



FAO-3420-2013 (O&M)

-1-

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

FAO-3420-2013 (O&M)

ORIENTAL INSURANCE COMPANY LIMITED**.....Appellant****Vs.****VIDYAWATI AND OTHERS****.....Respondents****Reserved on : 19.03.2026****Pronounced on: 21.04.2026****Uploaded on: 22.04.2026**

<i>Whether only the operative part of the judgment is pronounced?</i>	NO
<i>Whether full judgment is pronounced?</i>	YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ashwani Talwar, Sr. Advocate
with Mr. Rohan Sachdev, Advocate
Ms. Vaishnavi Sikka, Advocate
for the appellant-Insurance Company.

Ms. Preeti Singh, Advocate (through v.c.)
Ms. Sandhya Saini, Advocate
for respondent Nos.1 to 6.

SUDEEPTI SHARMA, J.

1. The present appeal has been preferred by Insurance Company against the award dated 23.03.2013 passed by the learned Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal') in the claim petition filed under Section 166 and 140 of the Motor Vehicles Act, 1988 on quantum of compensation granted to the claimants to the tune of Rs.33,46,700/- along with interest @ 7.5 % per annum, on account of death of Joginder in a Motor Vehicular Accident, occurred on 03.02.2012 on the ground that compensation awarded is on higher side.



2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced here for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

3. The learned counsel appearing for the appellant–Insurance Company contends that the learned Tribunal has erred in law by failing to deduct the amount received by the dependants of the deceased under the *Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006*. He further contends that in view of the settled legal position, the said amount is liable to be deducted while computing compensation under the Motor Vehicles Act, 1988, and consequently, the awarded compensation deserves to be reduced. Therefore, he prays that present appeal be allowed.

4. Per contra, learned counsel for the respondent Nos.1 to 6 contends that compensation awarded is on the lower side. She furthermore contends that they have preferred separate appeal bearing No.FAO-4639-2013, titled as “Vidyawati and others Vs. Ravinder Kumar and others” seeking enhancement of compensation. She, therefore, prays that the present appeal be dismissed.

5. I have heard learned counsel for the parties and perused the whole record of this case with his 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 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 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. So far as the contention raised by the learned counsel for the appellant–Insurance Company regarding deduction of the amount received under the ***Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006*** is concerned, this Court finds considerable merit in the said submission. This Court, in ***FAO No. 1558 of 2012, titled as “Balwan Singh And Others Vs Jagbir And Others”***, decided



on 16.10.2025, has categorically held that where the dependants of a deceased Government employee have already been extended compensatory benefits by the employer under the aforesaid Rules, they are not entitled to receive compensation to the same extent under the Motor Vehicles Act, 1988.

10. The relevant extract of the said judgment reads as under:

“11. Coming to the contention of the claimants regarding the amount deducted from the total compensation on the account of the amount received by the dependents of the deceased under the Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006, from the total compensation awarded. This contention of the claimants have no bearing in the eyes of law as it is settled principle of law that deductions can be made in the compensation to avoid double benefit to the claimants.

*12. The Hon’ble Supreme Court in **Reliance General Insurance Co. Ltd. v. Shashi Sharma, 2016(9) SCC 627** held that the dependents of the deceased already benefitted by the compensatory amount received from the employer under Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006, will not be entitled to the same amount under 1988 Act.*

13. The relevant portion of the judgment is reproduced as under:

“15. Be that as it may, the term compensation has not been defined in the Act of 1988. By interpretative process, it has been understood to mean to recompense the claimants for the possible loss suffered or likely to be suffered due to sudden and untimely



-12-

death of their family member as a result of motor accident. Two cardinal principles run through the provisions of the Motor Vehicles Act of 1988 in the matter of determination of compensation. Firstly, the measure of compensation must be just and adequate; and secondly, no double benefit should be passed on to the claimants in the matter of award of compensation. Section 168 of the Act of 1988 makes the first principle explicit. Sub-section (1) of that provision makes it clear that the amount of compensation must be just. The word "just" means - fair, adequate, and reasonable. It has been derived from the Latin word "justus", connoting right and fair. In para 7 of State of Haryana & Anr. v. Jasbir Kaur & Ors., 2003(4) RCR (Civil) 140 : (2003) 7 SCC 484, it has been held that expression "just" denotes that the amount must be equitable, fair, reasonable and not arbitrary. In para 16 of Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., 2009(3) RCR (Civil) 77 : 2009(3) Recent Apex Judgments (R.A.J.) 373 : (2009) 6 SCC 121, this Court has observed that the compensation "is not intended to be a bonanza, largesse or source of profit". That however may depend upon facts and circumstances of each case, as to



-13-

what amount would be a just compensation.

16. The principle discernable from the exposition in Helen C. Rebello's case (supra) is that if the amount "would be due to the dependants of the deceased even otherwise", the same shall not be deductible from the compensation amount payable under the Act of 1988. At the same time, it must be borne in mind that loss of income is a significant head under which compensation is claimed in terms of the Act of 1988. The component of quantum of "loss of income", inter alia, can be "pay and wages" which otherwise would have been earned by the deceased employee if he had survived the injury caused to him due to motor accident. If the dependents of the deceased employee, however, were to be compensated by the employer in that behalf, as is predicated by the Rules of 2006 - to grant compassionate assistance by way of ex-gratia financial assistance on compassionate grounds to the dependents of the deceased Government employee who dies in harness, it is unfathomable that the dependents can still be permitted to claim the same amount as a possible or likely loss of income to be suffered by them to maintain a claim for compensation under the Act of 1988."



14. *The same principle is reiterated in the latest judgment passed by Apex Court in **Krishna and others Vs. Tek Chand and others, 2025(2) PLR 95.***

*Relevant paragraphs of the **Krishna's case (supra)** are extracted hereinbelow:*

“6. We find that the observations of this Court in Sebastiani Lakra (supra) distinguishing the case of Shashi Sharma (supra) clearly applies to the case in hand. It is observed that the amount of Rs. 31,37,665/- (Rupees Thirty One Lakhs, Thirty Seven Thousand and Six Hundred and Sixty Five only) was paid to the dependents of the deceased-employee who are the petitioners herein under the aforesaid Rules since the said Rule was by way of compassionate assistance owing to the sudden death of the employee in harness for any reason whatsoever including as a result of a road traffic accident. This is in order to compensate the loss of the bread earner of the family who dies in harness.

In the case of a motor vehicle accidents, when negligence is proved, loss of dependency is compensated for the very same reason. In our view, there cannot be a duplication in payments or a windfall owing to a misfortune. In another words, on the death of the person in harness, owing



to a road traffic accident the dependents of a deceased cannot be doubly benefited as opposed to those who are dependents of a deceased who dies owing to illness or any other reason under the Rules formulated by the Haryana Government.”

15. In light of the aforesaid authoritative pronouncements, the deduction made by the learned Tribunal towards the compassionate assistance is liable to be upheld. Consequently, the claimants are entitled to the compensation amount only to the extent of enhancement made by this Court.”

11. In view of the settled legal position, it is beyond any pale of doubt that the amount received by the dependants under the ***Haryana Compassionate Assistance to the dependants of Deceased Government Employees Rules, 2006***, is required to be deducted while determining compensation under the Motor Vehicles Act, 1988.

12. Applying the aforesaid principle to the facts of the present case, it is evident from the record that the widow of the deceased (Joginder), shall continue to receive the same till the date on which the deceased would have attained the age of superannuation. Consequently the amount received by dependants of deceased under ***Haryana Compassionate Assistance to the dependants of Deceased Government Employees Rules, 2006*** is liable to be deducted.

13. A perusal of the award further reveals that learned Tribunal has erred in assessing his monthly income as Rs.22,334/- (carry home salary)

instead of Rs.23,864/- (gross salary), which is contrary to the settled proposition of law.

14. A perusal of award further reveals that amount awarded under the heads of loss of estate, funeral expenses and loss of consortium are on the lower side. Consequently, the compensation is reworked as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.23,864/-
2	Future prospects @ 30%	Rs.7,159/- (30 % of 23,864)
3	Deduction towards personal expenditure 1/4	Rs.7,755/- (31,023 X 1/4)
4	Total Income	Rs.23,268/- (31,023-7,755)
5	Multiplier	13
6	Annual Dependency	Rs.36,29,808/- (23,268 X 12 X 13)
7	Loss of Estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000 /-
9	Loss of Consortium Spousal : Rs.40,000 x 1 Filial : Rs.40,000 x 2 Parental: Rs.40,000 x 3	Rs.2,40,000/-
10	Total Compensation	Rs.38,99,808/-
11	Deduction on account of compassionate assistance to dependants	Rs.34,36,416/-
12	Amount to be granted	Rs.4,63,392/- (38,99,808-33,46,700)

15. It is pertinent to mention here that Hon’ble Supreme Court in the case titled as *Usha Devi v. National Insurance Company Ltd; Law Finder Doc ID: 1673911*, held that the sum which has already been made over to the claimants shall not be recovered from them.

16. The relevant portion of case titled as *Usha Devi v. National Insurance Company Ltd* is reproduced as under:-

“8. However, considering the facts and circumstances of the case, where 50% of the awarded sum has



already been made over to the claimants, we do not deem it appropriate to direct refund of said sum.

9. Therefore, while affirming the view taken by the High Court, we direct that 50% of the sum which has been made over to the claimants shall not be recovered from them and the Insurance Company will be entitled only to the refund of balance 50% sum which stands deposited with the Registry of the Tribunal along with any interest accrued thereon.

10. The appeal is disposed of in aforesaid terms.”

17. As a sequel to above discussion, and relying on the judgments rendered by the Hon'ble Supreme Court, the amount of compensation already disbursed to the claimants/respondent Nos.1 to 6 is not liable to be recovered.

18. Accordingly, it is directed that the amount so disbursed shall not be recovered from the claimants/respondent Nos. 1 to 6 as per the law laid down by the Hon'ble Supreme Court in ***Usha Devi & Ors. Vs. The New India Insurance Company Limited & Ors. [2020 (1) Civil LJ 854]***.

19. Consequently, the present appeal is ***allowed*** and award dated 23.03.2013 is modified to the above extent.

20. The statutory amount of Rs.25000/- deposited by the appellant at the time of admission of the appeal, is ordered to be refunded to it.

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

21.04.2026

Sahil/Ayub

**(SUDEEPTI SHARMA)
JUDGE**

Whether speaking/reasoned : *Yes*
Whether reportable : *Yes*