the date on which it is filed with the Income Tax Department. When faced with Returns for different Assessment Years, it would be upto the Tribunal concerned to adopt either the average income therefrom or choose an Assessment Year to rely upon. There is good reason to leave judicial discretion on the Tribunal to adopt one of the afore-noted two courses of action, bearing in nature the social purpose and object behind the Act, which is a beneficial legislation. It is quite unfortunate that the High Court in the present case has dealt with the matter in such a casual and superficial way where the rightful claim of the appellants under a welfare legislation has been drastically reduced without any cogent reason on a very tenuous ground, which we find to be totally unjustified. As pointed out in ***Shivaleela v Divisional Manager, United India Insurance Co. Ltd., 2025 SCC OnLine SC 563****:*

> *'13... In K Ramya v. National Insurance Co. Ltd., 2022 SCC OnLine SC 1338, after taking note of, inter alia, Singamma. United india@ Insurance Co.Ltd., (2009) 13*

SCC 710, the Court held that the '... Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forwardlooking.

Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future.”

13. In view of the above discussion and referred to judgments, this Court is of the considered opinion that it would be just, proper and appropriate to place reliance upon the Income Tax Returns of Deceased-Pawan Kumar.

14. In view of the Income tax returns and the overall circumstances of the case, this Court deems it appropriate to reassessed the monthly income of the deceased at Rs. 15,000/-.

15. Furthermore, the learned Tribunal has failed to grant any amount towards future prospects, which is contrary to the settled law. The claimants are, therefore, entitled to 40% addition towards future prospects.

16. A further perusal of the award reveals that the amounts granted under the conventional heads of loss of consortium, loss of Estate and Funeral Expenses are on the lower side and not in consonance with the settled law. Therefore, the award requires interference and indulgence of this Court.

CONCLUSION

17. 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

04.01.2012 is modified accordingly. The appellants-claimants are entitled to enhanced amount of compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.15000/-
2	Future prospects @ 40%	Rs.6000/- (40% of 15000)
3	Deduction towards personal expenditure 1/4	Rs.5250/- (21000 X 1/4)
4.	Total Income	Rs.15750/-(21000-5250)
4	Multiplier	16
5	Annual Dependency	Rs.30,24,000/- (15750X12X16)
6	Loss of Estate	Rs.15,000/-
7	Funeral Expenses	Rs.15,000/-
8	Loss of Consortium Parental : Rs. 40,000/-x3 Spousal : Rs. 40,000/-x1 Filial : Rs. 40,000/-x1	Rs.2,00,000/-
	Total Compensation	**Rs.32,54,000/-**
	Deduction Amount Awarded by the Tribunal	**Rs.13,11,000/-**
	Enhanced amount	**Rs.19,43,000/- (3254000-1311000)**

18. 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 Nadu 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.

19. Respondent No. 3-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 receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in

the accounts of the claimants/appellants, as per award dated 04.01.2012. The claimants/appellants are directed to furnish their bank account details to the Tribunal.

20. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

10.03.2026
Gaurav Arora

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