



203 (4 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4561-2007
Reserved on: 01.08.2025.
Date of Pronouncement: 04.09.2025

SHAKUNTALA AND OTHERS -APPELLANTS

V/S

STATE OF HARYANA AND OTHERS -RESPONDENTS

FAO-2592-2007

STATE OF HARYANA AND OTHERS -APPELLANTS

V/S

SHAKUNTALA AND OTHERS -RESPONDENTS

FAO-1183-2008

BIMLA DEVI AND OTHERS -APPELLANTS

V/S

STATE OF HARYANA AND OTHERS -RESPONDENTS

FAO-2593-2007

STATE OF HARYANA AND OTHERS -APPELLANTS

V/S

BIMLA DEVI AND OTHERS -RESPONDENTS



CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Jitender Dhanda, Advocate,
for the appellant(s) in FAO-4561-2007 and
for the respondent (s) in FAO-2592-2007

Mr. Rahul Dahiya, Advocate,
for the appellant(s) in FAO-1183-2008
for the respondent(s) in FAO-2593-2007

Mr. Pankaj Mulwani, DAG, Haryana
for the appellants in FAO-2592-2007 & FAO-2593-2007

Mr. R.C. Kapoor, Advocate,
for respondent no.4-Insurance Company.

KULDEEP TIWARI, J.

**FAO-4561-2007 and
FAO-1183-2008**

1. All these four appeals emanate from a common Award dated 17.04.2007 passed by the Motor Accident Claims Tribunal, Hisar, (hereinafter referred to as 'The Tribunal') wherethrough, the claim petitions bearing no.510 of 2004 and 31 of 2004 were decided, therefore, they are amenable to be decided through a common verdict.

2. Fetching grievance from grant of inadequate compensation through the impugned Award, FAO No.4561 of 2007 and FAO No.1183 of 2008, were preferred by the claimants for enhancement of the compensation amount, whereas, FAO-2592-2007 and FAO-2593-2007, were preferred by the State of Haryana, challenging the same award, and made a prayer for setting aside the same.



3. Through the instant appeals, the sole issue raised before this Court is with regard to the determination of quantum of compensation awarded by the learned Tribunal concerned.

4. Succinctly stated, the case set up by the claimants (appellants in FAO-4561-2007) in claim petition no.510, is that, on 06.03.2004, deceased-Surender Kumar started his journey from Hisar to Sirsa in a bus bearing registration no.HR-57-0923, which was being driven by him at a moderate speed on the extreme left side of the road. At about 5.15 a.m, when the bus reached near the Canal Temple in the area of village Dhanger on Hisar-Sirsa Road, another bus bearing registration no.HR-57-0904, which was being driven by Krishan Kumar at a very high speed, in a rash and negligent manner, came from the opposite direction, and collided with the bus driven by deceased-Surender Kumar. Due to the impact of the collision, Surender Kumar, received multiple injuries, and died at the spot.

5. In the claim petition bearing no.31 of 2004, the claimants (appellants in FAO-1183-2008) set up their claim, on the facts that on 06.03.2004, deceased-Ramphal Singh who was the conductor on the bus bearing registration no.HR-57-0923, started journey from Delhi and was going to Sirsa. He alleged that the offending bus bearing no. HR-57-0923, was being driven by its driver deceased-Surinder Kumar, rashly and negligently, and about 5.15 a.m, when it reached near Canal Bridge, a bus bearing registration no.HR-57-0904, which was being driven by one



Krishan Kumar came from the side of Sirsa, and hit the bus No. HR-57-0923, as a result thereof, the passengers travelling in both the buses received injuries. The drivers of both the buses as well as conductor Ramphal Singh, died in the said accident.

The above claim petitions were filed by the legal representatives/heirs of deceased-Surender Singh, and deceased-Ramphal.

6. Learned Tribunal concerned, after hearing the parties concerned, framed as many as four issues, and thereupon, finally examined the case and passed the impugned Award.

7. Learned Tribunal concerned, concluded that it is a case of contributory negligence, and the drivers of both the buses were held equally liable for the said accident. So far as the amount, which was awarded in claim petition no.510 of 2004 is concerned, it has been assessed by the Tribunal concerned according to the income of the deceased-Surender Kumar, as Rs.3,000/- per month, after deducting 1/3rd on account of his personal expenses, the dependency comes out to Rs.2,000/- and total annual income was assessed as Rs.24,000/-, and applied the factor of multiplier of 15, whereas, Rs.4,000/- on account of transportation, and last rite was also awarded. Therefore, the total dependency was, thus assessed to the tune of Rs.3,64,000/-. Since the accident in question had occurred on account of contributory negligence on the part of the drivers of both the offending buses, therefore, the



claimants were only entitled to recover half of the compensation award, i.e. 1,82,000/-. Moreover, since driver Surender Kumar was not having a valid licence at the time of the said accident, recovery right was given to the insurance company.

8. Similarly, while awarding compensation to the claimants of deceased-Ramphal, the total annual income for the purpose of dependency was assessed to the tune of Rs.56,000/-; the age of the deceased was assessed 40 years; and the factor of multiplier of 10 was applied; whereas, Rs.4,000/- on account of transportation, and last rites was also awarded. Therefore, the learned Tribunal awarded a total sum of Rs.5,64,000/- as compensation.

9. This Court has heard learned counsel for the parties concerned, and carefully perused the impugned Award.

10. Before this Court proceed to assess the adequacy or inadequacy of the awarded amount, it is imperative to have a glimpse upon some significant settled principles of law.

11. 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 extracted 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

2025 PHHC 122644



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.

* * * * *

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, M14 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.

12. 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.”

13. 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 the case of **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,

2025 PHHC 122644



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.

14. In view of the above referred judicial precedents, the compensation awarded by the learned Tribunal, to the LRs of the deceased driver Surinder Kumar, and deceased conductor Ramphal Singh, is liable to be assessed separately.

15. Let's first examine the compensation awarded to the claimants-Shakuntala and others in claim petition no.510 of 2004 (appellants in FAO-4561-2007), who are the legal representatives/ heirs of deceased driver Surender Kumar. In their case, no compensation on account of future prospects has been considered by the learned Tribunal; and even the factor of multiplier of 15, which has been applied, is on the lower side, whereas, it should have been 17; the enhancement in the awarded amount is also required to be made under the head of funeral expenses; moreover, no compensation on account of loss of estate, loss of consortium to wife, and to the minor children has been given while assessing the total compensation amount, therefore, the awarded amount in the case of Shakuntla and others is required to be modified/enhanced, which is as under:-



Sr. No.	Heads	Compensation Awarded (in Rs.)
1.	Income	3000 p.m
2.	Future Prospects	1200 (40% of 3000)
3.	Monthly Income After Future Prospect	4200 (3000+1200)
4.	Annual Income	4200 X 12 = 50,400
5.	Self Dependency/Deduction	1/3 of 50,400 = 16,800
6.	Net Income	50,400-16,800= 33,600
7.	Multiplier	33,600 X 17 = 5,71,200 Deceased being 30 years old
8.	Funeral Expenses	18,150
9.	Loss of Estate	18,150
10.	Loss of Consortium to Wife	48,400
11.	Loss of Consortium to 2 children	48,400 X 2 = 96,800
12.	Total	7,52,700
13.	Deduction of 50% on account of contributory negligence	7,52,700 X 50/100 = 3,76,350
14.	Amount of compensation awarded by the Tribunal	1,82,000
15	Total enhanced amount payable to the claimants.	3,76,350-1,82,000 = 1,94,350

16. Similarly, in the claim petition no.31 of 2004, the income of the deceased-Ramphal Singh, was wrongly assessed. The age assessed from the *post mortem* report has rightly been assessed as 40 years, whereas, the factor of multiplier, which has been applied is 10, instead of 15, as per hereinabove discussed law. The amount awarded on account of funeral expenses is also on the lower side, and nothing was awarded on account of future prospects, loss of estate, loss of consortium etc.



Therefore, the awarded amount in the case of Bimla and others (FAO-1183-2008), is also required to be modified/enhanced, as under:-

Sr. No.	Heads	Compensation Awarded (in Rs.)
1.	Income	5100 p.m
2.	Future Prospects	1530 (30% of 5100)
3.	Monthly Income After Future Prospect	6630 (5100+1530)
4.	Annual Income	6630 X 12 = 79,560
5.	Self Dependency/Deduction	1/4 of 79,560 = 19,890
6.	Net Income	79,560-19,890= 59,670
7.	Multiplier	59670 X 15 = 8,95,050 Deceased being 40 years old
8.	Funeral Expenses	18,150
9.	Loss of Estate	18,150
10.	Loss of Consortium to Wife	48,400
11.	Loss of Consortium to 4 children	48,400 X 4 = 1,93,600
12.	Total	11,73,350
13.	Amount of compensation awarded by the Tribunal	5,64,000
14.	Total Payable Enhanced compensation amount	11,73,350-5,64,000 = 6,09,350

17. Consequently, the appeals **FAO-4561-2007 and FAO-1183-2008**, as preferred by the appellants-claimants, are **hereby partially allowed**, with modification/enhancement of the awarded amount, as mentioned hereinabove.

18. 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 Nadu State**



Transport Corporation (2022) 5 SCC 107, the appellants-claimants are **granted interest @ 9% p.a.** on the enhanced amount of compensation from the date of filing of the claim petitions(s) till the date of its realisation.

**FAO-2592-2007 and
FAO-2593-2007**

19. This Court has also considered the submissions made by learned State counsel. The only argument raised by him is that the amount awarded to the claimants is on the higher side, however, this Court does not find any merits as already observed hereinabove. Rather, this Court is of the view that the amount which has been awarded is inadequate, and is liable to be enhanced.

20. Consequently, both the appeals are hereby **dismissed**.

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

September 04, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No