



207

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

FAO-3003-2001

Date of decision: 04.04.2025

Santosh Rani and others

...Appellants

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Prateek Mahajan, Advocate and
Mr. Mayank Vashishth, Advocate for the appellants.

Mr. Surya Kumar, AAG, Punjab,
for respondent No.1.

Mr. Anupam Singla, Advocate and
Mr. Karan Singla, Advocate for respondent Nos.2 and 3.

VIKAS BAHL, J. (ORAL)

1. Widow, two minor sons and parents of the deceased-Uma Kant, who had died in a road accident that took place on 28.02.1998, have filed the present appeal for enhancement of the amount of compensation awarded by the Motor Accident Claims Tribunal, Amritsar (hereinafter to be referred as “the Tribunal”). The Tribunal, vide award dated 14.10.2000, had granted the amount of compensation to the tune of Rs.2,30,400/-. In the present case, the only issue which arises for consideration is with respect to the total amount of compensation which is payable to the appellants-claimants, as the other issues have not been disputed before this Court.

2. Learned counsel for the appellants has submitted that in the present case, the Tribunal had taken the monthly income of the deceased to be Rs.1800/- per month which is highly inadequate. It is submitted that in the claim petition, it was specifically stated that the deceased was earning Rs.20,000/- per month and in support of the said plea, the appellants had examined the employer-Gurnek



Singh as AW2, Navin Chand as AW3, Krishana Rani as AW4 and Anil Kumar as AW1, who all had jointly proved that the deceased, apart from getting salary of Rs.2800/- per month from Gurnek Singh being his driver, was also getting 40 kg of wheat grain per month on account of taking care of the land of said Gurnek Singh. It is submitted that there was also specific evidence with respect to the deceased earning about Rs.5000/- per month on account of dealing in brokerage of cars as he was dealing with old cars. It is submitted that the Tribunal had come to the conclusion that the deceased was a driver, yet without any justifiable reason, the Tribunal had not assessed the income to be Rs.2800/- per month which he was earning as salary being a driver and had only assessed it as Rs.1800/- per month. It is submitted that even the certificate produced by the employer had been duly proved and exhibited as Ex.A3.

3. It is further submitted that no benefit of future prospects had been awarded by the Tribunal and even the multiplier which had been applied by the Tribunal was 16 whereas since the age of the deceased at the time of the accident was 28 years, thus, the multiplier which was to be applied by the Tribunal is 17. It is submitted that no amounts on accounts of loss of estate, funeral expenses and loss of consortium have been awarded to the claimants and on the said accounts, an amount of Rs.18,150/-, Rs.18,150/- and Rs.2,42,000/- respectively is also payable to the claimants-appellants. It is submitted that the appellants are entitled to substantial increase in the amount of compensation and it has further been prayed that interest at the rate of 9% per annum on the additional amount of compensation be paid to the appellants from the date of filing of the claim petition till its realisation. In support of his arguments, learned counsel for the appellants has relied upon 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**.

4. Learned State Counsel as well as learned counsel for the respondent Nos.2 and 3, on the other hand, have opposed the present appeal only on the issues of income and interest which have been claimed by the appellants. It is submitted that the income assessed by the Tribunal to the extent of Rs.1800/- per month was adequate, inasmuch as, other than the salary certificate, there is no other authentic document on record to prove that the deceased was earning any amount on accounts of taking care of the land and on account of brokerage. It is submitted that the cross-examination of AW2-Gurnek Singh would show that the said AW2 had not even brought any record of title of the land which allegedly belonged to him and thus, the question of deceased taking care of the agricultural land of the said Gurnek Singh cannot even remotely be taken into consideration and no amount on the said account can be claimed by the appellants. It is further submitted that there is nothing on record to show that the deceased was earning any brokerage and no details of the cars sold had even been given by the present appellants. It is submitted that drivers, at the relevant time, were earning an amount of Rs.1800/- per month approximately and thus, the said amount had been rightly assessed and no further amount on the said aspect is required to be paid to the appellants. It is submitted that even the interest at the rate of 9% per annum as claimed by the appellants is highly excessive and since the present appellants have already claimed increase under the head of consortium on account of lapse of time, thus, the highest rate of interest that could be awarded on the additional amount of compensation would be 6% per annum.



5. Learned counsel for the appellants, in rebuttal, after taking into consideration the objections raised by learned counsel for the respondents, has submitted a revised chart which is reproduced hereinbelow:-

“Santosh Rani & Ors. v. State of Punjab & Ors.

Appellants/ Claimant: Santosh Rani and Ors.

Deceased: Mr. Uma Kant

Date of Accident:- 28.02.1998

Date of Decision: 14.10.2000

Age of the Deceased: 28 years

Dependents: Widow (Smt. Santosh Rani, 2 Minor Children (Divesh, Dinesh), Naveen Kalia (Father of Deceased), Krishna Devi (Mother of the deceased).

DETAILS OF RELIEF GRANTED/CLAIMED:

<i>DETAILS</i>	<i>AWARDED BY THE TRIBUNAL</i>	<i>CLAIMED IN THE FIRST APPEAL FROM ORDER</i>
<i>Income</i>	<i>Monthly: Rs. 1800</i>	<i>Monthly: Rs.2800</i>
<i>Deduction</i>	<i>1/3 (Rs.600)</i>	<i>¼ (Rs.700)</i>
<i>Amount after Deduction</i>	<i>Rs.1200</i>	<i>Rs.2100</i>
<i>Future Prospects</i>	<i>Nil</i>	<i>40% (Rs.840)</i>
<i>Multiplier</i>	<i>16</i>	<i>17</i>
<i>Loss of Estate</i>	<i>Nil</i>	<i>Rs.18,150</i>
<i>Funeral Expenses</i>	<i>Nil</i>	<i>Rs.18,150</i>
<i>Loss of Consortium</i>	<i>Nil</i>	<i>Rs.2,42,000 (48,400x5)</i>
<i>Litigation Expenses</i>	<i>Nil</i>	<i>Rs.10,000</i>
<i>Total Compensation</i>	<i>Rs.2,30,400/-</i>	<i>Rs.08,88,060/- [Rs.05,99,760 (2940x12x17)+ Rs.18,150+Rs.18,150+Rs.2,42,000 +Rs.10,000]</i>
<i>Difference</i>		<i>Rs.06,57,660/-</i>



<i>Interest</i>	<i>9% (From the date of filing of claim petition till payment and 12% if not paid within 3 months of the passing of award)</i>	<i>18% (From the date of filing of Claim Petition to the date of payment)</i>
-----------------	--	---

Dated: 04.04.2025

Submitted By:

*Sd/- (Prateek Mahajan)
Counsel for Appellants”*

6. This Court has heard learned counsel for the parties and has perused the paper book.

7. 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.”*

8. A perusal of the above would show that for the age of 28 years, multiplier of 17 is to be applied.

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, 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, an amount of Rs.40,000/- each 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. In the present case, there is a dispute only with respect to two entries in the revised chart, first being with respect to the monthly income and the second being the rate of interest at which the additional amount of compensation is required to be paid. Other aspects including the amounts of loss of estate, funeral expenses and loss of consortium have been rightly mentioned in the abovesaid chart and the same are in accordance with law.

12. With respect to the income, it would be relevant to note that in para 22 of the claim petition, it had been specifically pleaded by the claimants that the deceased was able bodied and was a hard working person and the entire family was dependent upon him and that he was working as a driver and also used to purchase second hand/old cars and after getting them repaired/renovated, used to



sell the same on profit and normally used to sell 2 or 3 cars in a month and used to earn Rs.20,000/- per month; besides that he was also drawing a salary with medical benefits and other service benefits. It was further stated that the mother and father of the deceased were alive and the grandfather of the deceased had died at the age of 90 years, whereas the grandmother of the deceased had died at the age of 88 years and the average age of forefathers of the deceased's family was between 90 to 100 years. The appellants-claimants had examined several witnesses in support of their claim.

13. AW2-Gurnek Singh was the employer of the deceased, who had stated in his evidence that the deceased was working as a driver of car and tractor and was also an attorney with respect to his agricultural land and that he used to manage his land. It was stated that he used to pay Rs.2800/- per month as salary and used to give 40 kg of wheat grain per month to the deceased and that the deceased was the sole bread winner of the family and the family was dependent upon the deceased and that he was the only son of his parents, who were quite old and his sisters were yet to be married. Certificate Ex.A3 with respect to the pay of the deceased was also produced and proved by the said witness. A perusal of the said certificate would show that the total salary of Rs.2800/- per month was being paid to the deceased by the said witness. In the cross-examination, the said witness had stated that he had not brought any record of title of land with him but would produce the same in case it was summoned, however, no document with respect to the said land was produced.

14. AW3-Navin Chand, who was the father of the deceased, had further reiterated the fact that the deceased was the only earning member in the family and the entire family was dependent upon him and he had to marry his sisters also. He had further stated that the deceased was working as a driver with



Gurnek Singh and was also managing his land and that he used to earn Rs.2800/- per month as salary in addition to 40 kg of wheat grain per month and that he was also dealing in brokerage of old cars and used to earn Rs.5000/- per month from the said business. In the cross-examination, the said witness had stated that he could not tell the numbers of the cars which were sold by the deceased through brokerage but there was a car bazaar on every Sunday at Abohar. Similarly, AW4-Krishana Rani, who was mother of the deceased, had reiterated about the earning of the deceased and had further stated that the deceased used to give her Rs.10,000/- and sometimes even Rs.12,000/- for household and that she used to maintain the family with the money earned by him.

15. The Tribunal, in para 12 of its award, had observed that from the evidence on record, it was found that the deceased was driver of the car of respondent No.2 and thus, awarded income of Rs.1800/- per month on account of the same. It is however unknown as to on what basis the said amount of Rs.1800/- per month was awarded when there was ample evidence to show that the salary of the deceased was Rs.2800/- per month. Even in case the oral evidence with respect to the deceased managing the land of Gurnek Singh-AW2 as well as having a business of old cars is excluded, then also, there was enough evidence to show that he was earning Rs.2800/- per month as salary on account of being driver. The finding that he was working as a driver had been given by the Tribunal and there is no cross-appeal on behalf of the respondents challenging the said finding. There is nothing on record to show that the salary of the drivers at that time was less than Rs.2800/- per month, regarding which positive evidence had been led by the appellants. It has also come on record that the deceased was the sole bread winner of the family which consisted of total 10 persons which included his widow, minor children, old parents and five



unmarried sisters. In the said circumstances, this Court is of the opinion that the salary of the deceased should have been taken to be Rs.2800/- per month and thus, the said amount as mentioned in the revised chart is reasonable considering the facts and circumstances of the present case. By taking the salary to be Rs.2800/- per month, additional amount of compensation that is payable to the claimants is Rs.6,57,660/-. With respect to rate of interest, it would be relevant to mention that this Court has been consistently awarding interest at the rate of 7.5% per annum on the additional amount of compensation but keeping in view the objections raised on behalf of the respondents to the effect that the benefit of increase in consortium has already been taken by learned counsel for the appellants in the revised chart, thus, this Court finds that the interest at the rate of 7% per annum would be adequate in the present case.

16. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and award dated 14.10.2000 is modified and respondent Nos.1 to 4 who have been held liable by the Tribunal, are directed to pay the additional amount of compensation jointly and severally to the tune of Rs.6,57,660/- to the appellants along with interest at the rate of 7% per annum from the date of filing of the claim petition till its realisation within a period of six weeks from today.

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

04.04.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No