IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-3140-2012 (O&M) &
XOBJC-98-CII-2012

Oriental Insurance Company Ltd. ....Appellant

Vs.

Parminder Kaur and others ....Respondents

Reserved on : 09.03.2026
Date of Pronouncement:11.03.2026
Uploaded on : 17.03.2026

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. Neeraj Khanna, Advocate,
for the appellant-Insurance Company

Mr. Sandeep Bansal, Advocate,
for respondent No. 1 to 5
for cross-objector (in X Objection No. 98 –CII-2012)

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SUDEEPTI SHARMA, J.

FAO-3140-2012 (O&M)

1. The present appeal has been preferred against award dated 17.02.2012 passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein, the

appellant/insurance company was held liable to pay the compensation, on the ground of liability.

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2. The present cross-objection has been preferred by cross-objectors/claimants (respondents No.1 to 5 herein) against the award dated 17.02.2012 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Tribunal, for enhancement of compensation, granted to the cross-objectors/claimants to the tune of Rs.9,70,000/- along with interest @ 6% per annum on account of death of Jang Bahadur Singh.

3. Since the appeal filed by the Insurance Company and the cross-objections filed by the claimants/cross-objectors are arising out of the same award dated 17.02.2012 passed by the learned Tribunal, therefore, **FAO-3140-2012** and **XOBJC-98-2012** are decided vide this common judgment.

BRIEF FACTS OF THE CASE

4. On 5.12.2008, the deceased Jang Bahadur Singh took the loaded truck to Maharashtra. After unloading the goods at Jalgaon, Maharashtra, he was returning to Hoshiarpur alongwith his truck no. PB07L 6455. At about 1.45 PM, Jang Bahadur and the cleaner/driver Iqbal Singh took tea etc. at Ashok Dhaba, Kamalpur. After taking tea, they started with the truck. They had covered a short distance from the dhaba. Meanwhile, one truck came from opposite side, which was being driven by respondent No. l at a high speed and in rash and negligent manner. The driver i.e. re-

spondent no. 1 brought the container truck no HR55H 6877 on the wrong side of the road and struck the same with the truck driven by Jang Bahadur. As a result of accident, Jang Bahadur received serious and multiple injuries. He was taken to MBSH Hospital, Kota Rural, where the doctor declared him as dead. The accident was caused due to rash and negligent driving of container truck by the driver/respondent no.l. FIR No.160 dated 5.12.2008 u/s 279/304A IPC was registered at police station Marok, District Kota Rural.

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 :-

> *"1. Whether Jang Bahadur Singh died as the result of injuries suffered by him in an accident which took place on 5.12.2008 in the area of Kamalpura, PS Morak, district Kota Rural, due to rash or negligent driving of truck no.HR55H 6877 by its driver respondent no. I? OPA*
>
> *2. Whether claimants are the legal heirs dependent upon the earning of deceased Jang Bahadur Singh? OPA*
>
> *3. Whether the claimants are entitled to receive compensation on account of death of Jang Bahadur Singh In a motor vehicular accident? OPA*
>
> *4. Whether respondent no.l was not holding valid driving licence at the time of accident to drive the offending vehicle? OPR-3*
>
> *5. Whether petition is bad for non joinder of necessary parties? OPR-3*

6. Relief.”

7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal has awarded compensation to the tune of Rs.9,70,000/- along with interest @ 6% per annum on account of death of Jang Bahadur Singh and the appellant-Insurance Company was held liable to pay the compensation. Hence, the Insurance Company filed the present appeal.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

8. Learned counsel for the appellant-Insurance Company contends that the driver of the offending vehicle was not holding valid and effective driving licence at the time of the accident and still learned Tribunal has made the appellant-Insurance Company liable to pay the compensation to the claimants/respondent Nos. 1 to 5. He, therefore, prays that the present appeal be allowed.

9. Per contra, learned counsel for the respondent Nos. 1 to 5/cross-objectors/claimants contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. He further contends that the learned Tribunal has rightly made the appellant-Insurance Company liable to pay the compensation to the claimants/respondent Nos. 1 to 5. Therefore, he prays that the present cross-objection be allowed and appeal filed by the appellant-Insurance Company be dismissed and amount of compensation be enhanced as per latest law.

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

11. Before proceeding further, it would be apposite to reproduce the relevant portion of the award:-

> *"Issue no. 4*
> *13. Respondent no. 3 has failed to prove on record that respondent no. I was not holding driving licence at the time of alleged accident. The respondent no. 3 has tendered into evidence copy of insurance policy as Ex.RI. No official from the concerned RTO has been examined to prove this fact that driver was not having the valid driving licence at the time of alleged accident. Accordingly this issue is also decided in favour of the claimants and against the respondent no. 3."*

12. A perusal of the record reveals that before the learned Tribunal, respondent No. 6 and 7 (driver and owner of the offending vehicle) were proceeded against ex parte, vide order dated 27.05.2010. Thereafter, before this Court as well, respondent Nos. 6 and 7 being driver and owner were proceeded against ex parte, vide order dated 18.09.2012.

13. A perusal of the impugned award further shows that the learned Tribunal has rightly concluded that the appellant–Insurance Company failed to discharge the burden of proving breach of the terms and conditions of the insurance policy. The Tribunal has recorded that although the Insurance Company placed on record a copy of the insurance policy as Ex.R1, no evidence was led to establish that the driver of the offending vehicle was not

holding a valid and effective driving licence at the time of the accident. Significantly, no official from the concerned RTO was examined, nor was any authentic record produced to substantiate the plea that the driver was not holding a valid driving licence.

14. It is well settled that the defence of breach of policy conditions, including the plea that the driver was not holding valid driving licence, must not only be specifically pleaded but also proved by the Insurance Company through cogent and reliable evidence. The burden in this regard squarely lies upon the insurer. Mere assertion, without supporting evidence, cannot absolve the insurer of its statutory liability.

15. In the present case, the appellant–Insurance Company has miserably failed to discharge this burden. In the absence of any convincing evidence demonstrating violation of the terms and conditions of the insurance policy, the finding recorded by the learned Tribunal fastening liability upon the appellant–Insurance Company cannot be said to suffer from any illegality or perversity.

13. Consequently, this Court finds no ground to interfere with the well-reasoned findings recorded by the learned Tribunal. The present appeal, being devoid of any merit, is accordingly dismissed.

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16. Adverting now to the cross-objections filed by the claimants/cross-objectors seeking enhancement of compensation.

17. A perusal of the impugned award reveals that the deceased was stated tobe 40 years old at the time of the accident. The age of the deceased was not in dispute, therefore the learned Tribunal has rightly assessed the age of the deceased as 40 years by placing on reliance upon his passport (Mark B) and rightly applied the multiplier of 15.

18. A perusal of the impugned award further reveals that the deceased was stated to be driving his own truck and was stated to be earning Rs.15,000/- per month. However, no document was produced to substantiate the said income. Therefore, the learned Tribunal rightly resorted to the minimum wages notification applicable to unskilled labourer in Punjab and rightly assessed the monthly salary of the deceased as Rs.8000/-.

19. A further perusal of the award reveals that the learned Tribunal has erred in not adding any amount towards future prospects to the income of the deceased. Therefore, as per the settled law on compensation, **25%** is to be added as future prospects.

20. A further perusal of the award reveals that the learned Tribunal has erred in deducting 1/3rd towards personal expenditure of the deceased and the same should be 1/4th as per settled law. Furthermore, meagre amount is granted under the heads of loss of consortium and funeral expenses; nothing was granted towards loss of estate. Therefore, the award requires indulgence of this Court.

SETTLED LAW ON COMPENSATION

21. 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.*

22. 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 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."*

23. 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.*

CONCLUSION

24. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the appeal filed by the Insurance Company is **dismissed** being devoid of any merits, whereas cross-objections filed by the cross-objectors/respondents No.1 to 5 are **allowed**. The award dated 17.02.2012 is modified accordingly. The cross-objectors/respondents No.1

to 5 are held entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.8000/-
2	Future prospects @ 25%	Rs.2000/- (25% of 8000)
3	Deduction towards personal expenditure 1/4	Rs.2500/- (10000 X 1/4)
4	Total Income	Rs.7500/- (10000– 2500)
5	Multiplier	15
6	Annual Dependency	Rs.13,50,000/- (7500X 12 X 15)
7	Loss of Estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000/-
9	Loss of Consortium Spousal : Rs.40000 x 1 Filial : Rs.40000 x 2 Parental Rs. Rs.40000 x 2	Rs.2,00,000/-
	Total Compensation	**Rs.15,80,000/-**
	Amount Awarded by the Tribunal	**Rs.9,70,000/-**
	Enhanced amount	**Rs.6,10,000/- (Rs. 15,80,000- 9,70,000)**

25. 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 cross-objectors/ 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.

26. The appellant-Insurance Company is directed to deposit the enhanced amount of compensation 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 amount of compensation along with interest in the account of cross-objectors/respondents No.1 to 5 as per award. The cross-objectors/ respondents No.1 to 5 are directed to furnish their bank account details to the learned Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

11.03.2026
Gaurav Arora

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