

CM-13736-CII-2025 in/and  
FAO-16300-2018 (O&M)

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2025.PHHC:112031



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

(112)

**CM-13736-CII-2025 in/and  
FAO-16300-2018 (O&M)  
Date of decision:- 25.08.2025**

Mamta and another

...Appellants

Versus

Mamta Jain and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. J.P. Sharma, Advocate, for the appellants.

Mr. R.C. Gupta, Advocate, for respondent No.1.

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**VIKAS BAHL, J. (ORAL)**

**CM-13736-CII-2025**

1. This is an application under Order 41 Rule 19 read with Section 151 CPC for restoration of the main appeal.

2. For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed. The order dated 09.07.2025 is recalled and the main appeal is restored to its original number.

**FAO-16300-2018**

1. The wife of the deceased-Dharambir and his minor son has filed the present appeal for enhancement of compensation and for modification of the award dated 20.09.2018 vide which an amount of

₹14,14,060/- along with interest has been awarded as compensation.

2. The mother of deceased i.e. Smt. Barfi, who was a claimant before the Tribunal, has been impleaded as respondent no.4. The only issue which arises in the present appeal is as to whether the appellants along with respondent No.4/Barfi are entitled to additional compensation or not. The other aspects have not been disputed before this Court.

**ARGUMENTS ON BEHALF OF THE APPELLANTS**

3. Learned counsel for the appellants in support of his arguments for enhancement of compensation has submitted that only ₹40,000/- has been awarded on account of loss of consortium, whereas, an additional amount of ₹96,000/- was also required to be given to the appellants and respondent No.4, as no amount on account of loss of consortium for the minor son and old age mother, who were also dependent upon the deceased, has been given. It is further submitted that in the present case, the income of the deceased has been taken as ₹8,000/- and in para 20 of the award, the Tribunal had observed that since the deceased was an able bodied person, he is expected to earn at least a sum of ₹8,000/- by doing labour work. It is argued that it was the case of the present appellants and respondent No.4 that the deceased was running a Milk Dairy and also doing agriculture work and was earning ₹40,000/- per month and that he was the sole bread earner of the family and the wife, mother as well as the minor son were dependent on him. It is further argued that at any rate, the income of the deceased should have been taken as ₹11,000/- per month. In support of the said argument, learned counsel for the appellants has relied upon the judgment of the Hon'ble Supreme Court in case titled as "Amarveer Kaur and others

***Vs. Reliance General Insurance Company Limited and others***, reported as ***2025 SCC Online SC 980***. It is submitted that in the said judgment, the Hon'ble Supreme Court had taken the notional income even with respect to an unskilled worker to be ₹4,500/- per month in the year 2004 and had further observed that an incremental enhancement of wages to the effect ₹500/- per month in every subsequent year should be given even to a person who has an unspecified job. It is further submitted that by applying the law laid down by the Hon'ble Supreme Court, since the accident had taken place in the year 2017, thus, in addition to ₹4500/- per month, which was found to be the notional income even with respect to the unskilled labourer, a further amount of ₹6500/- should be added and thus, the income of the deceased should be taken as ₹11,000/- per month. In support of his arguments, learned counsel for the appellants has also relied upon the law laid down by the Hon'ble Supreme Court in cases titled as ***Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another*** reported as ***(2009) 6 SCC 121***, ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported as ***(2017) 16 SCC 680***, and ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others*** reported as ***(2018) 18 SCC 130***.

4. On behalf of the appellants, a chart has been submitted which has been reproduced herein below:-

<i>“Income</i>	<i>:</i>	<i>₹11,000/- per month</i>
<i>40% future prospects:</i>		<i>₹4,400/- per month</i>
<i>Total income</i>	<i>:</i>	<i>₹15400/- per month</i>
<i>Annual income</i>	<i>:</i>	<i>₹15400 x 12 = ₹1,84,800 per annum</i>
<i>1/3rd deduction</i>	<i>:</i>	<i>₹61,600/-</i>

<i>Dependency</i>	:	$\text{₹}1,84,800 - \text{₹}61,600/- = \text{₹}1,23,200 \text{ per annum}$
	:	$\text{₹}1,23,200 \times \text{multiplier } 15 = \text{₹}18,48,000/-$
		+ $\text{₹}48,000$ (son) + $\text{₹}48,000$ (mother)
		$\text{₹}40,000$ (wife) + $\text{₹}15,000$ (loss of estate)
		+ $\text{₹}15,000$ (last rites)
		_____
<i>Total</i>	:	$\text{₹}20,14,000/-$
<i>Already given:</i>	—	$\text{₹}14,14,060/-$
<i>Enhance</i>	:	_____
		$\text{₹}5,99,940/-$
		_____

Sd/-  
(J.P. Sharma)  
ADVOCATE”

It is submitted that by taking the income of the deceased to be ₹11,000/- per month instead of ₹8,000/- per month, the claimants would be entitled for the enhancement of ₹5,99,940/-.

### **ARGUMENTS ON BEHALF OF RESPONDENT NO.3**

5. Learned counsel appearing for respondent No.3, on the other hand, has submitted that the income of the deceased could at best be taken as ₹9,000/- per month, which was the minimum wages in Haryana, in the year 2017. On a pointed query raised by this Court, learned counsel for respondent No.3-insurance company has fairly submitted that the said minimum wages notification has not been produced before the Tribunal.

### **ANALYSIS AND FINDINGS**

6. This Court has heard learned counsel for the parties and has gone through the Chart and is of the opinion that the entries made in the chart are in accordance with law and deserve to be approved and only the rate of interest requires consideration by this Court.

7. The Hon'ble Supreme Court in ***Pranay Sethi's case*** (Supra), has held as under:-

*“59. In view of the aforesaid analysis, we proceed to record our conclusions:-*

*59.1 The two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.*

*59.2 As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.*

*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 paragraphs 30 to 32 of Sarla Verma which we*

*have reproduced hereinbefore.*

***59.6 The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 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.***

*60. The reference is answered accordingly. Matters be placed before the appropriate Bench.”*

8. A perusal of the above judgment would show that it was observed by the Hon'ble Supreme Court that addition of some percentage of the actual salary to the income of the deceased towards future prospects was also required to be taken into consideration and the said percentage was specifically defined with respect to persons who were having a permanent job or/were self-employed or on a fixed salary.

9. The Hon'ble Supreme Court in ***Magma General Insurance Company Limited's case (Supra)*** had further observed that in death case, under the head of loss of consortium, the parents of the deceased are entitled to be awarded loss of consortium under the head of filial consortium and children are entitled to parental consortium. To the widow, spousal consortium is to be given. Relevant portion of the said judgment is reproduced hereinbelow:-

*“21. A Constitution Bench of this Court in Pranay Sethi 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, co-operation, 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 recognized 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 5. 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 (supra). 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."***

10. In the abovesaid judgment, a specific amount was awarded to the father and sister of the deceased and thus, the amount of consortium awarded was made dependent upon the number of claimants/legal representatives.

11. As far as the additional amount of ₹96,000/- claimed by the present appellants on account of consortium for the minor son and the old mother is concerned, there is no dispute before this Court that they are entitled to the same and the said amount has been rightly mentioned in the chart in view of the settled law. The only issue which requires adjudication is, as to what income of the deceased should be taken for the purpose of awarding compensation. Although, it was the case of the

appellants/claimants that the deceased was running a Milk Dairy and was also doing agriculture work and was earning ₹40,000/- per month, but the Tribunal had observed that there was no documentary proof regarding the same and the learned counsel for the appellants had also fairly submitted that there is no proof regarding the same. The Tribunal had taken the income as ₹8,000/- per month by observing that the deceased being an able bodied person, was expected to earn at least a sum of Rs.8,000/- by doing labour work. The said findings/observations in para 20 are not on the basis of any notification regarding minimum wages. It is not in dispute that no such notification has been produced on record.

12. The Hon'ble Supreme Court in ***Amarveer Kaur and others case (supra)*** had observed that with respect to the income of an unskilled labourer, the Hon'ble Supreme Court in the case of "***Ramachandrappa Vs. Royal Sundaram Alliance Insurance Co. Ltd., reported as (2011) 13 SCC 236*** had fixed the notional income of a coolie at ₹4,500/- in the year 2004 and had further observed that taking into consideration the Constitution Bench judgment in the case of ***Pranay Sethi (supra)***, there would be incremental enhancement even in the case of self-employed individuals in the unorganized sector and future prospects were also required to be taken into consideration for assessing total income. The Hon'ble Supreme Court had observed that by applying the said logic, it was of the opinion that even if the deceased was working in an unspecified job, then, taking into consideration the increase of cost of living and economic advancements over the years, it could safely be assumed that even such a person/coolie would be eligible for incremental enhancement of wages of at least ₹500/-

per month in every subsequent year. Accordingly, the Hon'ble Supreme Court, by taking the base income of ₹4,500/- for the year 2004 in an accident which took place in the year 2010, assessed that the said person/coolie would be earning ₹7,500/- per month in the year 2010. The benefit of future prospects was also given. The relevant portion of the said judgment is reproduced herein-below: -

*“8. As far as the income for an unskilled labourer is concerned, this Court in [Ramachandrappa v. Royal Sundaram Alliance Insurance Co. Ltd.](#) fixed the notional income of a coolie at ₹4,500/-per month in the year 2004. In [Pranay Sethi](#) the Constitution Bench recognized the principle that there would be incremental enhancement in the case of even self-employed individuals in the unorganized sector and also proposed an increase in the income of such persons, as future prospects. Applying the said logic, we are of the opinion that even if the deceased was working in an unspecified job like a coolie considering the increase of cost of living and economic advancements over the years, it can be safely assumed that even a coolie would be eligible for incremental enhancement of wages of least ₹500/- per month in every subsequent year. In the present case the accident occurred in the year 2010, 6 years from 2004 in which year this court had fixed ₹4,500/- as income per month for a coolie. Hence it can be safely presumed that a coolie in the year 2010 would have earned an income of ₹7,500/-.*

9. The deceased though was asserted to be 23 years of age in the claim petition, the postmortem report showed his age as 30 years and hence the multiplier taken at 17 is perfectly in order. The deduction for personal expenses should be 1/4 since, along with the deceased, the family comprised of six members. The loss of dependency hence comes to Rs.7,500

*x 12 x 17 x 140% x 3/4 = Rs.16,06,500/-.* **The self-employed person also must be deemed to have had the future prospects at the rate of 40%, as held in Pranay Sethi.**

10. As far as loss of consortium it has been held in New India Assurance Company v. Somwati apart from spousal consortium, filial and parental consortium loss also must be compensated, thus entitling children and parents of the deceased.”

In the above-said case, the High Court had computed the income of the deceased therein as ₹3,700/- per month, being the minimum wages fixed by the State of Punjab at the relevant time for unskilled workers. The Hon’ble Supreme Court enhanced the said amount to ₹7,500/- per month and had observed that there was no document or notification on the basis of which the said income was taken by the Tribunal.

13. The facts of the above-said case fully apply to the facts in the present case. In the present case, it is not in dispute that there is no notification produced before the Tribunal showing any minimum wages to be paid to a worker at the relevant time. The Tribunal had assessed the income of the deceased as ₹8,000/- per month on the basis of estimation. On the basis of the law laid down by the Hon’ble Supreme Court in the case of Amarveer Kaur and others (supra), the notional income, even if the deceased is presumed to be an unskilled worker or a person having an unspecified job, in the year 2004 is required to be taken as ₹4,500/- and the benefit of increment of ₹500/- per month, every year is also required to be given. Since in the present case, it is not in dispute that the accident took place in the year 2017, thus, the benefit of 13 years would be required to be given to the present appellants and to respondent No.4 on the said aspect

and an amount of ₹6,500/- is required to be added to the notional income of ₹4,500/-, thus, making the total income of the deceased to be ₹11,000/- per month, which has been rightly claimed by the appellants. Thus, the appellants/respondent No.4 are entitled to an additional amount of ₹5,99,940/-. On the aspect of interest, it would be relevant to mention that this Court has repeatedly been awarding interest @ 7.5% per annum and is of the opinion that even in the present case, the said rate of interest would be appropriate.

14. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and the award dated 20.09.2018 is modified and respondent No.3 is directed to deposit an additional amount of compensation to the tune of ₹5,99,940/- before the Executing Court along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of actual payment, within a period of six weeks from today. The said amount would be released by the Executing Court in favour of the claimants, in the same proportion as ordered by the Tribunal.

**August 25, 2025**

*naresh.k*

**(VIKAS BAHL)  
JUDGE**

Whether speaking/reasoned:-	Yes
Whether reportable:-	Yes