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

**FAO-3122-2024**

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|---|---|---|
| 1 | The date when the judgment was reserved | 16.03.2026 |
| 2 | The date when the judgment is pronounced | 22.04.2026 |
| 3 | The date when the judgment is uploaded on the website | 24.04.2026 |
| 4 | Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced | Full |
| 5 | The delay, if any, of the pronouncement of full judgment and reasons thereof. | Not applicable |

**KAVITA AND ANOTHER ....Appellants**

**Vs.**

**ARUN AND OTHERS ...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Sushil Sheoran, Advocate
for the appellants.

Mr. Sandeep Raj Duggal, Advocate
for respondent No. 3/Insurance Company.

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***HARKESH MANUJA, J.***

**1.** By way of present appeal, challenge has been laid to an award dated 03.04.2024 passed by the learned Motor Accident Claims Tribunal, Bhiwani (for brevity, "the Tribunal"), whereby an amount of Rs. 15,61,760/- was awarded as compensation to the appellants/claimants along with interest @ 9% per annum from the date of filing of claim petition till its realization on account of death of Shiva in a motor vehicular accident, occurred on 17.07.2021.

**2.** As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the Tribunal, a detailed narration of facts of the case is not reproduced herein for the sake of brevity.

**ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS/CLAIMANTS.**

**3.** Learned counsel for the appellants contended that the impugned award passed by the learned Tribunal was contrary to the settled principles governing assessment of compensation and was liable to be enhanced. It was argued that the Tribunal gravely erred in assessing the income of deceased at a meager rate on the basis of DC rates, ignoring cogent evidence on record establishing that the deceased was a self-employed shopkeeper earning substantially higher income, as specifically pleaded and proved. He further submitted that the Tribunal further failed to apply settled principles of law governing computation of compensation, particularly with respect to addition towards future prospects, application of appropriate multiplier, and grant of just compensation under conventional heads such as loss of consortium, loss of estate and funeral expenses. Lastly, it was urged that the rate of interest awarded was equally unjust and contrary to settled judicial precedents, therefore, he prayed that the award of the Tribunal be suitably modified in accordance with law.

**ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No. 3/INSURANCE COMPANY.**

**4.** Per contra, learned counsel representing the respondent No. 3/Insurance Company, neither refuted the factum of accident nor even the negligence of the offending vehicle, however submitted that in the facts and circumstances of the present case, the compensation assessed by the learned Tribunal called for no interference.

**DISCUSSION AND REASONING**

**5.** I have heard learned counsel for the parties and perused the paper-book of the case. I find substance in the arguments advanced by the learned counsel for the appellants/claimants.

**QUESTION OF INCOME ASSESSED**

**6.** In the present case, a perusal of the deposition of Smt. Kavita, mother of deceased, reveals that the deceased was earning Rs. 50,000/- per month as he was engaged in the business of selling of cold drinks, juices snacks etc. However, in her cross-examination, she admitted that no documentary proof of such income was available on record. It further emerged from the evidence that the owner of the premises also deposed that Shiva (since deceased) was running a shop under the name and style of M/s Shiva Fast Food and Juice in the said rented premises.

**6.1** From the reading of deposition of the mother of the deceased, it is evident that the learned counsel representing the Insurance Company failed to impeach her credibility. In villages, people are self-employed in the unorganized sector and the aforementioned shop was a part thereof. Therefore, the learned Tribunal erred in assessing the monthly income of the deceased on notional basis by applying the DC rates prevailing in the year for an unskilled labourer. Keeping in view the over all evidence, the income of the deceased is assessed @ Rs.15,000/- per month.

**QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES.**

**7.** As per the averments made in the claim petition and the testimony of PW-2, i.e. the mother of the deceased, the age of the deceased at the time of his death was stated to be 21 years, however, no documentary evidence has been produced on record to substantiate his age. Therefore, in the absence of any other cogent and reliable documentary evidence on record, this Court deems it appropriate to rely upon the testimony and accordingly assesses the age of the deceased as 21 years. Thus, placing reliance upon the law laid down in the case ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"***, reported as ***2009 (3) RCR (Civil) 77***, and ***"National Insurance Co. Ltd. vs. Pranay Sethi and others***" reported as ***(2017) 16 SCC 680,*** 50% of the income needs to be granted towards future prospects. Accordingly, multiplier of 18 is applied. Further, in the present case, the appellants/claimants are mother and brother of the deceased. The learned Tribunal deducted 1/2nd of the income towards personal and living expenses of the deceased in accordance with the law laid down by the Hon'ble Supreme Court in the case of ***"Smt. Sarla Verma's case (supra),*** wherein it was held that the deceased was a bachelor and the claimants were the parents, the deduction follows a different principle and with regard to bachelors, and 50% needs to be deducted as personal and living expenses. Relevant para of the judgment is culled out as under:-

> *"15. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In this 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 dependent and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will wither be independent and earning, or married, or be dependent on the father.*

*Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be dependent, and 50% would be treated as the personal and living expenses of the bachelor 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."*

From a sociological stand point, the deceased, being the sole earning member of the family, would have invariably prioritized setting aside financial resources for the upkeep and welfare of his family. In the present case, the factual matrix clearly establishes that the father of the deceased had already expired and his brother was a minor; wholly dependent upon the earnings of the deceased. Consequently, the entire burden of maintaining the family rested upon the deceased alone. Although, the law laid down in ***Sarla Verma's case (supra)*** prescribes that the standard deduction towards personal and living expenses of a bachelor is one-half (1/2$^{nd}$), the judgment itself clarifies that such deduction is not an inflexible or rigid rule. Relevant extract is reproduced hereunder:-

*"But, such percentage of deduction is not an inflexible rule and offers merely a guideline. In Susamma Thomas, it was observed that in the absence of evidence, it is not unusual to deduct one-third of the gross income towards the personal living expenses of the deceased and treat the balance as the amount likely to have been spent on the members of the family/dependants. In* ***UPSRTC v. Trilok Chandra [1996(4) SCC 362]****, this Court held that if the number of dependents in the family of the deceased was large, in the absence of specific evidence in regard to contribution to the family, the Court may adopt the unit method for arriving at the contribution of the deceased to his family. By this method, two units is allotted to each adult and one unit is allotted to each minor, and total number of units are determined. Then the income is divided by the total number of units. The quotient is multiplied by two to arrive at the personal living expenses of the deceased. This Court gave the following illustration :*

*"X, male, aged about 35 years, dies in an accident. He leaves behind his widow and 3 minor children. His monthly income was Rs. 3500. First, deduct the*

> *amount spent on X every month. The rough and ready method hitherto adopted where no definite evidence was forthcoming, was to break up the family into units, taking two units for and adult and one unit for a minor. Thus X and his wire make 2+2=4 units and each minor one unit i.e. 3 units in all, totaling 7 units. Thus the share per unit works out to Rs. 3500/7 = Rs. 500 per month. It can thus be assumed that Rs. 1000 was spent on X. Since he was a working member some provision for his transport and out-of-pocket expenses has to be estimated. In the present case we estimate the out-of-pocket expense at Rs. 250. Thus the amount spent on the deceased X works out to Rs. 1250 per month per month leaving a balance of Rs. 3500-1250= Rs. 2250 per month. This amount can be taken as the monthly loss of X's dependents."*

*In* ***Fakeerappa v. Karnataka Cement Pipe Factory, 2004(2) RCR (Civil) 619 : 2004(2) SCC 473****, while considering the appropriateness of 50% deduction towards personal and living expenses of the deceased made by the High Court, this Court observed :*

> *"What would be the percentage of deduction for personal expenditure cannot be governed by any rigid rule or formula of universal application. It would depend upon circumstances of each case. The deceased undisputedly was a bachelor. Stand of the insurer is that after marriage, the contribution to the parents would have been lesser and, therefore, taking an overall view the Tribunal and the High Court were justified in fixing the deduction.*

In the humble opinion of this Court, the present case stands on exceptional footing and thus, in view of the aforesaid and having regard to the contemporary social realities, and the dependent status of the aged mother and minor brother, such mechanical application may result in manifest injustice. Accordingly, a just, fair, and reasonable deduction towards personal and living expenses of the deceased is assessed at 40% of his income.

**QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS**

**8.** Furthermore, in view of the judgment of the Hon'ble Apex Court in ***Smt. Sarla Verma's case (supra)***, ***Pranay Sethi's case (supra)*** and ***"United India Insurance Co.Ltd. vs. Satinder Kaur",*** reported as ***(2021) 11 SCC 780,*** compensation awarded under conventional heads is also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs. 18,000/- as compensation under funeral head and Rs. 18,000/- towards loss of estate. Loss of Consortium is assessed to the tune of Rs. 96,000/- (48,000 x 2) as appellants/claimants being mother and brother are entitled to filial and sibling consortium.

**CONCLUSION**

**9.** In view of the discussion made herein above, the appellants/claimants are held entitled for the grant of compensation in the following manner:-

| S.No. | Nature | Amount (in Rs.) |
|---|---|---|
| 1. | Annual Income of Deceased | 1,80,000/- |
| 2. | Deduction (40%) | 72,000/- |
| 3. | Net Income (Rs. 1,80,000 – Rs. 72,000) | 1,08,000/- |
| 4. | Future Prospects (50%) | 54,000/- |
| 5. | Total Income (Rs. 1,08,000 + Rs. 54,000) | 1,62,000/- |
| **6.** | **Loss of Income after applying multiplier of 18 as per the age of 21 years (1,62,200x 18)** | **29,16,000/-** |
| **7.** | **Loss of estate** | **18,000/-** |
| **8.** | **Funeral Expenses** | **18,000/-** |
| **9.** | **Loss of Consortium (48,000 x 2)** | **96,000/-** |
| **10.** | **Total compensation** | **30,48,000/-** |
| **11.** | **Amount Awarded by the Tribunal** | **15,61,760/-** |
| **12.** | **Enhanced Compensation** | **14,86,240/-** |

**10.** In the view of the observations made by the Hon'ble Supreme Court in ***"Smt. Supe Dei and others vs. National Insurance Company Limited and other,*** reported as ***(2009) (4) SCC 513*** approved in a subsequent judgment titled as ***"Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443,*** the grant of interest @ 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization is justified. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation

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already paid to the claimant shall be deducted from the enhanced compensation.

**11.** In view of the aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

**April 22, 2026** **(HARKESH MANUJA)**
Tejwinder **JUDGE**

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|---|---|
| *Whether speaking/reasoned* | *Yes/No* |
| *Whether reportable* | *Yes/No* |