



FAO-5498-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-5498-2018 (O&M)

IFFCO TOKYO GENERAL INSURANCE CO. LTD.

.....Appellant

vs.

ANITA DEVI DEVI AND ORS.

.....Respondents

Reserved on:- 10.04.2026

Pronounced on:- 12.05.2026

Uploaded on:- 12.05.2026

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. Hritik Sharma, Advocate
for Mr. Vishal Aggarwal, Advocate
for the appellant-Insurance Company.

Ms. Deepika, Advocate
for Mr. Sandeep Kumar Yadav, Advocate
for respondents No.1 to 4.

Respondents No.5 and 6 proceeded ex parte
vide order dated 04.09.2019.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 06.03.2018 passed by the learned Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein the appellant-Insurance company was fastened with the liability to pay the compensation of Rs.22,58,752/- to the



claimants along with interest @ 9 % per annum on the ground of quantum of compensation to be 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. Learned counsel for the appellant-Insurance Company contends that the learned Tribunal has taken income of deceased on higher side. He further contends that income of Rs.11,000/- assessed by the learned Tribunal is wholly without any basis because even as per the minimum wages notified by Government of Haryana on 01.01.2016, the wages of an unskilled worker were Rs.7,976/-, therefore, he prays that the present appeal be allowed and amount of compensation be reduced.

4. Per contra, learned counsel for claimants/respondents No.1 and 2 contends that compensation awarded by the learned Tribunal is on the lower side hence warrants enhancement. He fairly concedes that no independent appeal has been preferred by the claimants/respondents No.1 and 2 for seeking such enhancement. Nonetheless, placing reliance on the judgment of this Court passed in **FAO-5934-2015 titled as 'National Insurance Co. Ltd. Vs. Laltesh and others', decided on 31.01.2026**, he contends that this Court, in exercise of its appellate jurisdiction, possesses ample power to enhance the quantum of compensation even in the absence of a cross-appeal or cross-objections filed by the claimants. He therefore, prays that the compensation be enhanced.



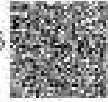
5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

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



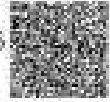
respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

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

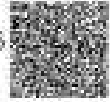


under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded 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. A perusal of the award reveals that deceased was stated to be 22 years of age at the time of accident, which is duly proved from post-mortem report Ex.P-32. Therefore, the learned Tribunal has rightly assessed his age as 22 years at the time of accident.

10. A perusal of the award reveals that the deceased was stated to be doing agricultural, animal husbandry and dairy farming work, earning Rs.20,000/- per month. So far as contention of learned counsel for appellant-Insurance Company that income of the deceased is taken on higher side is bereft of merit. It is a settled position of law, as laid down by the Hon'ble Supreme Court in ***Chandra @ Chanda @ Chandraram v. Mukesh Kumar Yadav & Ors., reported as (2022) 1 SCC 198***, that in cases where there is no documentary evidence of income, the minimum wages notification may be



adopted as a guiding factor, but the same cannot be treated as an inflexible or absolute standard. The Apex Court has further held that a reasonable amount of guesswork, based on the facts and circumstances of each case, is permissible and indeed necessary while assessing the income of the deceased.

11. In view of the aforesaid settled legal position, and keeping in mind the nature of employment, age of the deceased, and the overall facts and circumstances of the present case, in the opinion of this Court, the monthly income assessed by the learned Tribunal is on the lower side and warrants enhancement. Furthermore, Hon'ble Supreme Court in *K. Ramya v. National Insurance Co. Ltd., 2022 (4) RCR (Civil) 435* held that the Motor Accident Claims Tribunals are vested with latitude to determine "just compensation" and are not shackled by rigid arithmetical rules or strict standards of evidence as in civil suits for damages. In view of the above referred to judgment, it would be just to assess the monthly income of deceased as **Rs.15,000/-** per month in the interest of justice.

12. A further perusal of the award reveals that the learned Tribunal has erred in deducting 1/3 instead of 1/2 towards personal expenditure. Furthermore, no amount has been awarded by the learned Tribunal under the head of loss of consortium. Therefore, the award requires indulgence of this Court.

13. In view of the aforesaid discussion, the compensation is liable to be recalculated as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.15,000/-
2	Future Prospects @ 40%	Rs.6,000/- (40% of 15000)



3	Deduction towards personal expenditure 1/2	Rs.10,500/- (21,000 X 1/2)
4	Total Income	Rs.10,500/- (21,000 – 10,500)
5	Multiplier	18
6	Annual Dependency	Rs.22,68,000/- (10,500 X 12 X 18)
7	Loss of estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000/-
9	Loss of Consortium: Filial: 2 X Rs.40,000/-	Rs.80,000/-
10	Total Compensation	Rs.23,78,000/-
11	Amount Awarded by the Tribunal	Rs.22,58,752/-
12	Enhanced amount	Rs.1,19,248/- (Rs.23,78,000 - Rs.22,58,752)

14. The aforesaid re-computation gives rise to a further issue, i.e. whether the award passed by the Tribunal can be enhanced in an appeal preferred by the insurance company, when the claimant has not filed any cross-objection or cross-appeal. It is pertinent to mention that this Court in **FAO-5934-2015 titled as ‘National Insurance Co. Ltd. Vs. Latesh and others’, decided on 31.01.2026** has already dealt with the similar issue and held that the compensation can be enhanced in appeal filed by the Insurance Company even in the absence of cross-objections and cross-appeals filed by the claimants. The relevant extract of the same is reproduced as under:-

*“28. This question came up for consideration before three-Judge Bench of the **Hon’ble Supreme Court in Surekha & Ors. v. Santosh & Ors., (2021) 16 SCC 467.** The relevant portion of the said order reads as follows:*

*1. Leave granted. This appeal takes exception to the judgment and order dated 4-1-2019 [Shriram General Insurance Co. Ltd. v. Surekha, 2019 SCC OnLine Bom 12] passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No. 2564 of 2016, whereby **the High Court, even***



though agreed with the stand of the appellants that just compensation amount ought to be Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal.

2. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hypertechnical approach and ensure that just compensation is awarded to the affected person or the claimants.

3. As a result, we modify the order passed by the High Court to the effect that the compensation amount payable to the appellants is determined at Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), with interest thereon as awarded by the High Court.

4. The appeal is allowed in the above terms. Pending applications, if any, stand disposed of."

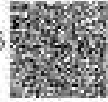
29. In view of the above, settled principles of law as held by Apex Court this Court can award just and reasonable compensation by enhancing the amount of compensation, even in the absence of a cross-objection or cross-appeal by the claimants.

*30. This conclusion is further strengthened by the settled principle that a Court adjudicating claims under the Motor Vehicles Act is duty-bound to award just and fair compensation to victims of road accidents, unrestrained by strict rules of pleadings and evidence, as laid down by the **Hon'ble Supreme Court in Nagappa v. Gurudayal Singh & Ors (2003)2SCC 274.***

*31. Furthermore, this Court in FAO-5834-2016 titled as **The Oriental Insurance Company Limited Vs. Smt. Mathri Devi and others** decided on 12.09.2025 has already dealt with similar issue and held as under:-*

*"This Court in **FAO-195-2006**, titled **Mamata and others v. Happy and others**, decided on 29.05.2024, while examining the scope of the appellate jurisdiction under Section 107 CPC read with Order XLI Rule 33 CPC, has held as follows:-*

"11. RELEVANT PROVISIONS UNDER THE CODE OF CIVIL PROCEDURE, 1908



Section 107 :- Powers of Appellate Court.— (1) Subject to such conditions and limitations as may be prescribed, an Appellate Court shall have power—

- (a) to determine a case finally;*
- (b) to remand a case;*
- (c) to frame issues and refer them for trial;*
- (d) to take additional evidence or to require such evidence to be taken.*

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.

Order XLI Rule 33 of the Code of Civil Procedure, 1908:-

33. Power of Court of Appeal.—*The Appellate Court shall have power to pass any decree and make any order which ought to have been passed or made and to pass or make such further or other decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection and may, where there have been decrees in cross-suits or where two or more decrees are passed in one suit be exercised in respect of all or any of the decrees, although an appeal may not have been filed against such decrees:*

[Provided that the Appellate Court shall not make any order under section 35A in pursuance of any objection on which the Court from whose decree the appeal is preferred has omitted or refused to make such order.]

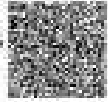
12 to 18 XXX XXX XXX

19. As per Section 107 of Code of Civil Procedure, 1908 which refers to the powers of the Appellate Court, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by the Code on Courts of original jurisdiction in respect of suits instituted therein, and the Motor Vehicle Act 1988 since being a beneficial legislation, the evidence led by the parties cannot be ignored by the Appellate Authority.

20 to 25 XXX XXX XXX

CONCLUSION

26. The Appellate Courts for the purpose of doing complete justice between the parties and completely adjudicating upon all the disputes, after appreciating the whole evidence on record, have power under Section 107 read with Order XLI Rule



33 of the Code of Civil Procedure, 1908 to pass any decree and make any order which ought to have been passed or made and to pass or make such further decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection.

27. Motor vehicle statute is a beneficial legislation. Generally the victims/claimants/legal-representatives are not aware of their right to compensation and it is Advocates who decide under which provision of the statute the claim petition is to be filed. Before deciding the claim petitions, after appreciating the evidence on record, it is the bounden duty of the Court to apprise the parties of their legal rights as to under which provision they can get the maximum of benefit/compensation. The Judges should apply their judicial mind after appreciating the evidence on record, gravity of offence, gravity of loss, conduct of parties and over all facts and circumstances of each case and after that decide the same. The Court should not go into the technicalities that under which provision of statute case is to be filed, specially in the motor accident cases. If at any stage after appreciating the evidence, since it is original jurisdiction of the Court and the case is at initial stage, normally a person of ordinary prudence can calculate the loss of near and dear one's/relationship, the Judge feels that case of the claimant falls under a particular section he should apprise the parties regarding the same. The Courts should not apply straight jacket formula in every case and are presumed actually to do the justice by applying their judicial mind to the facts and circumstances of each and every case. The beneficial intent of the legislation ought to be borne in mind and procedural and technical formalities cannot be invoked to defeat the purpose of the legislation.

28. The Courts have to be very cautious and careful while accepting the prayer of the claimants/appellants to convert the claim petition filed under Section 163-A to Section 166 of the Motor Vehicles Act, 1988. Under Section 107 read with Order XLI Rule 33 of CPC the general rule is that an appeal is persistence of a suit and, therefore, an Appellate Court can do, while the appeal is



pending, what the original Court could have done while the suit was pending. Thus, as per Section 107 Order XLI Rule 33 of CPC, an Appellate Court is empowered to re-appreciate the evidence. While hearing the appeal it is very important for a judge to apply his judicial mind. The Appellate Authority can re-appreciate the evidence before it. The grant of just and fair compensation is a statutory responsibility of the Court.

29. Over all conclusion of the above is that the Appellate Court has power to convert the petition under Section 163-A to Section 166 of the Motor Vehicles Act, 1988 to give justice to the claimants.”

13. It is manifest from the above discussion that although respondents/claimants No.1 and 2 have not preferred any appeal seeking enhancement of compensation, and the present appeal has been instituted solely by the appellant-Insurance Company challenging the quantum of compensation, the settled principle of law is that an appeal is a continuation of the original proceedings. Consequently, the appellate court is vested with ample jurisdiction to mould relief and to award just and proper compensation, even in the absence of a cross-appeal by the claimants.

14. In exercise of such appellate powers, this Court cannot overlook the beneficial nature of the Motor Vehicles Act, 1988, which has been consistently interpreted as a piece of social welfare legislation intended to provide just compensation to victims of motor accidents and their dependents. The statutory duty of the Court is to ensure that the claimants are not deprived of legitimate entitlement merely due to procedural technicalities such as the absence of a cross-appeal.

15. Accordingly, in the interest of justice, and to secure the ends of a fair adjudication, this Court deems it appropriate to award a further sum of ₹18,150/- under the head “Loss of Estate” in favour of respondents/claimants No.1 and 2.

*16. It is well settled by the Hon’ble Supreme Court in **K. Ramya v. National Insurance Co. Ltd., 2022 (4) RCR (Civil) 435** that the Motor Accident Claims Tribunals are vested with latitude to determine “just compensation” and are not shackled by rigid arithmetical rules or strict standards of evidence as in civil suits for damages. Interference by the Appellate Court is warranted only when the award of compensation is manifestly excessive, arbitrary, or contrary to settled principles.”*



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15. 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 respondents No.1 and 2-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.

16. The appellant-Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the account of the claimants/respondents No.1 and 2. The claimants/respondents No.1 and 2 are directed to furnish their bank account details to the Tribunal.

17. Consequently, the present appeal, being devoid of merits, stands **dismissed.**

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

12.05.2026

Ayub/Sahil

(SUDEEPTI SHARMA)
JUDGE

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