

disposing of three cognate First Appeal Orders² and the present appeal is confined to that part of the common order which pertains to FAO No. 6157 of 2017, arising out of MACP Case No. 299 of 2015.

2.1 Appellants are aggrieved as the High Court reduced the amount of compensation to Rs.13,55,200/- from Rs.25,65,900/- awarded by the Motor Accident Claims Tribunal, Kurukshetra³ with interest at the rate of 9% per annum from the date of filing of the claim petition till the realization of the amount.

3. The appellants happen to be the heirs of deceased Yogesh Sharma, who died in a vehicular accident that took place on 15.07.2015. Appellant No.1 is the wife, Appellant Nos.2 and 3 are the children and Appellant Nos.4 and 5 are the parents of the deceased respectively. On the fateful day, Yogesh Sharma was going from Ladwa to Shahabad on a motorcycle bearing registration No.HR-05-AJ-1539 driven by him, while one Dharamveer was the pillion rider. At about 11:30 am, when the motorcycle reached near Village

² Hereinafter, "FAOs".

³ Hereinafter, "Claims Tribunal".

Bhallar, Ladwa, the offending car bearing registration No.HR-01-Q-5444, driven by respondent No.1 – driver-cum-owner in a rash and negligent manner and at a high speed, came from the opposite direction.

3.1 It is the case of the claimants that despite the motorcyclist Yogesh Sharma slowing down the motorcycle and moving to the extreme left side of the road, the offending car came onto the wrong side and struck the motorcycle. Yogesh Sharma and the pillion rider both fell down and sustained multiple grievous injuries. Yogesh Sharma succumbed to his injuries while on his way to the hospital.

3.2 The appellants-the heirs of the deceased claimed compensation to the tune of Rs. 50,00,000/- by filing a claim petition before the Claims Tribunal. Injured Dharamveer also filed a separate claim petition seeking compensation. The deceased was 28 years old. He was working as a Sales Manager with M/s Sri Sai Traders, Palika Bazar, Ladwa. The Claims Tribunal, while deciding the MACP Case No. 299 of 2015 filed by the present appellants, awarded total compensation of Rs.25,65,900/- with interest

at the rate of 9% per annum from the date of filing of the claim petition till realization of the amount.

3.3 It appears that the Insurance Company filed FAO No.4722 of 2017 (O&M) before the High Court assailing the award of the Claims Tribunal on the question of quantum, whereas the appellants-claimants filed appeal seeking enhancement of compensation. The High Court reduced the same as above, as per the impugned order.

3.4 While reducing the compensation amount, the High Court thought it fit to take the monthly income of the deceased at Rs.6,000/- per month, which the Tribunal had taken it at Rs.10,200/-. The High Court reduced the amount under the head Future Prospects from 50% to 40%. The loss of dependency, which was arrived at Rs.23,40,900/- was slashed by the High Court to Rs.12,85,200/-. The funeral expenses were reduced by the High Court from Rs. 25,000/- to Rs. 15,000/-.

3.5 The loss of consortium was awarded at Rs. 40,000/- in total, while the Claims Tribunal had awarded Rs.1,00,000/-. The amount of Rs.1,00,000/- awarded

towards loss of care and guidance by the Claims Tribunal was disapproved and deleted by the High Court. A total amount of Rs. 13,55,200/- was thus arrived at by the High Court with interest to be paid for compensation for the death of said Yogesh Sharma.

3.6 The comparative figures of compensation awarded by the Claims Tribunal and by the High Court under different heads are given hereunder in a tabular form,

Heads	Amounts awarded by the Claims Tribunal	Amounts awarded by the High Court
Monthly income of the deceased	10,200/-	Rs. 6,000/-
Addition in income for future prospects	50%	40%
Multiplier	17	17
Deduction for personal expenses	1/4 th	1/4 th
Loss of Dependency	Rs. 23,40,900/-	Rs. 12,85,200/-
Expenses on funeral and transportation	Rs. 25,000/-	Rs. 15,000/-
Loss of Consortium	Rs. 1,00,000/-	Rs. 40,000/-
Loss of care and guidance to claimants No. 2 and 3	Rs. 1,00,000/-	-
Loss of Estate	-	Rs. 15,000/-
Total	Rs.25,65,900/-	Rs.13,55,200/-

4. Heard learned counsel Mr. Chritarth Palli with learned advocate-on-record Mr. Shubham Bhalla for the appellants and learned counsel Mr. Sanathana Bhaarati assisted by learned advocate-on-record Mr. Varinder Kumar Sharma for respondent No. 2. Respondent No.1 was deleted from the array of respondents. None appeared for respondent No. 3, though was served with the notice of this Court.

5. Claimant No.1-Sonia Sharma (PW1), who is the widow of the deceased, deposed in her affidavit (Exhibit PW1/A) that the deceased was a 28 years old young person and employed as Sales Manager with M/s Sri Sai Traders, Shop No. 1, Palika Bazar, Ladwa and that he had been earning Rs.20,000/- per month. The Claims Tribunal recorded that no cogent evidence was produced to prove that the deceased had been earning Rs.20,000/- per month. The Claims Tribunal, however, relied upon order dated 20.02.2015 passed by the Deputy Commissioner, Kurukshetra in respect of the rates of wages of employees during the period from 01.03.2015 to 29.02.2016 and

resting on such rates, assessed the income of the deceased to be Rs.10,200/- per month.

5.1 While considering the income aspect, the High Court viewed that the rates prescribed by the Deputy Commissioner were not the correct basis. The High Court reduced the figure of income from Rs.10,200/- to Rs.6,000/- on the ground that such figure was available from the notification issued by the State of Haryana fixing the minimum wages.

5.2 Whether the High Court was justified in disapproving the rates prescribed by the Deputy Commissioner for assessment of income, is a forefront issue required to be considered.

5.3 An identical issue surfaced before this Court in **Saroj and Others vs. Iffco Tokio General Insurance Co. Ltd and Others**⁴. The High Court in that case had reduced the compensation awarded by the Claims Tribunal on the reasoning that the minimum wage rates prescribed by the government constitute a better measure for calculating the

⁴ 2024 SCC OnLine SC 3038.

notional income of the deceased person, since according to the High Court, such rates are uniformly applicable to the whole of the State, as opposed to Special District Commissioner rates notified by the Deputy Commissioner of the District, the applicability of which, observed the High Court, would remain confined to a particular district.

5.3.1 This Court had held that the High Court was not justified and had erred in reducing the compensation by discarding the rates notified by the District Commissioner.

The following was observed,

“9.3 The question before the High Court was not as to which yardstick to use to determine the notional income of the deceased was ‘better’. Since there is nothing on record to establish that the rates notified by the District Commissioner, Rohtak, would not apply to the deceased, we find no reason to interfere with the finding of the Tribunal.”

5.4 There was no rationale on the part of the High Court in not accepting and in not applying the criteria of the rates notified by the District Commissioner and falling back upon the figures of the minimum wages, for arriving at the figures of income of the deceased. It is true that the minimum wages prescribed can be taken as a good yardstick for the purpose of taking the income figure to

determine the amount of compensation where no other evidence is available to assess the income. The minimum wage figures are, however, a fixed amount mentioned in the Minimum Wages Act, 1948 or the notifications issued by the government from time to time under the Act, which may at times suffer from obsolescence.

5.4.1 Juxtaposed with the rates which are notified by the District Commissioner for the purpose of payment of wages/salaries, they reflect the current trend of payment made towards salary. They could be said to be nearer to the reality as against the minimum wages prescribed. It would not be right to suggest that the rates notified by the District Commissioner can be viewed to be valid only in respect of a particular district. The rates notified by the Commissioner may better represent the current wages paid.

5.4.2 In a given case, however, while assessing the compensation, the Court may adopt the amount of minimum wages notified, if they are found higher than the rates of salary notified by the other authorities like the District Commissioner, for, in a beneficial legislation, it is always permissible to adopt the higher income figure to

arrive at the amount of compensation to the benefit of the claimants, when such figure has an acceptable basis.

5.4.3 In any view, the High Court could be said to have misguided itself in reasoning that the rates notified by the District Commissioner would not apply and instead minimum wages rate should be applied. When the rates notified by the District Commissioner are higher, that rates ought to have been taken as a measure to assess the compensation. The High Court's reasoning that the income of the deceased could not have been assessed on the basis of rates notified by the District Commissioner but only by applying minimum wages cannot be countenanced.

5.5 As noted above, appellant No. 1-wife in her evidence claimed that the deceased was a Sales Manager and had been earning Rs.20,000/- per month. The Claims Tribunal on the basis of the rates notified by the District Commissioner took the monthly income at Rs.10,200/-. With reference to the rates notified by the District Commissioner, it was a reasonable figure adopted by the Claims Tribunal towards the monthly income of the deceased, which need not have been further reduced by the

High Court to Rs.6,000/- per month. Even otherwise, it was in no manner unreasonable to take the income at Rs.10,200/- per month in respect of the deceased, who was a Sales Manager and who died in an accident which occurred in 2015.

5.6 Coming to the other heads of compensation and the amounts awarded thereunder, the multiplier of 17 is correctly applied, which is in accordance with the principles laid down in **Sarla Verma and Others vs. Delhi Transport Corporation and Another**⁵, having regard to the fact that the deceased was 28 years of age. The addition of income towards future prospects was taken by the Claims Tribunal at 50%, whereas the High Court applied it at 40%. The decision of this Court in **National Insurance Company Limited vs. Pranay Sethi and Others**⁶ has laid down the guiding principles with regard to the extent of future prospects to be applied.

5.6.1 The deceased was a Sales Manager on a fixed salary, therefore, as was observed in **Pranay Sethi** (supra),

⁵ (2009) 6 SCC 121.

⁶ (2017) 16 SCC 680.

the addition of 40% of the established income would be required to be taken, the deceased being aged below 40 years. The observations read as under,

“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.”

(Para 59.4)

5.6.2 The High Court was right on this score to reduce addition of income towards future prospects from 50% to 40%. The deduction of personal expenses at 1/4th was correctly applied by the Claims Tribunal as well as by the High Court, which is maintained.

5.7 Thus, taking the income of the deceased to be Rs.10,200/- per month making addition for future prospects to the extent of 40%, applying multiplier of 17 and deducting personal expenses at 1/4th, the loss of dependency comes to total Rs.21,84,840/-. [10,200 +

$4,080(40\%) = 14,280/-$, $14,280 - 3,570 (1/4^{\text{th}}) = 10,710/-$,
 $10,710 \times 17 \times 12 = 21,84,840/-]$

6. There are other heads under which the amounts of compensation are required to be rectified and modified in light of the settled principles laid down in that regard. Towards funeral and transportation expenses, the Claims Tribunal awarded Rs.25,000/-, whereas the High Court reduced the amount to Rs.15,000/-.

6.1 In **Pranay Sethi** (supra), it was observed thus,

“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.”

(Para 59.8)

6.2 Therefore, on that count, the correct amount that deserves to be awarded would be Rs.15,000/- plus 10% increase for 3 years as observed, to make it total awardable at Rs.18,150/-. Towards loss of estate also, the claimants are entitled to a sum of Rs.18,150/- as per **Pranay Sethi** (supra), which includes to carry enhancement at the rate of

10% every three years. The amount awarded by the Claims Tribunal is required to be modified accordingly.

6.2.1 Coming to the head of loss of consortium, the Claims Tribunal awarded Rs.1,00,000/-, whereas the High Court reduced it to Rs.40,000/- for no good reason. On this count, both the High Court and the Claims Tribunal disregarded the principles laid down by this Court in **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others**⁷, wherein the Court stated about the grant of spousal consortium,

“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”. [Black's Law Dictionary (5th Edn., 1979).]”

(Para 21.1)

6.2.2 The Court also spoke about parental consortium,

‘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”.’

(Para 21.2)

⁷ (2018) 18 SCC 130.

6.2.3 The filial consortium is considered to be the right of parents in case of accidental death of a child,

‘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.’

(Para 21.3)

6.3 All the claimants would be entitled to be awarded the amount towards loss of consortium as per the above principles. Thus, a sum of Rs.48,400/- will be awardable to appellant No.1 under the head of spousal consortium and appellant Nos.2 and 3 would be entitled to equivalent sum of Rs.48,400/- each under the head of parental consortium. In the same way, appellant Nos.4 and 5 become entitled to a sum of Rs.48,400/- each under the head of filial consortium as per the law laid down in **Magma General Insurance Company Limited** (supra).

7. In view of what is discussed and determined above, the total compensation as correctly computed under the different heads payable to the appellants would come to

Rs.24,63,140/-, as per the details in the tabular form given below.

Heads	Compensation (in rupees)
Loss of Dependency	$10,200 + 4,080 (40\%) = 14,280/-$, $14,280 - 3,570 (1/4^{\text{th}}) = 10,710/-$, $10,710 \times 17 \times 12 = 21,84,840/-$
Funeral Expenses	18,150/-
Loss of Estate	18,150/-
Spousal Consortium	48,400/-
Parental Consortium	$48,400 \times 2 = 96,800/-$
Filial Consortium	$48,400 \times 2 = 96,800/-$
Total	Rs. 24,63,140/-

8. Since the above amount of Rs.24,63,140/- is arrived at on the basis of criteria formulated and the principles laid down by this Court in various decisions referred to above, the said amount is construed to be the just and fair compensation to the appellants for the death of Yogesh Sharma.

9. Accordingly, it is held that the appellants would be entitled to the total compensation of Rs.24,63,140/- as per the details tabulated in paragraph 7 hereinabove with

interest at the rate of 9% per annum from the date of filing of the claim petition till realisation, as was awarded by the Claims Tribunal.

10. The High Court awarded Rs.13,55,200/- with interest. Therefore, if the said amount has been paid and if the balance additional amount is to be deposited by the respondent-Insurance Company, the same shall be deposited together with the interest with the Claims Tribunal and the same shall be paid to the claimants after undergoing the necessary procedure of identification etc. and by transferring the same to the bank accounts of the claimants directly.

10.1 The amount originally awarded by the Claims Tribunal was Rs.25,65,900/- with interest. By this judgment, the total compensation is arrived at Rs.24,63,140/- with interest at the rate of 9% per annum. Therefore, the difference comes to Rs.1,02,760/-. However, if the total amount of Rs.25,65,900/- is already deposited and the same has been withdrawn by the claimants, it would be harsh and inadvisable to direct the claimants to refund the said difference of amount. In that view, the claimants

shall not be obliged to refund the difference. But, if the amount by the Insurance Company is not deposited, the entitlement of the claimants shall remain as Rs.24,63,140/- with interest at the rate of 9% per annum.

11. The appeal stands disposed of in the aforesaid terms.

Any interlocutory application, as may be pending, shall not survive in view of disposal of the main appeal.

.....**J.**
[UJJAL BHUYAN]

.....**J.**
[N.V. ANJARIA]

NEW DELHI;
MAY 20, 2026.