

FAO-1580-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-1580-2023 (O&M)

AYUSH MINOR THROUGH HIS MATERNAL GRANDMOTHER
AND ORS.

.....Appellants

Vs.

JAGDISH SINGH AND ORS.

.....Respondents

Reserved on: 30.01.2026

Pronounced on: 13.02.2026

Uploaded on : 13.02.2026

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. Abhimanyu Batra, Advocate (through v.c.)
Mr. Satish Kumar Rana, Advocate
for the appellant.Mr. R.C. Gupta, Advocate
for respondent No.3.

SUDEEPTI SHARMA J.**CM-6699-CII-2023**

1. This is an application filed under Order 5 of the Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908 for condonation of delay of 208 days in filing the appeal.
2. Notice in the application.



3. Mr. R.C. Gupta, Advocate, Advocate accepts notice on behalf of respondent No.3. and contends that he has no objection if the application is allowed.

4. Learned counsel for the appellant contends that appellant would not ask for interest for the delayed period.

5. For the reasons mentioned in the application for condonation of delay which is supported by an affidavit, the application is allowed.

6. The delay of 208 days in filing the appeal is condoned.

FAO-1580-2023

1. The present appeal has been preferred against the award dated 12.01.2022 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short '1988 Act'), by the learned Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') for enhancement of compensation granted to the claimants to the tune of Rs.7,50,000/- along with interest @ 7.5 % per annum, on account of death of Baby Aanya in a Motor Vehicular Accident, occurred on 30.07.2018.

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 amount of compensation be enhanced as per latest law.



4. Per contra, learned counsel for respondent No.3, 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 pray for dismissal of the appeal.

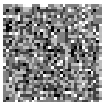
5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

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.

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42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above

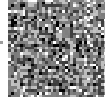


(prepared by applying Susamma Thomas³, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 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.

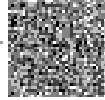
7. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (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 *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

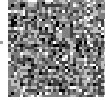


revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in 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 Verma⁴ which we have reproduced hereinbefore.

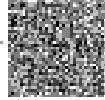
59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 42 of that judgment.

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



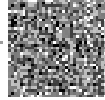
company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

*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.

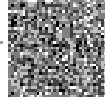
9. A perusal of the award reveals that the appellant/claimant was stated to be 5 years old and was a UKG Class student. The learned tribunal



has committed a manifest error in assessing the notional income of the deceased at only ₹50,000 per annum.

10. The Hon'ble Supreme Court, in its recent authoritative pronouncement **Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari, 2025 INSC 1070**, has categorically held that a minor child who dies or suffers permanent disability in a motor vehicle accident cannot be equated with a non-earning individual merely because the child was not engaged in gainful employment at the time of the accident. The Court has further clarified that, in such cases, the computation of compensation under the head "loss of income" must be undertaken by adopting at the very least the minimum wages prescribed for a skilled workman as notified for the relevant period in the State where the cause of action arises. The relevant extract from the aforesaid judgment is reproduced as under:-

"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of



*compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in **Kajal v. Jagdish Chand and Ors., and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.**”*

11. Therefore, considering the judgment referred to above and the minimum wages of a skilled worker prevalent at the time of accident, this Court deems it fit to reassess the income of claimant/appellant as **Rs.10,000/-**.

12. A further perusal of the award reveals that the learned Tribunal erred in applying multiplier of 15 instead of 18.

13. The Hon'ble Supreme Court has, in a catena of judgments, consistently held that in cases involving death or permanent disability of minors, the multiplier applicable is not to be mechanically restricted to 15. Rather, for victims below the age of 18 years, the multiplier of 18 has been judicially approved for the purpose of computing just and reasonable compensation.

14. In this regard, reliance is rightly placed on the judgment of the Hon'ble Supreme Court in **Kajal v. Jagdish Chand, (2020) 4 SCC 413**, wherein the Apex Court authoritatively held that in the case of a minor victim, the appropriate multiplier would be 18.

15. The relevant extract of **Kajal's case (supra)** is reproduced as under:-

“20. Both the courts below have held that since the girl was a young child of 12 years only notional income of L 15,000/- per annum can be taken into



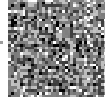
consideration. We do not think this is a proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned much more than L 15,000/- per annum. Each case has to be decided on its own evidence but taking notional income to be L 15,000/- per annum is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is L 4846/- per month. In our opinion this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be L 6784.40/- per month, i.e., 81,412.80 per annum. Applying the multiplier of 18 it works out to L 14,65,430.40, which is rounded off to L 14,66,000/-."

16. Further, the Hon'ble Supreme Court, in its recent pronouncement in **Hitesh Nagjibhai Patel's case (Supra)**, while placing reliance upon the decision in **Kajal's case (supra)**, once again applied the multiplier of 18 in the case of a minor victim.

17. The relevant extract of **Hitesh Nagjibhai Patel's case (supra)** is reproduced as under:-

"10. Adverting to the facts at hand, the appellant was an 8-year-old child at the time of the accident. In view of the above exposition of law, we must advert to the prevailing minimum wages, which for the skilled ones, as in the year of accident, i.e., 2012, in Gujarat would be Rs.227.85p. per day, therefore, in the interest of justice, we deem it appropriate to determine the income of the appellant as Rs.6,835.5p. per month, rounding off to Rs.6,836/- per month.

11. Coming to the assessment of disability suffered by the appellant, he sustained grievous and life-altering injuries on the head and left leg, resulting in a brain haemorrhage and amputation of the left lower limb. Upon examination of the disability certificate and other medical documents, as also considering the nature, extent and impact of the injuries, the High Court in para 6.4 of the impugned judgment, quantified the permanent functional disability of the appellant at 90%. Taking into account the direct correlation between the injuries sustained and the consequent loss of permanent functional disability suffered by the appellant, we are in agreement with the finding of the High Court that the permanent functional disability stands rightly fixed at 90%.



12. Lastly, with a view of awarding just and fair compensation, in the attending facts and circumstances of the case, we are also inclined to enhance the compensation towards other pecuniary heads in accordance with the settled principle of law.

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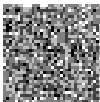
*14. As can be seen, there is a great difference between the compensation as awarded by the Courts below and the compensation payable as per law. We are constraint to observe that appeals to the High Court as well as to this Court were entirely avoidable, since the law had been amply clarified well before the order of the Tribunal was made on 17.10.2021 by way of the judgment rendered by this Court in **Kajal** (supra) decided on 05.02.2020. Both the Courts were duty-bound to keep abreast with the law as clarified by this Court, ensuring that the judgments and orders passed by them are entirely in order therewith.*

15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law.”

18. In view of the aforesaid settled position of law, the multiplier of 18 is to be applied instead of 15.

19. A further perusal of the award reveals that the learned Tribunal erred in not adding future prospects to the income of the deceased. Considering the age of the deceased (5 years) 40% is to be added as future prospects.

20. A further perusal of the award reveals that the amount granted for loss of estate, funeral expenses and loss of consortium are on the lower side. Therefore, the award requires indulgence of this Court.



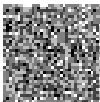
CONCLUSION

21. 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 12.01.2022 is modified accordingly. The appellants-claimants are entitled to enhanced compensation as per the calculations made hereunder:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs10,000/-
2	Future prospects @ 40%	Rs.4,000/- (40% of 10,000)
3	Deduction towards personal expenditure 1/2	Rs.7,000/- (14000 X 1/2)
4	Total Income	Rs.7000/- (14000-7000)
5	Multiplier	18
6	Annual Dependency	Rs.15,12,000/- (7000 X 12 X 18)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Filial : 2 x 48,400	Rs.96,800/-
10	Total Compensation	Rs.16,45,100/-
11	Deduction Amount Awarded by the Tribunal	Rs.7,50,000/-
12	Enhanced amount	Rs.8,95,100/-(16,45,100-7,50,000)

22. 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.

23. The respondent No.3-Insurance Company is directed to deposit the enhanced amount along with interest at the rate of 9% **(excluding the period of delay of 208 days in filing the appeal)** 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 same to the appellants-claimants in their bank accounts. The appellants-claimants are directed to furnish their bank account details to the Tribunal.

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

13.02.2026

Ayub/Saahil

(SUDEEPTI SHARMA)
JUDGE

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