IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(212)

FAO-4118-2024
Date of decision:- 27.02.2026

Sunita and others

...Appellants

Versus

Deepak Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Anjali, Advocate, for the appellants.

Mr. Punit Jain, Advocate,
for respondent No.3-Insurance Company.

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VIKAS BAHL, J. (ORAL)

1. Widow, five daughters, one son and mother of the deceased-Jaipal, who died in a motor vehicular accident which took place on 07.09.2022, have filed the present appeal for enhancement of compensation. The Motor Accident Claims Tribunal, Narnaul, vide award dated 03.05.2024 had awarded the compensation of Rs.28,60,458/- along with interest to the claimants/appellants. The only issue which arises for consideration in the present appeal is as to whether the present appellants are entitled to enhancement of compensation, as other aspects have not been disputed before this Court.

2. Learned counsel for the appellants has submitted that in the

present case, there are eight claimants but on account of loss of consortium only an amount of Rs.40,000/- has been awarded. It is further submitted that since the accident had taken place on 07.09.2022, thus, as per settled principle of law, each of the claimants were entitled to Rs.44,000/- on account of loss of consortium and thus, an amount of Rs.3,12,000/- (Rs.44,000 x 7 + Rs.4,000) is to be awarded to the appellants on the said account. It is further argued that even on accounts of loss of estate and funeral expenses, an amount of Rs.30,000/- i.e. Rs.15,000/- each, has been awarded, whereas, the amount which should have been awarded, after taking into consideration 10% increase should have been Rs.33,000/-. It is thus argued that the present appellants are entitled to an amount of Rs.3,15,000/- as additional compensation and has prayed that interest @ 9% per annum be given on the said enhanced amount. In support of his arguments, learned counsel for the appellants has relied upon the law laid down by the Hon'ble Supreme Court in cases titled as ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported as ***(2017) 16 SCC 680***, and ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others*** reported as ***(2018) 18 SCC 130***.

3. Learned counsel appearing for respondent No.3-Insurance Company, on the other hand, has submitted that the Tribunal has taken into consideration the daily wages fixed by the DC, Mohindergarh to assess the income of the deceased, whereas, the Tribunal should have taken into consideration the minimum wages as per the relevant notification. It is further submitted that even the rate of interest which is sought to be claimed by the appellants is highly excessive and at best the interest that can be awarded on the additional compensation should be 6% per annum.

4. Learned counsel for the appellants, in rebuttal, has submitted that although the award was passed on 03.05.2024, yet no appeal/cross-appeal has been filed by the insurance company and thus, the reduction sought on account of assessed monthly income by the counsel for respondent no.3 is not permissible.

5. This Court has considered the arguments raised on behalf of both the parties and has gone through the paper-book and is of the opinion that the pleas raised on behalf of the appellants are meritorious and deserves to be approved.

6. The Hon'ble Supreme Court in ***Pranay Sethi's case*** (Supra), has held as under:-

> *"59.In view of the aforesaid analysis, we proceed to record our conclusions:-*
>
> *59.1 The two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.*
>
> *59.2 As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.*
>
> *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 paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

59.6 The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 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.

60. The reference is answered accordingly. Matters be placed before the appropriate Bench."

7. A perusal of the above judgment would show that it was observed by the Hon'ble Supreme Court that addition of some percentage of the actual salary to the income of the deceased towards future prospects was also required to be taken into consideration.

8. The Hon'ble Supreme Court in ***Magma General Insurance Company Limited's case (Supra)*** had further observed that in death case,

under the head of loss of consortium, the parents of the deceased are entitled to be awarded loss of consortium under the head of filial consortium and children are entitled to parental consortium. To the widow, spousal consortium is to be given. Relevant portion of the said judgment is reproduced hereinbelow:-

> *"21. A Constitution Bench of this Court in Pranay Sethi 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,co-operation, 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."*
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> ***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 recognized 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 5. 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 (supra). 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. In the abovesaid judgment, a specific amount was awarded to the father and sister of the deceased and thus, the amount of consortium awarded was made dependent upon the number of claimants/legal representatives.

10. It is a matter of settled law that each of the claimants are entitled to an amount on account of loss of consortium. In the present case, admittedly there are eight claimants. The accident had taken place on 07.09.2022, thus, each of the claimants are entitled to Rs.44,000/- on account of loss of consortium, whereas, the Tribunal has granted only an amount of Rs.40,000/- on account of the same and accordingly, the present appellants are entitled to an additional amount of Rs.3,12,000/- (Rs.44,000 x 7 + Rs.4000/-)

on account of loss of consortium. Even on accounts of loss of estate and funeral expenses an amount of Rs.33,000/- is required to be awarded by taking into consideration 10% increase. Thus, the claimants are held entitled to an additional amount of Rs.3,15,000/-. The plea raised on behalf of respondent No.3-insurance company to the effect that the monthly income should have been reduced cannot be granted as the insurance company has not filed any appeal/cross-appeal in spite of the fact that the award is dated 03.05.2024. Accordingly, the said plea is rejected. With respect to interest, this Court has been consistently awarding rate of interest @ 7.5% per annum on the enhanced amount of compensation, which rate of interest is also reasonable in the present case.

11. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and the impugned award dated 03.05.2024 is modified and respondent No.3-Insurance Company is directed to pay an additional amount of compensation to the tune of Rs.3,15,000/- to the appellants/claimants along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of actual payment within a period of six weeks from today, in the same proportion as had been directed in the award.

February 27, 2026 **(VIKAS BAHL)**
naresh.k **JUDGE**

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

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February 27, 2026 **(VIKAS BAHL)**
naresh.k **JUDGE**

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