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

FAO-1107-2010 (O&M)  
Date of decision: 13.08.2025

Bimla Devi and others

...Appellants

Versus

Pawan Kumar and others

...Respondents

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

Present: Mr. Ashit Malik, Advocate and  
Mr. Maneet Kaushik, Advocate for the appellants.

Mr. Aseem Aggarwal, Advocate for respondent No.3.

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

1. Widow, son and minor daughters of the deceased Sher Singh have filed the present appeal for modification of the award dated 20.08.2009 and for enhancement of the amount of compensation awarded. Amount of compensation awarded by the Motor Accident Claims Tribunal, Karnal (hereinafter to be referred as "the Tribunal") was Rs.5,46,500/- along with interest at the rate of 9% per annum.

2. The fact that Sher Singh had died in a motor vehicular accident on 25.07.2006 and that respondent No.1 was driver and respondent No.2 was owner of the offending vehicle and respondent No.3-Insurance Company was insurer of the said offending vehicle is not disputed before this Court. The only question which arises for consideration in the present appeal is the



amount of compensation to which the present appellants/claimants are entitled to.

3. Learned counsel for the appellants has submitted that in the present case, the appellants have been granted only Rs.10,000/- on account of loss of consortium whereas appellants/claimants would be entitled to Rs.48,000/- as per settled law. It is further submitted that no amount on account of loss of filial and parental consortium had been given and even on the said account, an amount of Rs.1,44,000/- is required to be paid to the claimants/present appellants. It is submitted that on account of last rites and loss of estate, only an amount of Rs.5000/- each had been paid whereas amount on the said aspect to which the claimants are entitled to, as per the settled law would be Rs.18,000/- each.

4. Learned counsel for the appellants has further submitted that in the present case, the Tribunal has taken yearly income of the deceased as Rs.46,800/- whereas it is proved beyond doubt that the deceased was earning at least Rs.95,000/- per annum. In support of his arguments, learned counsel for the appellants has referred to the Income Tax Returns for the Assessment Year 2006-07 which had been duly exhibited as Ex.P6, as per which the income of the deceased had been shown to be Rs.95,000/- per year. It is further submitted that the said Income Tax Returns had been duly filed with the authorities on 31.05.2006 i.e., prior to the date of accident which took place on 25.07.2006. It is argued that at least, the said amount should be taken into consideration for the purpose of assessing the yearly income of the deceased. It is further argued that the Tribunal has not even granted the benefit of future prospects to which claimants are entitled to the extent of



40% of the annual income of the deceased. It is submitted that a perusal of the postmortem report Ex.P2 would show that the age of the deceased had been mentioned as 35/40 years and age of the deceased was less than 40 years on the date of the accident and thus, the benefit of future prospects at the rate of 40% should also be given to the present appellants/claimants. In support of his arguments, learned counsel for the appellants has relied upon the judgment of the Hon'ble Supreme Court in the case of **Smt. Anjali & Ors. Vs. Lokendra Rathod & Ors., decided on 06.12.2022 in Civil Appeal No.9014 of 2022 (Arising out of Special Leave Petition (Civil) No.18808 of 2019)** and also the law laid down by the Hon'ble Supreme Court in case 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**.

5. Learned counsel for the appellants has stated that in view of the same, additional amount of compensation of Rs.11,77,750/- along with interest at the rate of 9% per annum be paid to the present appellants.

6. Chart submitted by learned counsel for the appellants is reproduced hereinbelow:-

“FAO-1107-2010

**BIMLA DEVI VS. PAWAN KUMAR & ORS.**

**DEATH CASE**

|                         |            |
|-------------------------|------------|
| <i>Date of accident</i> | 25.7.06    |
| <i>Name of deceased</i> | Sher Singh |



|                       |             |   |
|-----------------------|-------------|---|
| <i>Age</i>            |             | <i>35 years</i>   |
| <i>Vocation</i>       |             | <i>Agriculturist, Milk dairy, bee-keeping &amp; poultry farming</i> |
| <i>Income claimed</i> |             | <i>15,000/- pm</i>  |
| <i>Claimants</i>      | <i>No.4</i> | <i>Widow &amp; 3 children</i>                                       |

*Liability:-*

*Quantum:-*

| <i>Heads</i>                                  | <i>Awarded</i>     | <i>Claimed<br/>As per ITR (Ex.P6)</i> |
|---|--------------------|---------------------------------------|
| <i>Income - Tax</i>                           | <i>46,800/- PA</i> | <i>95,000/- PA</i>                    |
| <i>Future prospects</i>                       | <i>--</i>          | <i>40%</i>                            |
| <i>Dependency</i>                             | <i>1/4</i>         | <i>1/4</i>                            |
| <i>Multiplier</i>                             | <i>15</i>          | <i>15</i>                             |
| <i>Compensation</i>                           | <i>5,26,500/-</i>  | <i>14,96,250/-</i>                    |
| <i>Loss of Consortium</i>                     | <i>10,000/-</i>    | <i>48,000/-</i>                       |
| <i>Loss of filial and parental consortium</i> | <i>--</i>          | <i>1,44,000/-</i>                     |
| <i>Last rites</i>                             | <i>5,000/-</i>     | <i>18,000/</i>                        |
| <i>Loss of estate</i>                         | <i>5,000/-</i>     | <i>18,000/-</i>                       |
| <i>Interest</i>                               | <i>9%</i>          | <i>9%</i>                             |
| <i>Grand Total</i>                            | <i>5,46,500/-</i>  | <i>17,24,250/-</i>                    |

7. On the other hand, learned counsel for respondent No.3- Insurance Company has submitted that the age in the post mortem report had been mentioned as 35/40 years. It is further submitted that Dharambir, son of Sher Singh, in his examination-in-chief, had also stated that Sher Singh was “about 40 years” and in the said circumstances, the age of the deceased should be taken to be 40 years and thus, the benefit of future prospects can at maximum be to the extent of 25%. It is further submitted that Income Tax Returns Ex.P6 relied upon by the appellants/claimants has been filed two months prior to the death and thus, the said ITR should be seen with



suspicion and said ITR should not be solely relied upon to assess the income of the deceased. Other aspects have however not been disputed. It is further submitted that the interest which has been claimed by the present appellants on the additional amount of compensation, i.e., 9% per annum is also not in accordance with the settled law and interest @ 6% per annum could be granted to the present appellants on the additional amount of compensation.

8. This Court has heard learned counsel for the parties and has perused the paper book and finds that the appeal filed by the present appellants is meritorious.

9. Hon'ble the Supreme Court in para 42 of *Sarla Verma's case* (Supra) had observed as under:-

*“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, 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.”*

10. A perusal of the above would show that for the age of 36 to 40 years, multiplier of 15 is to be applied.

11. 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.”*

12. 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.

13. 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, 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."*

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

15. In the present case, the fact that the appellants are entitled to enhanced amount of compensation with respect to last rites, loss of estate, loss of consortium (4 dependents/claimants) has not been disputed and amounts mentioned in the chart are in accordance with the settled law. The primary issue in the present appeal is with respect to the aspect of annual income of the deceased and the benefit of future prospects. With respect to the annual income, it is not in dispute that the accident and the death took place on 25.07.2006. Ex.P6 is the Income Tax Return of the deceased for the Assessment Year 2006-07 which shows that the annual income of the deceased was Rs.95,000/-. It is not in dispute that the said Income Tax Return had been filed prior to the date of the accident and the date of the death, inasmuch as, a perusal of Ex.P6 would show that the stamp showing the date of filing of the said returns is 31.05.2006. It could not be said that the



deceased had foreseen his death which had subsequently taken place in an accident. Thus, the fact that return was filed prior to the date of death clearly shows that the deceased was earning Rs.95,000/- per year.

16. The Hon'ble Supreme Court in the case of *Smt. Anjali and others* (Supra), had observed that Income Tax Return is a statutory document on which reliance is required to be placed for computation of annual income. In the said case, the date of the accident was 15.08.2010 and the Hon'ble Supreme Court had relied upon the Income Tax Returns for the year 2009-10. Para 9 of the said judgment of the Hon'ble Supreme Court in the said case is reproduced hereinbelow:-

***“9. The Tribunal and the High Court both committed grave error while estimating the deceased’s income by disregarding the Income Tax Return of the Deceased. The appellants had filed the Income Tax Return (2009- 2010) of the deceased, which reflects the deceased’s annual income to be Rs.1,18,261/-, approx. Rs.9,855/- per month. This Court in Malarvizhi & Ors. (Supra) has reaffirmed that the Income Tax Return is a statutory document on which reliance be placed, where available, for computation of annual income. In Malarvizhi (Supra), this Court has laid as under:***

***“10. ...We are in agreement with the High Court that the determination must proceed on the basis of the income tax return, where available. The income tax return is a statutory document on which reliance may be placed to determine the annual income of the deceased.”***

***Hence, this Court is of the opinion that the deceased’s annual income be fixed at Rs.1,18,261/-, approx. Rs.9,855/- per month keeping in mind the deceased’s Income Tax Return for the year 2009-2010.”***

17. In the present case, as has been stated hereinabove, it has been



proved by the claimants/appellants that the said Income Tax Returns was filed prior to the death of the deceased. Thus, the claim made by the claimants of Rs.95,000/- being yearly income of the deceased is fully justified and is accepted.

18. With respect to future prospects, it has not been disputed that as per settled law, the said benefit has to be given to the claimants. The sole question that arises before this Court is as to whether 40% of the annual income, as claimed by the appellants, is required to be taken into consideration or 25% of the annual income, as stated by respondent No.3- Insurance Company, is required to be taken into consideration, on the said aspect. It is not in dispute that postmortem report shows the age of the deceased as 35/40 years. The date of birth certificate is not on record. The best statement relied upon on behalf of the Insurance Company to argue that the age of the deceased is 40 years or more is statement of Dharambir, son of Sher Singh, where he had stated that Sher Singh was “about 40 years” of age. In case the said Sher Singh was 40 years or more, then, the statement of the said witness would have been that Sher Singh was 40 years or was more than 40 years. The use of the word “about” would, in the facts and circumstances of the present case, tilt more in favour of the said Sher Singh being less than 40 years. At any rate, the Motor Vehicles Act is a beneficial legislation made for providing relief to the victims or their families in genuine cases, as is the present case. Even if two contrary views are probable, this Court would lean in favour of taking a view which would further the objects of the legislation. In the facts and circumstances of the present case, this Court is of the opinion that the age of the deceased, as argued on behalf of the appellants was less



than 40 years and thus, the benefit of future prospects should be granted to the appellants while taking into consideration 40% of the annual income of the deceased. Thus, chart submitted on behalf of learned counsel for the appellants correctly reflects the amount to which the appellants are entitled to. With respect to the rate of interest, this Court is consistently awarding rate of interest at the rate of 7.5% per annum on the enhanced amount of compensation, which rate of interest is also reasonable in the present case.

19. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and the award dated 20.08.2009 is modified and respondent No.3-Insurance Company is directed to pay the additional amount of compensation to the tune of Rs.11,77,750/- to the appellants along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation within a period of two months from today, in the same proportion as had been ordered by the Tribunal in the award.

20. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**13.08.2025**

*Pawan*

**(VIKAS BAHL)  
JUDGE**

**Whether speaking/reasoned:- Yes/No**

**Whether reportable:- Yes/No**