2025:PHHC:131576

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

**FAO-2156-2009**
Date of decision : 22.09.2025

Jatinder Gulleria and others

... Appellants

Versus

Kulwinder Singh and others

... Respondents

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

Present: Mr.Sandeep Bansal, Advocate
for the appellants.

Mr.Rajneesh Malhora, Advocate
for respondent no.3.

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

1. The husband, minor daughter and minor son of the deceased Surinder Kumari who died in a motor vehicular accident which took place on 27.03.2007, have filed the present appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, which was Rs.3,30,000/- along with interest. The only question which arises for consideration in the present appeal is as to whether the present appellants are entitled to any additional compensation or not as the other aspects have not been challenged before this Court.

2. The present case is a partly burnt case and thus, the counsel for the parties have jointly supplied a photocopy of memo of parties and award

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

2025:PHHC:131576

which are taken on record as Mark A.

**ARGUMENTS ON BEHALF OF THE APPELLANTS**

3. Learned counsel for the appellants has submitted that in the present case, the multiplier of 13 had been wrongly applied by the Tribunal whereas multiplier of 14 should have been applied as the deceased was 41 years of age at the time of her death. It is submitted that on account of loss of estate and funeral expenses, only amount of Rs.15000/- and Rs.3000/- had been awarded, whereas the amount payable on the said two aspects is Rs.18,000/- each. It is submitted that no amount on account of loss of consortium had been given, whereas in the present case, there are three claimants and the total loss of consortium, which should have been awarded is Rs.1,44,000/- (Rs.48,000/- x 3). It is argued that no benefit of future prospects had been given and thus, on the said aspect, additional 25% of the income of the deceased should have been taken into consideration for assessing the total amount of compensation payable to the appellants.

4. It is further submitted that the income of the deceased had been taken to be Rs.3000/- per month which is highly inadequate. It is argued that the appellants have claimed the income to be an amount of Rs.8000/- per month as the deceased was doing the work of Commission Agent of various agencies and in support of the said plea, the claimants had produced three witnesses i.e., AW-1, AW-2 and AW-4. It is submitted that AW-1 Roshan Lal Kataria, who was the Public Relation Officer, Head Post Office, Hoshiarpur had specifically stated in his evidence that the deceased was

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

working as Commission Agent in Small Scale Scheme being run by the Post Office and had produced on record the attested copies of form 16-A as Ex.A1 and A2 showing the payment of commission of Rs.10,732/- for the year 2005-06 and Rs.10,988/- for the year 2006-07. It is further submitted that AW-2 Paramjit Singh, Executive PACL India Limited, Hoshiarpur, had also been examined, who had also proved on record the statement of account Ex.A3 showing the payment of commission to the extent of Rs.6072/- for the year 2006-07. It is argued that even AW-4 Munish Makhija, Assistant Branch Manager, LIC Hoshiarpur had also been examined in the present case, who had further proved the attested copy of the Form Ex.A6 and A7 showing the deduction of tax of Rs.5,643/- was made on the commission of Rs.55,317.33 paise which was paid to the deceased for the year 2006-07.

5. It is submitted that from the said evidence it has been proved that for the year 2006-07 the total yearly income of the deceased from Commission Agency was Rs.67,000/- approximately and thus, the deceased even as per the said evidence was earning more than Rs.5500/- per month. It is submitted that other certain payments made to the deceased could not be proved by the appellants, but keeping in view the abovesaid evidence, it is apparent that the claim of the appellants claiming an amount of Rs.8000/- as monthly income is very reasonable. It is submitted that the enhanced amount should be paid to the appellants along with interest at the rate of 9%. In support of his arguments, learned counsel for the appellants has

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

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***.

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

6. Learned counsel for the respondent no.3-insurance company, on the other hand, has submitted that even if the evidence of the appellants is taken on its face value, then also, the monthly income of the deceased i.e., Rs.8000/- as claimed by the appellants, is highly excessive. It is submitted that the appellants have only highlighted two years i.e., 2006-07 and 2005-06 and have not shown any earning with respect to other years. It is further submitted that no income tax return has been produced on record to even remotely show that the income of the deceased was Rs.8000/- per month and that even with respect to the year 2005-06 the best evidence in favour of the appellants shows that the total income of the deceased for the said year was about Rs.12,000/- (Rs.10,732/- + Rs. 1375/-) as mentioned in paragraph 16 of the award. It is submitted that even after taking the said evidence with respect to the year 2005-06 on its face value, the monthly income of the deceased would come to Rs.1000/- per month. It is further submitted that in the said circumstances, the claim now raised before the Court is highly excessive and deserves to be reduced. Learned counsel for the respondent

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

no.3-insurance company has submitted that even the rate of interest sought to be charged on the additional amount is highly excessive and the highest rate of interest which can be granted to the present appellants for the additional enhanced compensation is 6% per annum.

**ARGUMENTS ON BEHALF OF THE APPELLANTS IN REBUTTAL**

7. Learned counsel for the appellants, after taking into consideration the objection raised on behalf of the learned counsel for respondent no.3-insurance company, has submitted a revised chart, which is reproduced hereinbelow:-

*"FAO NO.2156 OF 2009*

*APPELLANT HEREIN: CLAIMANT(S)*

*DATE OF ACCIDENT: 27-03-2007*

*NATURE OF CASE: DEATH*

*AGE OF DECEASED/INJURED: 41 Years*

*DRIVING LICENCE/ROUTE PERMIT/INSURANCE: Valid D/L & Insurance.*

*DETAILS OF RELIEF GRANTED/ CLAIMED*

| *DETALS* | *BEFORE THE TRIBUNAL* | *Compensation claimed as per judgments of Sarla Verma, Pranay Sethi & Magma General Insurance* |
|---|---|---|
| *Income* | *Monthly: Rs.3000*<br><br>*Annual: Rs.36000* | *Monthly : Rs.4500*<br><br>*Annual : 54000* |
| *Deduction* | *1/3* | *1/3* |
| *Future prospects* | *-* | *25%* |
| *Multiplier* | *13* | *14* |
| *Loss of estate* | *15000* | *18000* |
| *Funeral expenses* | *3000* | *18000* |

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

| | | |
|---|---|---|
| *Loss of consortium* | *Parental*<br>*Filial*<br>*Spousal's-* | *48000 x 3=1,44,000* |
| *Total compensation* | *3,30,000* | *8,10,000* |
| *Interest* | *6%* | *7.5 %* |

*Dated: 22 sept 2025 Name & Signatures of Advocate with P.No.P/17/1997*

*Calculation Chart:*

| | | | |
|---|---|---|---|
| *Income* | = | *4500 x12 =* | *54000 per year* |
| *Future* | = | *25%* | *13500* |
| | | | --- |
| | | | *67500* |
| *(Deduction 1/3) Remaining-* | | | *45000* |
| | *Multiplier* | *x* | *14* |
| | | | --- |
| | | | *6,30,000* |
| *Consortium 48000 x 3* | | | *1,44,000* |
| *Funeral* | | | *18000* |
| *Loss of estate* | | | *18000* |
| *Total* | | | *8,10,000* |
| *Already granted* | | | *3,30,000* |
| | | | --- |
| *Enhancement* | | | *4,80,000 + interest* |

**ANALYSIS AND FINDINGS**

8. This Court has heard learned counsel for the parties and is of the view that the revised chart submitted by learned counsel for the appellants is in accordance with law and deserves to be accepted.

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

2025:PHHC:131576

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."*

A perusal of the above would show that for the age of 41 years, multiplier of 14 is to be applied.

10. 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.*

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

2025:PHHC:131576

*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.***

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

2025:PHHC:131576

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

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.

11. 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.*

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

2025:PHHC:131576

*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*

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

2025:PHHC:131576

> *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."*

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.

12. A perusal of the revised chart would show that the Tribunal has wrongly applied the multiplier of 13 and the multiplier of 14 should have been applied in the present case as the deceased was 41 years of age. Even the amounts awarded on account of loss of estate and funeral expenses i.e., Rs.15,000/- and Rs.3000/- respectively are inadequate and as per the latest law, an amount of Rs.18,000/- on both the said aspects is required to be paid to the appellants. The Tribunal had not awarded any amount on account of loss of consortium, although there are three claimants in the present case and thus, as per settled law, the said claimants are entitled to an amount of

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

Rs.1,44,000/- (48,000 x 3) on account of loss of consortium. The benefit of 25% future prospects is also required to be given to the appellants-claimants. The said aspects are as per settled law and have not been disputed before this Court.

13. With respect to the monthly income of the deceased, it would be relevant to note that three witnesses have been examined by the appellants in support of their claim that the deceased was earning an amount of Rs.8000/- per month. AW-1 Roshan Lal Kataria who is Public Relation Officer has stated that the deceased was working as Commission Agent in Small Scale Scheme, being run by the Post Office and even placed on record the attested copy of form 16A, Ex.A1 and A2, showing the payment of commission of Rs.10,988/- for the year 2006-07 and Rs.10,732/- for the year 2005-06. AW-2 Paramjit Singh, Executive PACL, Hoshiarpur has also been examined, who has produced on record statement of account Ex.A3 showing the payment of commission to the deceased as commission for the year 2006-07 was Rs.6072/- and Rs.1375/- for the year 2005-06. Even AW-4 Munish Makhija, Assistant Branch Manager, LIC, Hoshiarpur has also been examined by the appellants who has produced on record Ex.A-6 and A-7 showing that deduction of tax of Rs.5643/- having been made on the commission of Rs.55,317.33 paise for the year 2006-07. The said facts have been duly detailed in paragraph 16 of the award passed by the Tribunal, which facts have not been shown to be perverse before this Court. It is thus apparent that immediately prior to her death the deceased was earning

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment

Rs.5500/- per month as commission. The learned counsel for the appellants, after taking into consideration the objection raised on behalf of the insurance company with respect to there being no proof of earning with respect to the other years except for two years and also the fact that for the year 2005-06 the monthly income was not coming to Rs.5500/-, has fairly submitted a revised chart and has made a claim of Rs.4500/- per month which in the facts and circumstances of the present case, as per the opinion of this Court is reasonable and deserves to be upheld. Thus, the present appellants are entitled to additional compensation of Rs.4,80,000/-.

14. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and award dated 12.11.2008 is modified and respondent no.3 is directed to pay an additional amount of compensation to the tune of Rs.4,80,000/- 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.

**(VIKAS BAHL)**
**JUDGE**

**September 22, 2025.**
*Davinder Kumar*

Whether speaking / reasoned Yes/No
Whether reportable Yes/No

Davinder Kumar
2025.09.24 17:38
I attest the accuracy and
authenticity of this order /
judgment