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

FAO-208-2022
Reserved on:- 26.09.2025
Pronounced on:- 09.10.2025

PHULMI DEVI AND ORS.

......Appellants

vs.

SURENDER SINGH AND ANR.

......Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vinod Kumar, Advocate for the appellants.

Mr. Abhinav Singla, Advocate
for Mr. Amit Goyal, Advocate for respondent No.2.

****

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 22.02.2019 passed by the learned Motor Accident Claims Tribunal, Karnal 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.15,67,000/- along with interest @ 7% per annum, on account of death of Ram Gopal in a Motor Vehicular Accident, occurred on 12.03.2017.

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 submits that the compensation assessed by the learned Tribunal is on the lower side and,

therefore, warrants enhancement. He further submits that the learned Tribunal erred in determining the age of the deceased as 51 years on the basis of the Aadhaar Card, whereas the post-mortem report clearly reflects the age of the deceased as 45 years. Hence, it is contended that the present appeal deserves to be allowed and the compensation amount suitably enhanced in accordance with the settled law.

4. Per contra, learned counsel for the respondent-Insurance Company vehemently argues that the compensation awarded by the Tribunal is already on the higher side. He further contends that respondent No.2 – the Insurance Company has, in fact, preferred FAO-2832-2019 titled "Iffco Tokio General Insurance Company Ltd Vs. Phulmi Devi and Others", assailing the quantum of compensation. He further submits that the Tribunal has erroneously assessed the income of the deceased as ₹12,000/- per month without any cogent evidence to that effect. He further contends that the learned Tribunal wrongly considered the major sons of the deceased as dependents, which is contrary to law. Accordingly, he prays that the present appeal be dismissed.

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 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*

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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. At the outset, this Court is required to consider the contention raised by the learned counsel for respondent-Insurance Company that the learned Tribunal has erred in taking the income of the deceased on the higher side. The learned Tribunal, while dealing with this aspect, has held as under:

*"14. It has been alleged/claimed by petitioners that deceased was cobbler as well as owner of auto, which was being used for transportation, and also he was running milk dairy and his income from all these avocations was in the tune of 40,000/- per month. However, ₹ no cogent and reliable evidence, in this regard, has been produced. Mere pleadings are not sufficient to take the place of proof. However, he must have been doing some work and in the absence of any evidence, status of deceased cannot be considered more than a labourer. In F.**A.O. No. 2426 of 2018(O&M) titled "The New India Assurance Company Limited Versus Ms. Sheela Devi and others", decided on 04.05.2018**, it was held by our Hon'ble High Court that for*

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computing loss of income in motor vehicular accident cases, wages of deceased should be considered on the basis of minimum wages, fixed by the Labour Commissioner, and not on the basis of wages, fixed by the Deputy Commissioner and, in this regard, Insurance Company has tendered the list of minimum wages for the workers under different categories as fixed by Labour Commissioner, Haryana Ex.R-5. In present days, prices of essential commodities are soaring in the sky. Even IVth class employee (peon) provided to the Judicial officer is being paid more than 13,000/- per month on daily wages. Same wages ₹ have been paid to the Liftman, working in Court for operating the lift. This Tribunal cannot forget this important fact that human value cannot be ascertained directly in proportion to the economical status of a particular individual. In other words, if a salaried person or rich person expires, he must be a receiving hand of great amount and a poor person, who is victim of such tragedy be amenable to small compensation. If such person was having poor background in such contingency, rather principle of natural justice and fair plays, require/impels the conscience of this Tribunal that at least some value be fixed of a human-being, who lost his life in such unfortunate incident, irrespective of his social and economical strata. In case titled ***Munna Lal Jain and another Versus Vipin Kumar Sharma and others, 2015(3) Recent Civil Reports, 447****, Hon'ble Apex Court considering the deceased as self-employed assessed his monthly income as 12,000/-. ₹ In view of law laid down by Hon'ble Apex Court in above referred case, income of deceased is to be presumed on equal parameters as unskilled labourer. So, this Tribunal deems it just and appropriate that monthly income of deceased should be presumed in the tune of 12,000/-.*

In claim petition, age of deceased is mentioned as 45 years. Same age is mentioned in postmortem report Ex.P-6. However, as per Aadhaar Card Ex.R-4, which is brought on record by respondent No. 2 in which year of birth of deceased is mentioned as 1966, his age comes out to 51 years. As per latest law, laid down by Hon'ble Apex Court in ***National Insurance Company Limited Versus Pranay Sethi and others, 2017(4) Recent Civil Reports (Supreme Court) 1009****, in the case of deceased, being self-employed or on fixed salary, 10% of the actual income/earnings of the deceased is to be added towards future prospects for age group of 50 to 60 years. In this way, income of deceased Ram Gopal comes to 13,200/- ₹ (12,000+1,200) per month. Annual income of deceased would be ₹1,58,400/- (13,200 x 12).*

*The deceased was survived by five dependents. As per ratio, laid down in "***Sarla Verma and others Versus DTC and others, 2009 ACJ (Supreme Court), 1298****, there would be 1/4th deduction from the income of deceased, being invested or incurred by him as his own expenses, had he been alive. After deduction of 1/4th, annual income comes out 1,18,800/- ₹ (1,58,400/4=39,600/- and then 1,58,400- 39,600=1,18,800).*

Since age of deceased was 51 years, therefore, in view of law laid down in ***Sarla Verma's case (supra)****, multiplier of `11' is to be adopted. By applying the same, total per annual loss of dependency, thus arrives at 13,06,800/- ₹ (1,18,800 x 11).*

As per law laid down in case titled National Insurance Company Limited Versus Pranay Sethi and Others (supra), under conventional heads, petitioner No. 2, being widow, is awarded a sum of ₹40,000/- towards loss of consortium and further petitioners are awarded

> *₹15,000/- as loss of estate and ₹15,000/- as funeral expenses.*
>
> *Further, in view of law, laid down by Hon'ble Apex Court in case titled* ***Magma General Insurance Company Limited Versus Nanu Ram Alias Chuhru Ram and others, 2018(4) R.C.R. (Civil) 333*** *petitioners No. 3 to 5, being children of deceased, are entitled for a sum of 1,50,000/- ₹ (50,000/- each) ₹ on account of loss of love and affection, whereas petitioner No. 1, being mother of deceased, is entitled to receive a sum of 40,000/- on account of filial consortium."*

10. A careful perusal of the above shows that the learned Tribunal has returned a reasoned finding while assessing the monthly income of the deceased. Learned Tribunal has rightly noticed the absence of documentary evidence regarding the claim of income of ₹40,000/- per month and has, therefore, resorted to a reasonable and judicially recognized yardstick for determination. The learned Tribunal also fortified its reasoning by reference to binding precedents, including ***Munna Lal Jain v. Vipin Kumar Sharma (2015) 3 RCR (Civil) 447***, wherein the Hon'ble Supreme Court held that income of a self-employed person can be assessed on notional parameters where no proof is forthcoming.

11. Importantly, the Tribunal has taken judicial notice of prevailing socio-economic realities. The observation that human life and its value cannot be gauged solely by the economic or social strata of the deceased also reflects the correct application of principles of equity and fair play in the realm of motor accident compensation.

12. 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 sufficient 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.

13. This Court finds that the reasoning of the learned Tribunal is firmly grounded both in law and in fact, and aligns with the principles laid down by Apex Court. The finding, therefore, cannot be said to suffer from any illegality, perversity, or material irregularity so as to warrant interference by this Court.

14. Adverting now to the other contention of the learned counsel for the respondent–Insurance Company that the Tribunal has wrongly treated the major sons of the deceased as dependents, this contention is also bereft of any merit. It is well settled by the Hon'ble Apex Court in a catena of judgments that major sons of the deceased, being legal representatives, have a right to apply for compensation, and it is the bounden duty of the Tribunal to consider such application irrespective of whether the legal representative concerned was fully dependent on the deceased, and not to confine the claim only to the conventional heads.

15. Reference at this stage may be made to the judgment of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Birender & Ors. (2020) 11 SCC 356***, the relevant extract whereof is reproduced as under:

> *"12.* ***We have heard Mr****. Amit Kumar Singh, learned counsel for the insurance company (appellant) and Ms. Abha R. Sharma, learned counsel for the respondent Nos. 1 and 2. The principal issues which arise for our consideration are as follows:-*

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> *(i) Whether the major sons of the deceased who are married and gainfully employed or earning, can claim compensation under the Motor Vehicles Act, 1988 (for short, 'the Act')?*
>
> *(ii) Whether such legal representatives are entitled only for compensation under the conventional heads?*
>
> *(iii) Whether the amount receivable by the legal representatives of the deceased under the 2006 Rules is required to be deducted as a whole or only portion thereof?*

13. Reverting to the first issue - that needs to be answered on the basis of the scheme of the Act. Section 166 of the Act provides for filing of application for compensation by persons mentioned in clauses (a) to (d) of sub-Section (1) thereof. Section 166 of the Act, as applicable at the relevant time, reads thus:-

> ***"Section 166. Application for compensation.****-(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made-*
>
> *(a) by the person who has sustained the injury; or*
>
> *(b) by the owner of the property; or*
>
> *(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or*
>
> *(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:*
>
> *Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal*

representatives who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

Provided that where no claim for compensation under Section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.

*(3) ****

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an application for compensation under this Act."

(emphasis supplied)

14. The legal representatives of the deceased could move application for compensation by virtue of clause (c) of Section 166(1). The major married son who is also earning and not fully dependant on the deceased, would be still covered by the expression "legal representative" of the deceased. This Court in Manjuri Bera (supra) had expounded that liability to pay compensation under the Act does not cease because of absence of dependency of the concerned legal representative. Notably, the expression "legal representative" has not been defined in the Act. In Manjuri Bera (supra), the Court observed thus:-

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"9. In terms of clause (c) of sub-section (1) of Section 166 of the Act in case of death, all or any of the legal representatives of the deceased become entitled to compensation and any such legal representative can file a claim petition. The proviso to said sub-section makes the position clear that where all the legal representatives had not joined, then application can be made on behalf of the legal representatives of the deceased by impleading those legal representatives as respondents. Therefore, the High ***Court was justified in its view that*** *the appellant could maintain a claim petition in terms of Section 166 of the Act.*

10. .....The Tribunal has a duty to make an award, determine the amount of compensation which is just and proper and specify the person or persons to whom such compensation would be paid. The latter part relates to the entitlement of compensation by a person who claims for the same.

11. According to Section 2(11) CPC, "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued. Almost in similar terms is the definition of legal representative under the Arbitration and Conciliation Act, 1996 i.e. under Section 2(1)(g).

12. As observed by this Court in ***Custodian of Branches of BANCO National Ultramarino v. Nalini Bai Naique [1989 Supp (2) SCC 275*** *the definition contained in Section 2(11) CPC is*

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> *inclusive in character and its scope is wide, it is not confined to legal heirs only. Instead it stipulates that a person who may or may not be legal heir competent to inherit the property of the deceased can represent the estate of the deceased person. It includes heirs as well as persons who represent the estate even without title either as executors or administrators in possession of the estate of the deceased. All such persons would be covered by the expression "legal representative". As observed in* ***Gujarat SRTC v. Ramanbhai Prabhatbhai [(1987) 3 SCC 234*** *a legal representative is one who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent and child."*

In paragraph 15 of the said decision, while adverting to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is distinction between "right to apply for compensation" and "entitlement to compensation". The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning."

16. In view of the above settled proposition of law, the finding recorded by the Tribunal treating the major sons of the deceased as entitled claimants is legally sound and does not suffer from any perversity. The same is, therefore, affirmed.

17. Now coming to the contention raised by the appellant–claimant that the learned Tribunal erred in determining the age of the deceased as 51 years on the basis of the Aadhaar Card, whereas the post-mortem report (Ex. P-6) categorically records the age of the deceased as 45 years, this Court finds merit in the said contention.

18. It is evident from the record that in the post-mortem report (Ex. P-6), the age of the deceased is mentioned as 45 years. However, the learned Tribunal, relying upon the Aadhaar Card (Ex. R-4), assessed the age as 51 years. The Hon'ble Supreme Court in ***Saroj and Others v. IFFCO Tokio General Insurance Co. Ltd. and Others, 2024 INSC 816***, has recently held that the Aadhaar Card is not, by itself, conclusive proof of the date of birth. The relevant extract of ***Saroj's case (supra)*** reproduced as under:

> "*9. **This Court is of the view that** the High Court erred in undertaking the reduction as it has. The reasons therefor are recorded in the following paragraphs.*
>
> *9.1 The general rule insofar as appellate proceedings are concerned is that a Court sitting in appeal is not to substitute its view for that of the Court below. It is only to see that the decision arrived at is not afflicted by perversity, illegality or any other such vice which may compromise it beyond redemption.*
>
> *9.2 It is also well settled that an order is not to be interfered with simply because another view is possible, which, in the impugned order the High Court seems to have done.*

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9.3 The question before the High Court was not as to which yardstick to use to determine the notional income of the deceased was `better'. Since there is nothing on record to establish that the rates notified by the District Commissioner, Rohtak, would not apply to the deceased, we find no reason to interfere with the finding of the Tribunal. Further, the testimonies of PWs 2, 5 and 6 show that he is an agriculturist who owned his own tractor and a JCB machine.

9.4 The second aspect is the age of the deceased. The High Court, relied on the age as mentioned in the Aadhar Card of the deceased, i.e., 1st January, 1969. However, as submitted by the claimant-appellants, the School Leaving Certificate records the date of birth of the deceased to be 7th October, 1970. This will affect the multiplier to be applied. Let us now consider this question.

It has to be noted at the outset that a School Leaving Certificate has been accorded statutory recognition. Sub-section (2) of section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads thus:

> *"(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining -*
>
> *(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;*
>
> *(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;*
>
> *(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any*

> *other latest medical age determination test conducted on the orders of the Committee or the Board..."*

(Emphasis Supplied)

Whether the Aadhar Card is sufficient proof of a person's age, has come up for consideration before some High Courts, albeit in the context of different statutes. We shall refer to a few instances but, prior to doing so, it is also important to take note of the purpose behind introduction of the Aadhar Scheme. In the Constitution Bench judgment in ***K.S. Puttaswamy v. Union of India (5-J.) (2019) 1 SCC 1*** *Dr. A.K. Sikri, J. wrote as hereinbelow extracted, encapsulating the object and purpose of Aadhar:-*

> *"24. Before adverting to the discussion on various issues that have been raised in these petitions, it would be apposite to first understand the structure of the Aadhaar Act and how it operates, having regard to various provisions contained therein. UIDAI was established in the year 2009 by an administrative order i.e. by resolution of the Govt. of India, Planning Commission, vide notification dated January 28, 2009. The object of the establishment of the said Authority was primarily to lay down policies to implement the Unique Identification Scheme (for short the `UIS') of the Government, by which residents of India were to be provided unique identity number. The aim was to serve this as proof of identity, which is unique in nature, as each individual will have only one identity with no chance of duplication. Another objective was that this number could be used for identification of beneficiaries for transfer of benefits, subsidies, services and other purposes. This was the primary reason, viz. to ensure correct identification of*

targeted beneficiaries for delivery of various subsidies, benefits, services, grants, wages and other social benefits schemes which are funded from the Consolidated Fund of India ...

Summing up the Scheme:

62. The whole architecture of Aadhaar is devised to give unique identity to the citizens of this country. No doubt, a person can have various documents on the basis of which that individual can establish her identity. It may be in the form of a passport, Permanent Account Number (PAN) card, ration card and so on. For the purpose of enrolment itself number of documents are prescribed which an individual can produce on the basis of which Aadhaar card can be issued. Thus, such documents, in a way, are also proof of identity. However, there is a fundamental difference between the Aadhaar card as a means of identity and other documents through which identity can be established. Enrolment for Aadhaar card also requires giving of demographic information as well as biometric information which is in the form of iris and fingerprints. This process eliminates any chance of duplication. ..... It is for this reason the Aadhaar card is known as Unique Identification (UID). Such an identity is unparalleled."

(Emphasis supplied)

9.5 Turning back to the question of whether Aadhar Card can serve as a proof of age, a perusal of some High Court judgments reveals that this question has been considered on quite a few occasions in the context of the JJ Act. Illustratively, in ***Manoj Kumar Yadav v. State of M.P. 2023 SCC OnLine MP 1919*** *a learned Single Judge of the Madhya Pradesh High Court held that when it comes to*

establishing the age, on a plea of juvenility the age mentioned in the Aadhar Card could not be taken as a conclusive proof in view of Section 94 of the JJ Act. Similar observations have been made in ***Shahrukh Khan v. State of M.P. 2023 SCC OnLine MP 2740*** *holding that if the genuineness of the School Leaving Certificate is not under challenge, the said document has to be given due primacy.*

The Punjab & Haryana High Court in the context of the Prohibition of Child Marriage Act, 2006, in ***Navdeep Singh & Anr. v. State of Punjab & Ors. 2021 SCC OnLine P&H 4553*** *held that Aadhar Cards were not "firm proof of age". Observations similar in nature were also made in* ***Noor Nadia & Anr. v. State of Punjab & Ors. 2021 SCC OnLine P&H 1514***, ***Muskan v. State of Punjab 2021 SCC OnLine P&H 3649*** *as well as several other orders/judgments, in various contexts.*

Views aligning with the one referred to above have been taken by the High Court of Judicature of Allahabad in ***Parvati Kumari v. State of U.P. 2019 SCC OnLine All 7085***; *the Himachal Pradesh High Court in* ***Kumit Kumar v. State of H.P. 2024 SCC OnLine HP 2965*** *and the High Court of Kerala in* ***Sofikul Islam v. State of Kerala 2022 SCC OnLine Ker 5814***.

9.6 ***We find that the*** *Unique Identification Authority of India `UIDAI', by way of its Circular No.08 of 2023, has stated, in reference to an Office Memorandum issued by the Ministry of Electronics and Information Technology dated 20th December 2018, that an Aadhar Card, while can be used to establish identity, it is not per se proof of date of birth. This office memorandum dated 20th December, 2018 was taken note of by a learned Division Bench of the Bombay High Court in* ***State of Maharashtra v. Unique Identification Authority of India And Ors.***

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Criminal Writ Petition No. 3002 of 2022 in its order dated 28th July, 2023*. The Circular is extracted hereinbelow for ready reference:-*

F.No.HQ-13065/1/2022-AUTH-II HQ/8075

Unique Identification Authority of India

(Authentication and Verification Division)

UIDAI Headquarter
Bangla Sahib Road, Behind Kali Mandir
Gole Market, New Delhi-110 001
Dated 22.12.2023

Circular No.08 of 2023

Subject: Accepting Aadhar as a proof of Date of Birth (DoB) - regarding.

It has been observed that AUAs/KUAs are considering and accepting Aadhar card/e-Aadhaar as one of the acceptable documents for proof of Date of Birth (DoB).

2. In this regard, it is pertinent to mention that, Aadhaar is a unique 12 digit ID issued to a resident after he/she undergoes the enrolment process by submitting his/her demographic and biometric information. Once a resident is assigned an Aadhaar number, it can be used to authenticate the resident through various modes as prescribed under Aadhaar Act, 2016 and Regulations framed there under.

3. At the time of enrolment/updation, UIDAI records DoB as claimed by the resident, on the basis of the documents submitted by them, as specified under the list of supporting documents for Aadhaar enrolment, provided on the UIDAI website (https://uidai.gov.in/images/commdoc/26 JAN 2023 Aadhar List of documents English.pdf). Further, it is to be noted that Regulations 10(4) and 19A of the Aadhaar (Enrolment and UPDATE) Regulations, 2016, mention that verification of the enrolment and

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update data shall be performed as provided in Schedule III.

4. In this regard, attention is drawn towards Office Memorandum dated 2-0.12.2018 issued by MeitY through UIDAI, where it has been stated that "An Aadhaar number can be used for establishing identity of an individual subject to authentication and thereby, per se its not a proof of date of birth" (copy enclosed).

5. This aspect of the Aadhar Act, 2016 has been reiterated/highlighted/stressed upon by different High Courts in recent judgments. The most recent one is given by the Hon'ble High Court of Bombay, in the case of ***State of Maharashtra v. Unique Identification Authority of India And Ors. dated 28.07.2023*** *(copy enclosed).*

6. ***In view of the above, it*** *is required that use of Aadhaar, as a proof of DoB needs to be deleted from the list of acceptable documents.*

7. This issues with the approval of the Competent Authority.

Encl : As above.

(Sanjeev Yadav)
Director
Tel: 011-23478609
Email: dirl.auth-hq@uidai.net.in"

9.7 Judicial notice has also been taken of the circular above. Recently, a learned Single Judge of the Gujarat High Court in ***Gopalbhai Naranbhai Vaghela v. Union Of India & Anr. Order dated 26th February, 2024 passed in R/Civil Special Application No. 16484 of 2022*** *in view thereof directed the release of the petitioner's pension in accordance with the date as mentioned in the School Leaving Certificate, keeping aside the difference in the*

> *date of birth as mentioned in the Aadhar Card, which was not relevant for the purpose of such consideration.*
>
> *9.8 In **Shabana v. NCT of Delhi 2024 SCC OnLine Del 5058. Judgment dated 24th July, 2024** a learned Division Bench of the Delhi High Court in a case where the petitioner-mother sought a writ of habeas corpus for her daughter, recorded a statement made for and on behalf of UIDAI that "Aadhar Card may not be used as proof of date of birth."*
>
> *9.9 Here, we may clarify that we have not expressed any view on the merits of these cases before their respective High Courts, and reference has only been made to them for the limited purpose of examining the suitability of the Aadhar Card as proof of age.*"

19. Furthermore, in ***Sunita v. Vinod Singh, 2025 INSC 366***, the Hon'ble Supreme Court held that, in the absence of any material indicating to the contrary, there is no inhibition in accepting the age of the deceased as recorded in the post-mortem report. The relevant extract is reproduced as under:

> *"11. The amount arrived at by the High Court of the monthly income being Rs. 5,819/- (Rupees Five Thousand Eight Hundred and Nineteen) as against the claim of Rs. 10,000/- (Rupees Ten Thousand) appears to be on the lower side as the total earning of the deceased from family pension itself ought to have been considered which itself would come to Rs. 5,137/- (Rupees Five Thousand One Hundred and Thirty-Seven) to which the notional wages as a home maker had to be added, which we find is reasonable as has been taken by the High Court at Rs. 2,500/- (Rupees Two Thousand Five Hundred). Thus, the monthly income would come to Rs. 7,637/- (Rupees Seven Thousand Six Hundred and Thirty- Seven), which we are*

> *inclined to round off at Rs. 7,000/- (Rupees Seven Thousand). Coming to the multiplier factor which is dependent on the age, there is sufficient indication that the deceased was aged about 45 years as per the Post-Mortem Report which is a scientific assessment of the age of the deceased. The purported discrepancy in the age with regard to that of the claimant and the deceased is erroneous for the reason that when the claim was filed, appellant no.1 was aged about 30 years and a difference of 15 years between the daughter-in-law and the mother-in-law cannot be said to be totally devoid of reality given the contextual and prevalent societal norms in vogue at the time of marriage of the deceased which could have been at least 25 to 30 years prior to her death i.e., in or about the 1970s. Moreover, in the absence of material indicating to the contrary, there is no inhibition to accept the age of the deceased as per the Post-Mortem Report. Thus, we are inclined to grant her the benefit of multiplier of 14 taking her age as 45 years. With regard to the loss of love and affection, Pranay Sethi (supra) grants Rs. 40,000/- (Rupees Forty Thousand) per head with escalation of 10% every three years for loss of consortium which has been interpreted in Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130 to include spousal, parental, and filial consortium. Thus, there being five claimants the amount shall be [Rs. 48,000/- x 5] which comes to Rs. 2,40,000/- (Rupees Two Lakhs and Forty Thousand) payable under the head of loss of love and affection."*

20. In view of the above settled law, the age of the deceased at the time of the accident has to be taken as 45 years, as recorded in the post-mortem report (supra). Accordingly, the finding of the learned Tribunal on this aspect is set aside and corrected to that extent.

21 A perusal of the award further reveals that compensation awarded for loss of estate, loss of funeral expenses is also on lower side, therefore, the award requires indulgence of the Court.

CONCLUSION

22. 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 22.02.2019 is modified accordingly. The appellants-claimants are entitled to enhanced compensation as per the calculations made hereunder:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	12,000/-
2	Future prospects @ 25%	3,000/- (12,000 X 25%)
3	Deduction towards personal expenditure 1/4th	3,750/- (1/4th of 15,000/-_
4	Total Income	11,250/- (15,000 – 3,750)
5	Multiplier	14
6	Annual Dependency	18,90,000/- (11,250 X 14 X 12)
7	Loss of Estate	18,150/-
8	Funeral Expenses	18,150/-
9	Loss of Consortium Spousal: Rs.48,400/-x 1 Parental: Rs.48,400/-x 3 Filial: Rs.48,400 x 1	2,42,000/-
10	**Total Compensation**	**21,68,300/-**
11	**Deduction** Amount Awarded by the Tribunal	**15,67,000/-**
12	**Enhanced amount**	**6,01,300/- (21,68,280 - 15,67,000)**

23. 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. However, it is made clear that claimants/appellants would not be entitled for the interest on the compensation for the period of delay in filing the present appeal i.e. 297 days.

24. The Insurance Company-respondent No.2 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 ration settled by the learned Tribunal, vide its award dated 22.02.2019. The claimants/appellants are directed to furnish their bank account details to the Tribunal.

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

09.10.2025 **(SUDEEPTI SHARMA)**
Ayub **JUDGE**

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