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

FAO-10578-2018 (O&M)

Mandeep Kaur and ors. ......Appellants

vs.

Beant Singh and ors. ......Respondents

Date of Reserve: 23.01.2026
Date of Pronouncement: 28.01.2026
Uploaded on:- 30.01.2026

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. Yogesh Gupta, Advocate
for the applicants-appellants.

Mr. D.K. Prajapati, Advocate
for respondent-Insurance Company.

****

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 16.07.2018 passed by the learned Motor Accident Claims Tribunal, SAS Nagar, Mohali in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Tribunal') for enhancement of compensation granted to the claimants to the tune of Rs.22,15,000/- along with interest @ 6% per annum, on account of death of Darshan Singh in a Motor Vehicular Accident, occurred on 18.10.2016.

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 for the claimants-appellants 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.

4. Per contra, learned counsel for respondents, however, vehemently argues that the award has rightly been passed and the amount of compensation, as assessed by the learned Tribunal has rightly been granted. Therefore, they prays for dismissal of the appeal.

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

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 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.

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 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[4] 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."*

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 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.*

9. A perusal of the impugned award reveals that the deceased was stated to be 35 years old at the time of the accident. However, the driving licence (Ex P7) of the deceased reveals his age to be 31 years and thus, the learned Tribunal has rightly relied upon the driving licence of the deceased and assessed the age of the deceased as 31 years. Therefore, the learned Tribunal has rightly applied the multiplier of 16.

10. The perusal of the award further reveals that the deceased was stated to be working as a truck driver and was also engaged in agricultural activities, earning approximately ₹33,000 per month. However, the learned Tribunal has gravely erred in assessing the monthly income of the deceased at merely ₹10,000, without appreciating the material evidence on record. The learned Tribunal failed to take into consideration the undisputed fact that the deceased was regularly paying a monthly EMI of ₹31,900 to IndusInd Bank towards repayment of the loan taken for his truck(as deposed by PW3-official of Indusind Bank). The existence of such a substantial financial liability clearly establishes that the income of the deceased was far higher than what has been assessed by the learned Tribunal.

11. The Hon'ble Supreme Court, in ***Saroj v. Gaja Nand***, Law Finder Doc ID 2753581 has categorically held that while assessing the income of a deceased person, the factum of payment of monthly instalments towards loan liabilities

must be duly considered. The Hon'ble Court further observed that regular payment of EMIs is a relevant indicator of the earning capacity of the deceased. The relevant portion of the same is reproduced as under:-

> *3. The grievance of the appellants in the present appeals is restricted to the amount of monthly income, which had been taken for computing the amount of compensation by the High Court.*
>
> *4. Learned counsel for the appellants submits that the deceased was the owner of a truck, which he had got financed from Magnum Finance Limited and during the proceedings before the Motor Accident Claims Tribunal, Hisar (for short, the "MACT"), the officer of the said financing company had deposed that the deceased was regularly paying a monthly installment of Rs.21,752/- (Rupees Twenty One Thousand Seven Hundred Fifty Two). Thus, it was submitted that when the deceased was himself a driver, which means that he had no other employment and was able to pay a monthly installment of Rs 21,752/ (Rupees Twenty One Thousand Seven Hundred Fifty Two), it is quite reasonable to estimate the average income he would be deriving out of the truck, which should not be less than Rs.40,000/- (Rupees Forty Thousand). Learned counsel for respondent no.2-insurance company submitted that in the year 2009, an Income of Rs.40,000/- (Rupees Forty Thousand) appears to be on the higher side.*
>
> *6. We find substance in the contention of learned counsel for the appellants. When the admitted position discloses that the deceased was the owner and driver of the truck in question and in the accident while driving the truck, he lost his life coupled with the evidence which has come that he was regularly paying an installment of Rs.21.752/- (Rupees Twenty One Thousand Seven Hundred Fifty Two) to the financing company, taking into account the fact that he had four dependents to look after, a figure of Rs.40,000/-*

> *(Rupees Forty Thousand) per month cannot be said to be unreasonable but rather quite justified.*
>
> *7. Accordingly, on the short point, the amount of compensation awarded by the High Court stands modified by recalculating the figure on the basis of taking the notional income of the deceased to be Rs.40,000/- (Rupees Forty Thousand) per month. Upon recalculation, the final amount would come to Rs.85,68,000/- (Rupees Eighty Five Lakhs Sixty Eight Thousand) which is quantified on the basis of the figure given jointly by the parties. The rest of the terms in the impugned order shall remain the same. The amount be paid by respondent no.2-insurance company to the appellants, within a period. of two months after adjusting whatever may have been paid during the interregnum period. The same to be deposited before the MACT which in turn, shall transfer the amount to the appellants within two weeks from the date of such deposit.*

12. The Hon'ble Supreme Court further reiterated the same in ***Gurpreeet Kaur and others vs. United India Insurance Co. Ltd and others, 2022 Live Law SC (821)*** and held that subsisting loan instalments being paid by the deceased are a relevant and material factor for determining the actual monthly income. The relevant portion of the said judgment is reproduced as under:

> *8. Though, there is no evidence on record regarding the income of deceased Pyara Singh, however, from the testimony of P.W.4 - Amar Kumar, Assistant Manager, Kotak Mahindra Bank Limited, it is clear that the deceased - Pyara Singh was regularly making the payment of Rs.11,550/- as instalment to discharge his loan liability towards the tractor. At this rate, the entire loan was paid back within a year or so. That clearly establishes the earning capacity of the deceased. It is also the case of the appellants-claimants that the deceased was working as a contractor and was earning Rs.50,000/- per month. The*

Tribunal adopted a balanced approach and keeping in view factors like : (i) the payment of monthly instalment of Rs.11,550/- towards loan of the tractor; (ii) Maintaining a family comprising of

wife, two minor children and parents; (iii) Affording tractor and motorcycle; (iv) that the deceased was working as a contractor; assessed his income at Rs.25,000/- per month.

9. In our considered view, the Tribunal's approach is quite justified in law as well as on facts. In the summary proceedings where the approach of the Tribunal's determination must be in conformity with the object of the welfare legislation, it was rightly held that the monthly income of the deceased could not be less than Rs.25,000/-. The reason assigned by the High Court to reduce the monthly income of the deceased is totally cryptic and has no rationale. The Notification of Minimum Wages Act can be a guiding factor only in a case where there is no clue available to evaluate monthly income of the deceased. Where positive evidence has been led, no reliance on the Notification could be placed, particularly when it was nobody's case that the deceased was a labourer as presumed by the High Court.

13. Therefore, in view of the facts of the present case and the law laid down by the Hon'ble Supreme Court, it stands duly proved that the deceased was paying a monthly instalment of ₹31,900, as deposed by PW-3, an official from IndusInd Bank. Accordingly, this Hon'ble Court deems it fit and proper to reassess the monthly income of the deceased at **₹44,000/-.**

14. A further perusal of the award reveals that the learned Tribunal has rightly deducted 1/4th as expenses for personal expenditure. Therefore, the award requires indulgence of this Court.

CONCLUSION

15. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is allowed. The award dated 16.07.2018 is modified accordingly. The appellants-claimants are entitled to enhanced amount of compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.44000/-
2	Future prospects @ 40%	Rs.17600/- (40% of 44000)
3	Deduction towards personal expenditure 1/4th	Rs.15400/- (61600X 1/4th)
4.	Total Income	Rs.46200/-(61600-15400)
4	Multiplier	16
5	Annual Dependency	Rs.88,70,400/- (46200X12X16)
6	Loss of Estate	Rs.15,000/-
7	Funeral Expenses	Rs.15,000/-
8.	Medical Bills	Rs.1,28,869/-
9	Loss of Consortium Spousal : Rs. 40,000/-x1 Filial : Rs. 40,000/-x1 Parental : Rs. 40,000/-x2	Rs.1,60,000/-
	Total Compensation	**Rs.90,60,400/-**
	Deduction Amount Awarded by the Tribunal	**Rs.22,15,000/-**
	Enhanced amount	**Rs.68,45,400/- (9060400-2215000)**

16. 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 Nandu State Transport Corporation*** **(2022) 5 Supreme Court Cases 107,** the appellants-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.

17. Respondent-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/appellants, as per award dated 16.07.2018. The claimants/appellants are directed to furnish their bank account details to the Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

28.01.2026
Gaurav Arora

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