



FAO-5361 and 3466 of 2012

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

1. FAO-5361-2012 (O&M)

Raj Kumar and anr.

.....Appellants

vs.

Satya Parkash and others

.....Respondents

2. FAO-3466-2012 (O&M)

Satya Parkash and anr.

.....Appellants

vs.

Raj Kumar and ors.

.....Respondents

Date of Reserve: 12.03.2026**Date of Pronouncement: 10.04.2026****Uploaded on:- 10.04.2026**

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. Sandeep Kumar Yadav and Ms. Sangeeta Yadav, Advocates,
for appellant No. 1 in FAO No. 5361-2012 and
for respondent No. 1 in FAO No. 3466-2012.

Ms. Deepika, Advocate
for appellant No. 2 in in FAO No. 5361-2012 and
for respondent No. 2 in FAO No. 3466-2012.

Mr. J.P. Sharma, Advocate
for the appellants in FAO No. 3466-2012.
and for respondent No. 1 and 2 in FAO No. 5361-2012.

Mr. Punit Jain, Advocate
for respondent No. 2-Insurance Co. in both appeals.

SUDEEPTI SHARMA J.

1. Both the appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned award dated 06.04.2012



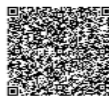
passed by the learned Motor Accidents Claim Tribunal, Narnaul, whereby the claimants were awarded compensation to tune of Rs.4,58,500/- along with interest @6% per annum and appellants-driver and owner of the offending vehicle (FAO No. 5361-2012) were held liable to pay the compensation to the claimants-appellants (in FAO No. 3466-2012).

2. The appeal, i.e. FAO-5361-2012, has been preferred by the appellants-driver and owner of the offending vehicle against the award dated 06.04.2012 passed by the learned Tribunal in the claim petition under Section 166 of the Motor Vehicles Act, 1988, whereby the claim petition filed by claimants/appellants in FAO No. 3466-2012 was allowed and appellants-driver and owner of the offending vehicle (FAO No. 5361-2012) were held liable to pay the compensation to the claimants-appellants (in FAO No. 3466-2012) to the tune of Rs.4,58,500/- along with interest @ 6% per annum.

3. The appeal, i.e. FAO-3466-2012, has been preferred by the appellants/claimants against the award dated 06.04.2012 passed by the learned Tribunal in the claim petition under Section 166 of the Motor Vehicles Act, 1988, for enhancement of compensation, granted to them to the tune of Rs.4,58,500/- along with interest at the rate of 6% per annum, on account of death of Smt. Sushila Devi, who died in the accident occurred on 19.07.2010.

FACTS NOT IN DISPUTE

4. Brief facts of the case as per claim petition are that on 19.07.2010, the deceased Sushila Devi alongwith her husband Satya Parkash was going from village Naya Sarana to her parental home at Gahli. They started her journey for village Gahli in a jeep bearing registration No.HR-35A-2603 owned by a person of her village ie. the respondent no.1-Raj Kumar, who from the very beginning was driving the same at a high speed, in a rash and negligent manner. The deceased



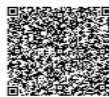
Sushila Devi and the petitioner Satya Parkash told the respondent No.1 to drive the jeep at slow speed and in controlled manner but the respondent No.1 did not pay any heed to their request. At about 12.30 P.M., when the said jeep reached near Canal Rest House, Singhana Road, Narnaul, respondent No.1 while driving the abovesaid jeep at high speed, in a rash and negligent manner struck against a tempo which was coming from opposite side. As a result, the deceased suffered injuries on her right leg including some other injuries. The deceased succumbed to the injuries on 23.07.2010 when she was under treatment in SMS hospital, Jaipur. It is alleged that the accident in question took place due to sole rash and negligent driving of the jeep bearing registration No.HR-35A-2603 by the respondent No.1. FIR No.247 dated 27.07.2010 under sections 279, 304-A IPC was registered against respondent No.1 in police station City Narnaul.

5. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

6. From the pleadings of the parties, the following issues were framed by the learned Tribunal :-

“i) Whether injuries to petitioner were caused in a vehicular accident which took place on 19.07.2010 at about 12.30 P.M. in the area of Singhana Road, due to rash and negligent driving of vehicle No.HR-35A-2603 being driven by respondent no.1? OPP.

ii) To what amount of compensation, if any, the petitioners are (wrongly typed as petitioner is) entitled to any from whom? OPP.



iii) Whether the vehicle in question was being driven by the respondent No. in violation of terms and conditions of insurance policy? OPR.

iv) Relief.”

7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the appellants- driver and owner of the offending vehicle were held liable to pay the compensation. Hence, they preferred appeal bearing FAO No. 5361-2012 challenging the award. The claimants/appellants have also preferred FAO No. 3466-2012 seeking enhancement of the compensation amount awarded by the learned Tribunal.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

8. Learned counsel for the appellant– driver and owner of the offending vehicle submits that the learned Tribunal has committed error in fastening liability upon them on the erroneous premise that the offending vehicle was used for hire and reward. He contends that there is no evidence whatsoever on the record to show that the offending vehicle was plied in contravention of the insurance policy. Therefore, he prays that the present appeal be allowed and liability to pay compensation be fastened upon the Insurance Company.

9. Learned counsel for respondent No. 3-Insurance company vehemently argues on the lines of the award and contends that the learned Tribunal has rightly held the driver and owner of the offending vehicle to pay the compensation to the claimants/respondent Nos. 1 and 2. He, therefore, prays that the present appeal (FAO No. 5361-2012) be dismissed.



10. Per contra, learned counsel for the claimants-appellants (FAO No. 3466-2012) 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.

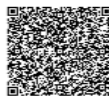
11. I have heard learned counsel for the parties and perused the whole records of the case.

12. Before proceeding further, it is relevant to reproduce the relevant portion of the award, which reads as under:-

“ISSUE NO.2 & 3

16 On the issue, as far as the age of the deceased is concerned, in the pleadings, it has been mentioned that the age of the deceased was 36 years and as per medical record of SMS hospital, Jaipur ie. Ex. P16 the age has been mentioned as 36 years. Keeping in view the medical record, the age of the deceased can be safely taken as around 36 years in absence of any other documentary evidence such as voter card or ration card etc.

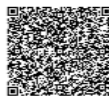
17. As far as the income of the deceased is concerned, a perusal of the aforesaid evidence shows that there is no documentary evidence on record that Sushila was doing the work of stitching and embroidery. The oral evidence in this regard does not inspire any confidence in absence of any record in this regard. Even no record of payment of income tax etc, ha been produced for such high income. However, her contribution to house cannot be ignored. Keeping in view the overall circumstances and the fact that since Santosh was an able bodied lady and keeping in view the DC rates in Haryana for daily wages, her notional income can be safely



assessed around Rs.3600/- per month. After deducting 1/3rd from the same in lieu of personal expenses, the monthly dependency comes to Rs 2400/-and the annual dependency comes to Rs.28,800/-. Now taking age of 36 years, applying the multiplier of 15 as laid down in recent case civil appeal No.3483 arising out of SLP(C) No.8648 of 2007 titled as Smt. Sarla Verma V/s Delhi Transport Corporation and others decided on 12.05.2009, the compensation comes to Rs.4.32,000/- Apart from this, the petitioners are also entitled to 10,000/- for transportation and expenses on last rites. Ex P17 to Ex. P47 are the medical bills amounting to Rs.16.245/- stated to be incurred on the treatment of the deceased. Hence, the petitioners are also held entitled to get Rs. 16,500/- (rounded off) as compensation. Thus, the compensation on this account comes to Rs. 4.58 500/- which shall be shared equally by both the petitioners

Liability to pay:

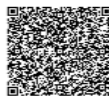
18 The insurance policy is Ex.P13. The driving licence of the respondent No. 1 is Ex P12 However, the insurance company has failed to prove that the driving licence was not valid on the date of accident. As far as cover of passengers in terms and conditions of insurance policy are concerned, the learned counsel for petition has contended that payment of fare has not been proved. On the other hand, the learned counsel for insurance company argued that in the FIR and also in evidence before this Tribunal, it is admitted position that the deceased alongwith others was travelling in Jeep as passengers, than there was no reason for their free travel, There



is merit in this contention of insurance company. A perusal of evidence on record shows that deceased was travelling in the offending Jeep as passenger alongwith other passengers. The insurance policy is Ex.P18 clearly excludes the passengers from insurance cover. Therefore, respondent insurance Company cannot be held liable to make the payment since the vehicle in question was being driven in violation of the terms and conditions of the insurance policy Ex.P18. Therefore, the insurance company respondent No. 3 is absolved from its liability to pay the compensation amount to the petitioners. The respondent No. 1 being driver and respondent No.2 being owner of the offending vehicle are liable to pay the amount of compensation jointly and severally. Accordingly, this issue is decided in favour of the petitioners and respondents No.3.

RELIEF

As a necessary consequence of my forgoing discussion and findings on different issues, the claim petition is accepted partly with costs and the petitioners are awarded a sum of Rs.4,58,500/- as compensation, to be shared equally, along with interest at the rate of 6% per annum (as given in case of Sarla Verma (supra) from the date of filing of the petition till recovery. The respondents No. 1 & 2 shall be liable to pay the amount of compensation jointly and severally. The amount of compensation be deposited in the share of FDR in any bank/post office for one year in case of adults and till attaining age of majority in case of minor. Counsel fee is assessed a



Rs.2200/- for both the sides. Memo of costs be prepared and file be consigned to record-room after due compliance.”

13. A careful reading of the impugned award demonstrates that the learned Tribunal has erred in holding that the deceased was travelling in the offending vehicle as a passenger in breach of the terms and conditions of the insurance policy. Such a conclusion is neither supported by the evidence on record nor sustainable in law, being founded on mere conjecture and surmise.

14. The learned Tribunal has exonerated the insurance company solely on the premise that the deceased was a passenger and that the policy did not extend coverage to such risk. This reasoning, however, is legally untenable in the absence of any substantive proof.

15. It is well settled that the onus to prove breach of policy conditions lies squarely upon the insurance company. A mere reference to statements in the FIR or presumptions regarding payment of fare cannot be treated as sufficient discharge of this burden. The insurance company has failed to adduce any cogent or reliable evidence to establish that the deceased was a fare-paying passenger or that there was any wilful violation of the policy terms by the insured.

16. In the absence of such proof, the finding absolving the insurance company of liability is patently erroneous and ***deserves to be set aside***. The liability to satisfy the award ought to have been fastened upon the insurance company in accordance with the settled legal position.

17. In view of the above, ***FAO No. 5361-2012*** filed by the owner and driver of the offending vehicle is allowed and award dated 06.04.2012 is modified to the extent of fixing the liability upon respondent No. 3-Insurance Company to pay compensation to the claimants.



18. Adverting now to the appeal filed by the claimants/appellants (in FAO No. 3466-2012) seeking enhancement of compensation, the same is dealt as under after taking into consideration the settled law on compensation.

SETTLED LAW ON COMPENSATION

19. 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.

20. 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

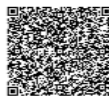


Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (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.”

21. 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.*

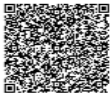


22. A perusal of the award further reveals that the deceased Smt. Sushila Devi was engaged in tailoring and embroidery work and was stated to be earning approximately Rs.6,000 per month. Furthermore, the deceased was a housewife. Despite this, the learned Tribunal wrongly placed reliance upon the DC rates applicable to the relevant period and taken the income of the deceased as Rs.3600/- per month.

23. It is pertinent here to mention that this Court in **FAO-1292-2006** titled as **Jasbir Singh and another vs. Surjit Singh and others, decided on 08.11.2024** while assessing the notional income of the housewife has held as under:-

“8. It is imperative to acknowledge the multifaceted role of a housewife as a homemaker. Her contributions extend beyond measurable economic parameters, encompassing household management, child care, emotional support, and the upkeep of familial stability. These services, though often unrecognized in monetary terms, are invaluable to the functioning and well-being of a household. In assessing compensation, the court must factor in this indispensable contribution, which would otherwise necessitate considerable expenditure if outsourced. In view of the above, it is just and reasonable to determine the monthly income of the deceased – Charanjit Kaur, housewife at Rs.9,000/- per month, therefore, the award requires interference by this Court.

24. In **Jasbir Singh’s (supra)**, the notional income of the house was assessed as Rs.9000/- per month. The contribution of a homemaker cannot be undervalued or restricted to simplistic economic parameters. Her services are integral to the stability and functioning of the family unit and would entail substantial financial expenditure if procured from the market.



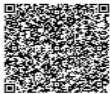
25. In light of the above legal position and having due regard to the facts of the present case, this Court finds it appropriate to assess the notional income of the deceased at **Rs.9,000 per month**. Therefore, the award requires indulgence of this Court.

26. Furthermore, no amount has been awarded under the heads of loss of consortium and loss of estate and meager amount has been awarded under the head of funeral expenses. Therefore, the award requires indulgence and interference of this Court.

CONCLUSION

27. In view of the law laid down by the Hon’ble Supreme Court in the above referred to judgments, the appeal **FAO-3466-2012** is allowed. The award dated 06.04.2012 is modified accordingly. The appellants-claimants are entitled to enhanced amount of compensation as per the calculations made here-under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.9000/-
2	Future prospects @ 40%	Rs.3600/- (40% of 9000)
3	Deduction towards personal expenditure 1/3	Rs.4200/- (12600X 1/3)
4.	Total Income	Rs.8400/-(12600-4200)
4	Multiplier	15
5	Annual Dependency	Rs.15,12,000/- (8400X12X15)
6	Loss of Estate	Rs.15,000/-
7	Funeral Expenses	Rs.15,000/-
8.	Medical Bills	Rs.16,500/-
8	Loss of Consortium Parental : Rs. 40,000/-x1 Spousal : Rs. 40,000/-x1	Rs.80,000/-
	Total Compensation	Rs.16,38,500/-



	Deduction Amount Awarded by the Tribunal	Rs.4,58,500/-
	Enhanced amount	Rs.11,80,000/- (16,38,500-4,58,500)

28. 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 (FAO No. 3466-2012) 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.

29. 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/respondent Nos. 1 and 2, as per award dated 06.04.2012. The claimants/appellants (FAO No. 3466-2012) are directed to furnish their bank account details to the Tribunal.

30. The statutory amount of Rs.25,000/- deposited by the appellants (in FAO No. 5361-2012) at the time of admission of the appeal, is ordered to be refunded to them.

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

(SUDEEPTI SHARMA)
JUDGE

10.04.2026
Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes