



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

241

Date of decision : 28.08.2025

1. FAO-3798-2017 (O&M)

Shriram General Insurance Co. Ltd. Appellant

versus

Kalasho and others Respondents

2. FAO-7867-2017 (O&M)

Kalasho and others Appellants

versus

Lakhwinder Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

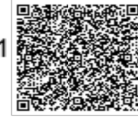
Present: Mr. Punit Jain, Advocate
for the appellant in FAO-3798-2017
and for respondent No.3 in FAO-7867-2017.

Mr. Vishal Jassal, Advocate
for the appellants in FAO-7867-2017
and for the respondents in FAO-3798-2017

PANKAJ JAIN, J. (Oral)

1. By way of instant order, I intend to dispose off the afore captioned two appeals directed against the award passed by the MACT, Karnal dated 18.02.2017.

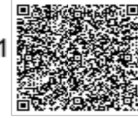
2. The insurance company as well as claimants both are aggrieved of the findings recorded by the Tribunal on quantum of compensation payable to the claimants. Counsel for the insurance company submits that Jagpal Singh @ Jagga Ram was 50 years of age at the time of death. Tribunal ought to have awarded 25% future prospects



instead of 30%. Mr. Jain further submits that out of three children who are claimants, two are major and married. Married daughter since was residing at her in-laws house, deduction ought to have been 1/3rd on account of dependency and not 1/4th. Further refers to item No.7 and 9 as mentioned in table which is part of para No. 34, to submit that Rs.5 lakh has been awarded under two different heads, i.e. loss of consortium as well as compensation on account of love and affection, which in the light of ratio of law laid down in '*National Insurance Company Limited vs. Pranay Sethi and others*', (2017) 16 SCC 680, ought to have been Rs.48,400/- for each of the claimants.

3. Counsel for the claimants on the other hand, submits that the salary of the deceased was proved on record by examining Gulab Singh s/o Mahabir Singh partners of Som Chemical, village Kachhwa, Karnal. The deceased was employed as a Recovery Agent and salary certificate as well as attendance register were proved on record, Tribunal erred in taking salary of deceased to be Rs.10,000/-. Further submits that standard deduction of 10% of the income-tax has been wrongly applied. Nothing has been paid for loss of estate.

4. Having heard counsel for the parties and having carefully perused the records of the case, this Court finds that the Tribunal erred in ignoring cogent pieces of evidence with regard to salary of the deceased. Employment of the deceased was proved by way of attendance record Ex.P2. Salary certificate Ex.P1 also stands proved. Gulab Singh, one of the partners, i.e. employer of the deceased, entered the witness box and testified to prove the aforesaid documents. In view thereof, the Tribunal erred in taking the salary of the deceased as

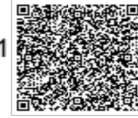


Rs.10,000/- instead of Rs.14,500/- which was proved on record. Accordingly, the monthly salary of the deceased is taken as Rs.14,500/-. Keeping in view the age of the deceased, 25% of future prospects need to be added. In order to assess the dependency, Tribunal has rightly applied cut of 1/4.

5. The plea raised by Mr. Jain with respect to deduction of 1/3rd for the reason that the married daughter is residing at her in-laws house sans merit and cannot be accepted. While dealing with the issue of deduction for personal and living expenses, Supreme Court in **Sarla Verma v. DTC** reported as (2009) 6 SCC 121 observed as under:-

“25. We have already noticed that the personal and living expenses of the deceased should be deducted from the income, to arrive at the contribution to the dependants. No evidence need be led to show the actual expenses of the deceased. In fact, any evidence in that behalf will be wholly unverifiable and likely to be unreliable. The claimants will obviously tend to claim that the deceased was very frugal and did not have any expensive habits and was spending virtually the entire income on the family. In some cases, it may be so. No claimant would admit that the deceased was a spendthrift, even if he was one.

26. It is also very difficult for the respondents in a claim petition to produce evidence to show that the deceased was spending a considerable part of the income on himself or that he was contributing only a small part of the income on his family. Therefore, it became necessary to standardise the deductions to be made under the head of personal and living expenses of the deceased. This led to the practice of deducting towards personal and living expenses of the deceased, one-third of the income if the deceased was married, and one-half (50%) of the income if the deceased was a bachelor. This practice was evolved out of experience, logic and convenience. In fact one-third deduction got statutory recognition under the Second Schedule to the Act, in respect of claims under Section 163-A of the Motor Vehicles

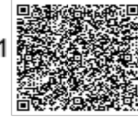


Act, 1988 ("the MV Act, for short). But, such percentage of deduction is not an inflexible rule and offers merely a guideline.

27. In *Susamma Thomas* [(1994) 2 SCC 176 : 1994 SCC (Cri) 335] it was observed that *in the absence of evidence*, it is not unusual to deduct one-third of the gross income towards the personal living expenses of the deceased and treat the balance as the amount likely to have been spent on the members of the family/dependants.

28. In *U.P. SRTC v. Trilok Chandra* [(1996) 4 SCC 362] this Court held that if the number of dependants in the family of the deceased was large, in the absence of specific evidence in regard to contribution to the family, the court may adopt the unit method for arriving at the contribution of the deceased to his family. By this method, two units are allotted to each adult and one unit is allotted to each minor, and total number of units are determined. Then the income is divided by the total number of units. The quotient is multiplied by two to arrive at the personal living expenses of the deceased. This Court gave the following illustration: (*Trilok Chandra case* [(1996) 4 SCC 362], SCC p. 370, para 15)

"15.... X, male, aged about 35 years, dies in an accident. He leaves behind his widow and 3 minor children. His monthly income was Rs 3500. First, deduct the amount spent on X every month. The rough and ready method hitherto adopted where no definite evidence was forthcoming, was to break up the family into units, taking two units for an adult and one unit for a minor. Thus X and his wife make 2+2= 4 units and each minor one unit i.e. 3 units in all, totalling 7 units. Thus the share per unit works out to Rs 3500 ÷ 7 = Rs 500 per month. It can thus be assumed that Rs 1000 was spent on X. Since he was a working member some provision for his transport and out-of-pocket expenses has to be estimated. In the present case we estimate the out-of-pocket expense at Rs 250. Thus the amount spent on the deceased X works out to Rs 1250 per month leaving a balance of Rs 3500-1250 Rs 2250 per month. This amount can be taken as the monthly loss to X's dependants."



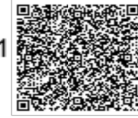
29. In *Fakeerappa v. Karnataka Cement Pipe Factory* [(2004) 2 SCC 473: 2004 SCC (Cri) 577)] while considering the appropriateness of 50% deduction towards personal and living expenses of the deceased made by the High Court, this Court observed: (SCC p. 475, para 7)

"7. What would be the percentage of deduction for personal expenditure cannot be governed by any rigid rule or formula of universal application. It would depend upon circumstances of each case. The deceased undisputedly was a bachelor. Stand of the insurer is that after marriage, the contribution to the parents would have been lesser and, therefore, taking an overall view the Tribunal and the High Court were justified in fixing the deduction."

In view of the special features of the case, this Court however restricted the deduction towards personal and living expenses to one-third of the income.

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* [(1996) 4 SCC 362], the general practice is to apply standardised deductions. Having 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 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.”

6. The aforesaid view was reiterated and approved by larger Bench in *National Insurance Co. Ltd. v. Pranay Sethi* reported as **(2017) 16 SCC 680** observing as under:-

“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 [Sarla Verma v. DTC, (2009) 6 SCC 121: (2009) 2 SCC (Civ) 770: (2009) 2 SCC (Cri) 1002]* which we have reproduced hereinbefore.”

7. The deduction that has to be made is towards personal and living expenses. Usually for a married person, deduction applied is 1/3. The deduction further gets reduced wherein the number of dependents in the family increase. A daughter cannot be held to be uprooted from the family, merely for the reason she has got married. Thus, it cannot be held that merely for the reason that the daughter got married, father stopped spending on her. So far as the reliance placed by counsel for the appellant on *Deep Shikha and another vs. National Insurance Company Ltd. and others*, reported as **2025 SCC Oline 1090** is concerned, the same is misplaced. Standard deduction of 10% on



account of income-tax has been wrongly applied. Multiplier of 13 has been rightly applied. Under the heads of loss of consortium, each of the claimants is entitled for Rs.48,400/-. Loss of consortium having been granted, the amount of compensation paid on account of love and affection to the claimants is ordered to be deleted. The claimants shall also be entitled for Rs.18,000/- for loss of estate. Funeral expenses as granted by the Tribunal are maintained. The interest awarded by the Tribunal is also maintained.

8. With the aforesaid modification, the appeals are disposed off.

9. A photocopy of this order be placed on the file of other connected case.

**(PANKAJ JAIN)
JUDGE**

28.08.2025
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No