



FAO-495-2001 (O&M)

-1-

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

208

**FAO-495-2001 (O&M)
Date of Decision: 21.07.2025**

Neena Rani

.....Appellant

Vs.

Surjit Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Vinod K. Kataria, Advocate,
for the appellant.

Mr. R.C.Kapoor, Advocate,
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 31.03.2000 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') for enhancement of compensation, granted to the claimant/appellant to the tune of Rs.33,666/- along with interest at the rate of 12% per annum, on account of death of Ravinder Kumar in a Motor Vehicular Accident, occurred on 06.04.1994.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that on 06.04.1994, Ravinder Kumar was driving a Maruti Van bearing registration No.PIS-433, while Gopal Chand, Anil Kumar, Gopal Chand aka Happy son of Sohan Lal, Rajesh Kumar and Anil Kumar son of Bali Ram were the other occupiers of the said Van. At about 11:15 p.m.,when the Van was about to cross the



FAO-495-2001 (O&M)

-2-

Truck Union, Patran, a truck bearing registration No.PB-23-2812, came from Sangrur side at a very high speed. The said truck was being driven by respondent No.2-Jit Singh in a careless, negligent and rash manner. The said truck crossed over to the wrong side of the road i.e. towards the driver's side of the Van and collided with the Maruti Van. As a result thereof, all the occupants of the Van sustained injuries. Ravinder Kumar received multiple serious injuries and was taken to Rajindra Hospital, Patiala, where he succumbed to his injuries while Rajesh Kumar and Anil Kumar, who also received serious injuries, were shifted from Rajindra Hospital to Christian Medical College, Ludhiana, where Rajesh Kumar passed away on 08.04.1994. In this regard, FIR No.26 dated 07.09.1994 under Sections 279, 338, 304-A of the Indian Penal Code, 1860, was registered against respondent No.2.

3. Upon notice of the claim petition, respondents appeared and contested the claim petition by filing their separate written replies and denied the factum of the accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

“1. Whether Ravinder Kumar died in a motor vehicle accident on 06.04.1994 by driving a truck by respondent No.2, bearing No.PB-23/2812 rashly and negligently? OPA.

2. To what amount the claimant is entitled to recover the compensation and from whom? OPA.



FAO-495-2001 (O&M)

-3-

3. *Whether driver of the truck in question was not having a valid driving licence on the day of accident?*

OPR.

4. *Relief.”*

5. In support of their pleadings, both the parties led their respective evidence.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the appellant/claimant to the tune of Rs.33,666/- alongwith interest @ 12% per annum. Hence the appellant/claimant filed the present appeal for enhancement of compensation awarded by the learned Tribunal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

7. The learned counsel for the appellant/claimant contends that the compensation assessed by the learned Tribunal is on the lower side and deserves to be enhanced. He further contends that at the time of accident, deceased-Ravinder Kumar was 24 years old; was employed with M/s Shiv Trading Company, Budhlada and was getting a salary of Rs.4,000/- per month and besides this, he was having an income of Rs.2,000/- per month from the sale of milk. He further contends that the learned Tribunal has erred in applying the multiplier of '1' instead of '18'. He further contends that the learned Tribunal also erred in awarding meager amount towards funeral expenses. Moreover, no amount has been granted towards loss of consortium, loss of estate and future prospects. Therefore, he prays that the present appeal be allowed and compensation be enhanced, as per latest law.



FAO-495-2001 (O&M)

-4-

8. *Per contra*, learned counsel for respondent No.3–Insurance Company raises a preliminary objection to maintainability of appeal. He contends that FAO No. 2565 of 2000 titled as '**Bimla Devi and another Vs. Surjit Singh and others**', preferred by the parents of the deceased, was settled before the Lok Adalat of this Court on 06.04.2004, whereby the Insurance Company agreed to pay Rs.60,000/- over and above the award amount granted by the learned Tribunal. The present appellant was arrayed as a proforma respondent therein but chose not to appear. He further submits that the settlement binds all parties concerned, and having accepted that position, the appellant is precluded from pursuing the present appeal. Therefore, he prays for dismissal of the appeal.

9. I have heard learned counsel for the parties and perused the whole record of this case.

Genesis of the Case and Course of Proceedings before learned Tribunal

10. The accident giving rise to the claim petitions occurred on 06.04.1994. Two separate petitions were filed before the learned Tribunal are as under:-

(i) MACT No. 9-T/99/6 by the appellant–widow, and

(ii) MACT No. 11-T/99 by the parents of the deceased.

11. By award dated 31.03.2000, the learned Tribunal allowed both petitions but, without consolidating them, awarded Rs.33,666/- to the widow and Rs.49,654/- each to the parents of the deceased.



FAO-495-2001 (O&M)

-5-

12. Aggrieved by the quantum, the widow filed the present FAO No. 495 of 2001, whereas, the parents of the deceased filed FAO No.2565 of 2000 titled as '**Bimla Devi and another Vs. Surjit Singh and others**'.

Proceedings before learned Lok Adalat of this Court

13. On 30.01.2004, in FAO No. 495 of 2001, learned Lok Adalat recorded that a connected matter was pending and adjourned the present appeal to 17.03.2004. The appearance of Mrs. Veena A. Talwar, Advocate, learned counsel for the Insurance Company, was marked in the order.

14. On 06.04.2004, FAO No. 2565 of 2000 titled as '**Bimla Devi and another Vs. Surjit Singh and others**' (appeal filed by the parents of the deceased) came before the Lok Adalat of this Court. The Insurance Company agreed to pay Rs.60,000/- over and above the award amount granted by the learned Tribunal to the appellants therein, to be shared equally between them. The appeal was disposed of accordingly. The same counsel i.e. Mrs. Veena A. Talwar, Advocate, represented the Insurance Company in both matters.

Points for Determination

15. The issues arising for consideration are:-

- (i) Whether the settlement in FAO No. 2565 of 2000 titled as '**Bimla Devi and another Vs. Surjit Singh and others**' (appeal filed by the parents of the deceased) before the Lok Adalat of this Court bars the present appeal?
- (ii) Whether the award suffers from errors in computation warranting enhancement?

**Findings qua the Preliminary Objection**

16. The preliminary objection raised by the learned counsel for respondent No.3-Insurance Company is devoid of merit. The appellant herein was only a proforma respondent in FAO No. 2565 of 2000 titled as **‘Bimla Devi and another Vs. Surjit Singh and others’** (appeal filed by the parents of the deceased) and neither assented to nor derived any benefit from the compromise recorded therein. Moreover, the present appellant was not a fence-sitter; she was fully conscious of her legal entitlements and had, in fact, specifically preferred the instant appeal seeking enhancement of compensation well before the Lok Adalat settlement in the appeal filed by the parents. It is trite law that a compromise binds the parties who enter into it; it does not extinguish the independent statutory right of another claimant prosecuting a separate appeal arising from the same accident, particularly under a beneficial legislation that mandates award of “just compensation”.

17. It is beyond dispute that both appeals emanated from the same cause of action and involved overlapping questions of quantum. There is, in addition, a serious fairness deficit in the stance of respondent-Insurance Company. The record (order dated 30.01.2004 in FAO No. 495 of 2001) shows the respondent-Insurance Company represented by the same counsel in both connected appeals, was aware that the appeal filed by the appellant herein seeking enhancement was pending. Notwithstanding this knowledge, the respondent-Insurance Company elected to pursue a piecemeal settlement in the appeal filed by the parents of the deceased without disclosure of the



connected proceedings. A litigant cannot be permitted to take advantage of its own omission (*nullus commodum capere potest de injuria sua propria*).

18. Such conduct amounts to a breach of the duty of the respondent-Insurance Company of candour before a court of law. Having deliberately adopted a fragmented approach to settlement, the respondent-Insurance Company cannot now be permitted to take shelter under its own omission to defeat the legitimate claim of the appellant. Entertaining such an objection would legitimise piecemeal settlements designed to foreclose pending connected claims, a course that would be nothing short of a travesty of justice in proceedings under a beneficial legislation like the Motor Vehicles Act.

19. The appropriate course is not to non-suit the widow but to safeguard against duplication by directing set-off/adjustment of amounts already paid to the parents under the Lok Adalat award while determining the total just compensation and its apportionment.

20. The preliminary objection is, accordingly, overruled. The appeal on merits is maintainable. Any amount of compensation disbursed to the parents of the deceased, pursuant to the Lok Adalat order dated 06.04.2004 passed in FAO-2565-2000 titled as '**Bimla Devi and another Vs. Surjit Singh and others**' (appeal filed by the parents of the deceased), shall be duly adjusted against the total compensation now computed, to preclude double recovery and ensure equitable apportionment.

**Findings on quantum of compensation**

21. A perusal of the award shows that deceased-Ravinder Kumar was 24 years old; was employed with M/s Shiv Trading Company, Budhlada and was getting a salary of Rs.4,000/- per month, which is evident from record (Ex.A18) proved by AW4-Nem Kumar, Proprietor of M/s Shiv Trading Company, at the time of accident, therefore, the learned Tribunal has rightly assessed monthly income of the deceased as Rs.4,000/-. A perusal of the award further shows that the learned Tribunal has erred in applying the multiplier of '1' instead of '18'. Moreover, learned Tribunal has awarded meager amount towards funeral expenses and no amount has been granted towards loss of consortium, loss of estate and future prospects. Therefore, the impugned award requires indulgence of this Court.

SETTLED LAW ON COMPENSATION

22. 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 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, 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.

23. 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 Rajesh². 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.”

24. Hon’ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

“21. A Constitution Bench of this Court in Pranay Sethi² dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a



compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

*21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

*21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.

24. The amount of compensation to be awarded as consortium will be governed by the principles of



FAO-495-2001 (O&M)

-13-

awarding compensation under "loss of consortium" as laid down in Pranay Sethi. 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.

RELIEF

25. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is allowed and the award dated 31.03.2000 is modified accordingly. The appellant/claimant is entitled to the enhanced amount of compensation as per the calculations made hereunder:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.4,000/-
2	Future prospects @ 40%	Rs.1,600/- (40% of 4,000)
3	Deduction towards personal expenditure 1/3	Rs.1,866.66/- {(4,000 + 1,600) X 1/3}
4	Total Income	Rs.3,733.34/- (5,600 – 1,866.66) (Rounded to Rs.3,733/-)
5	Multiplier	18
6	Annual Dependency	Rs.8,06,328/- (3,733 X 12 X 18)
7	Loss of Estate	Rs.18,000/-
8	Funeral Expenses	Rs.18,000/-
9	Loss of Consortium Spousal : Rs. 48,000 x 1	Rs.48,000/-
	Total Compensation	Rs.8,90,328/-
	Amount Awarded by the Tribunal	Rs.33,666/-
	Amount awarded by the learned Lok Adalat in FAO-2565-2000	Rs.60,000/-
	Enhanced amount	Rs.7,96,662/- {Rs.8,90,328 – (33,666 + 60,000)}



FAO-495-2001 (O&M)

-14-

26. 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 Supreme Court Cases 107, the appellant/claimant is granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

27. Respondent No.3-Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the account of the appellant/claimant. The appellant/claimant is directed to furnish her bank account details to the Tribunal.

28. Respondent No.3-Insurance Company is hereby directed to disburse the current scheduled fee to Mr. R.C.Kapoor, Advocate, pursuant to the order dated 18.07.2024 passed by this Court in FAO-1682-2007 within a period of 20 days from the date of receipt of the copy of this judgment.

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

(SUDEEPTI SHARMA)
JUDGE

21.07.2025

Virender

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes/No