



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO(S) \_\_\_\_\_ OF 2025**  
**(@ SPECIAL LEAVE PETITION (CIVIL) NO(S). \_\_\_\_\_ OF 2025**  
**(@DIARY NO(S). 47285 OF 2018)**

**KAVITA DEVI AND OTHERS** **...APPELLANT(S)**

**VERSUS**

**SUNIL KUMAR AND ANOTHER** **...RESPONDENT(S)**

**J U D G M E N T**

**ARAVIND KUMAR, J.**

1. Heard
2. Leave Granted
3. Appellants being the Claimants in a petition filed under Motor Vehicle Accident Claim<sup>1</sup> under Section 166 of the Motor Vehicles Act (hereinafter referred to as the Act) are before this Court seeking enhancement of compensation. Claimants being the Wife and two children of the one Lokender Kumar (hereinafter referred to as the deceased) who expired on account of injuries sustained in a Motor Vehicle Accident filed a

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<sup>1</sup> M.A.C.T. Case. No. 98 of 08.08.2009.

claim petition before the Motor Vehicle Accident Claims Tribunal<sup>2</sup> (hereinafter referred to as the Tribunal) seeking compensation of Rs. 25,00,000/-. The Tribunal vide its award dated: 12/04/2010 awarded compensation of Rs. 2,54,720/- with interest @ 7% p.a. Aggrieved by the award of the Tribunal, the claimants filed an Appeal<sup>3</sup> before the High Court seeking enhancement of compensation and High Court by the impugned order dated: 20/08/2013 enhanced the compensation from Rs. 2,54,720/- to Rs. 7,23,680/- with interest @7% p.a. The claimants not being satisfied with the award of the High Court, have filed this Appeal seeking further enhancement of compensation.

#### **BRIEF FACTS:**

4. At around 7.00. a.m. on 16/02/2009 when the deceased was proceeding to his office located in Gurgaon and when he reached Angana Restaurant situated in Sohna-Gurgaon Road, a Santro car bearing registration No. HR-26-AN-3670 driven in a rash and negligent manner by Respondent No. 1 dashed against the deceased causing severe injuries, because of which the deceased succumbed at the spot.

5. At this juncture it is apposite to mention that this Court will only examine the issue related to enhancement of compensation and will not enter into the question of the cause of the accident, as both the Tribunal and the High Court have concurrently held that the accident has occurred because of the rash and negligence of the offending vehicle and there being no serious dispute on this finding.

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<sup>2</sup> Motor Vehicle Claims Tribunal, Gurgaon.

<sup>3</sup> FAO No. 1518 of 2011 before the Punjab and Haryana High Court.

### **AWARD OF THE TRIBUNAL AND HIGH COURT**

6. Claimants pleaded in their claim petition that at the time of death deceased was aged 35 years and he was working in R.M. Manpower Services, Gurgaon, Haryana and receiving salary of Rs. 6500/- per month and he was also doing agricultural work and earning Rs. 5000/- per month, meaning thereby that at the time of incident the deceased was earning Rs. 11,500/- per month. The Claimants also examined PW4 - Inder Singh, Manager of M/S R.M Manpower Services, Kamla Palace, Jail Road, Gurgaon to prove the employment of the deceased in their firm and his income. PW4 stated that the deceased was working as an operator in their firm and he produced a salary slip before the Tribunal which was marked as Ex. P6 which indicated that deceased was earning Rs. 6,500/- per month including allowances. Though PW4 proved the salary slip, in his cross-examination, he said that the deceased was earning Rs. 3,665/- as basic pay.

7. The Tribunal, while determining the income of the deceased held that, in the Half-Yearly ESI Return (Form 6) for October 2008 to March 2009, wages paid to the deceased for 4.5 months total Rs. 28,832/-, averaging about Rs. 6,407/- per month was indicated. However, in Form 6A (for unexempted establishments) from March 2008 to February 2009, the deceased's wages from 12.08.2008 to 16.02.2009 (approx. 6 months) was stated as Rs. 21,938/-, i.e., around Rs. 3,665/- per month. There is a significant discrepancy between the income figures in Form 6 and Form 6A, which remains unexplained in the records. Because of this inconsistency and considering the fact that Rs. 6,500/- salary per month included in itself Rs. 1,100/- for the purposes of House Rent Allowance and Rs. 1,735/- for the

purposes of unspecified allowances, the Tribunal held that the income of the deceased was Rs. 3,665/- per month excluding the allowances.

8. Further, considering the four-members of his family were dependent on his income deducted Rs. 1,220/- p.m. towards personal expenses. Hence, the Tribunal determined that the deceased would be contributing Rs. 2,445/- per month for his family's upkeep. The Tribunal taking the multiplier as 8 and annual income at Rs. 29,340/- and his employment being private, awarded a compensation of Rs. 2,34,720/- (2,445/- X 12 X 8) under the head of loss of dependency, Rs. 10,000/- each under the heads of funeral and transportation charges and loss of consortium for claimant No.1. Thus, in total the Tribunal awarded a sum of Rs. Rs. 2,54,720/- @7% interest p.a. under the following heads:

<u>Heads</u>	<u>Compensation</u>
Loss of Dependency	2,34,720/-
Loss of Spousal Consortium	10,000/-
Funeral expenses	10,000/-
<b>TOTAL</b>	<b>Rs.2,54,720/-</b>

9. In the appeal filed by claimants seeking enhancement of compensation, the High Court accepted the Tribunal's computation with regard to determination of the income of the deceased. However, held that the Tribunal has failed to add future prospects of 50% to the income of the deceased and the High Court further held that the Tribunal has applied multiplier of 8 erroneously and also held that the deduction carried out was not in accordance with the decision of *Sarla Verma and Others v. Delhi Transport Corporation and Another*<sup>4</sup>.

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<sup>4</sup> (2009) 6 SCC 121

10. The High Court by taking the income of the deceased as Rs. 3,665/month added Rs. 1832/- to the income as future prospects. After adding future prospects, the monthly income of the deceased would be Rs. 5497/-, deducting 1/3<sup>rd</sup> of the income towards personal expenses the actual income of the deceased would be Rs. 3,665/-. Further considering the age of the deceased as 35 ½, the High Court adopted the multiplier of 16 and accordingly determined the compensation under the head of loss of dependency at Rs. 7,03,680/- (3665 x 12 x 16). High Court further awarded Rs. 20,000/- in total under the heads of loss of estate, loss of consortium and expenses on last rites. Thus, vide impugned order the High Court enhanced the compensation from Rs. 2,54,720/- to Rs. to Rs. 7,23,680/- with interest @7% p.a.

11. Claimants seeking further enhancement of compensation have filed this Appeal.

### **SUBMISSIONS OF THE COUNSELS**

12. Mr. Fuzail Ahmad Ayyubi, Learned Counsel for the Appellants contended:

12.1. That the impugned order has not considered the judgment of the Constitution Bench in *National India Insurance Company Limited v. Pranay Sethi and Others*.<sup>5</sup> Whereunder this Court held Rs. 15,000/- each is to be awarded under the conventional heads of funeral expenses and loss of estate, and further held that Rs. 40,000/- has to be added under the head of loss of consortium. The High Court has awarded a total of Rs. 20,000/-

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<sup>5</sup> 2017 (16) SCC 680

under all the above-mentioned heads therefore the compensation should be enhanced.

**12.2.** In spite of the production of the Salary Certificate as Ex. P6, the Tribunal as well as the High Court has ignored the fact that the deceased was earning Rs. 6,500/- per month therefore the Courts below erred in not considering the same and considering the fact that wife and two minor children are the claimants whole Rs. 6,500/- must be considered as the income of the deceased for computation of the compensation.

**12.3.** Both the Tribunal and the High Court has not considered the aspect of Agricultural Income at all. Therefore, the Claimants are entitled to enhancement of compensation after the income from agriculture is added to Rs. 6,500/-.

**13.** Ms. Suman Bagga, Counsel appearing for the Insurance Company supported the impugned order and sought for the dismissal of the Appeal.

### **ANALYSIS:**

**14.** Having considered the material available on record and the submissions of the learned counsel appearing for the parties, we are of the opinion that though the High Court has enhanced the compensation, the same is on lower side.

**15.** *Firstly*, as can be seen from the salary slip which is marked as Ex. P6, it can be seen that the deceased was earning Rs. 6,500/- p.m. However the Tribunal on a hyper technicality namely certain discrepancy in Form 6 and Form 6A considered the basic salary of the deceased as Rs. 3,665/- p.m. after excluding the HRA and other allowances. The question that falls for

our consideration is that, whether the HRA and the other allowances is to be deducted while determining the income of the deceased in this case.

16. This Court in *Sarla Verma (supra)* has clarified that for the purpose of computation, actual income of the deceased has to be taken into consideration. This Court in *National Insurance Co. Ltd. v. Indira Srivastava and Others*<sup>6</sup>, this Court while interpreting the words 'just compensation' and 'income' held as follows:

"9. The term 'income' has different connotations for different purposes. A court of law, having regard to the change in societal conditions must consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family. Loss caused to the family on a death of a near and dear one can hardly be compensated on monetary terms.

10. Section 168 of the Act uses the word 'just compensation' which, in our opinion, should be assigned a broad meaning. *We cannot, in determining the issue involved in the matter, lose sight of the fact that the private sector companies in place of introducing a pension scheme takes recourse to payment of contributory Provident Fund, Gratuity and other perks to attract the people who are efficient and hard working. Different offers made to an officer by the employer, same may be either for the benefit of the employee himself or for the benefit of the entire family. If some facilities are being provided whereby the entire family stands to benefit, the same, in our opinion, must be held to be relevant for the purpose of computation of total income on the basis whereof the amount of compensation payable for the death of the kith and kin of the applicants is required to be determined.*

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18. In *Rathi Menon v. Union of India* [(2001) 3 SCC 714], this Court, upon considering the dictionary meaning of compensation held:

"24. In this context a reference to Section 129 of the Act appears useful. The Central Government is empowered by the said provision to make rules by notification "to carry out the purposes of this Chapter". It is evident that one of the purposes of this chapter is that the injured victims in railway accidents and untoward incidents must get compensation. *Though the word "compensation" is not defined in the Act or in the Rules it is the giving of an equivalent or substitute*

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<sup>6</sup> (2008) 2 SCC 763

of equivalent value. In Black's Law Dictionary , "compensation" is shown as

"equivalent in money for a loss sustained; or giving back an equivalent in either money which is but the measure of value, or in actual value otherwise conferred; or recompense in value for some loss, injury or service especially when it is given by statute."

It means when you pay the compensation in terms of money it must represent, on the date of ordering such payment, the equivalent value.

25. In this context we may look at Section 128(1) also. It says that the right of any person to claim compensation before the Claims Tribunal as indicated in Section 124 or 124-A shall not affect the right of any such person to recover compensation payable under any other law for the time being in force. But there is an interdict that no person shall be entitled to claim compensation for more than once in respect of the same accident. This means that the party has two alternatives, one is to avail himself of his civil remedy to claim compensation based on common law or any other statutory provision, and the other is to apply before the Claims Tribunal under Section 124 or 124-A of the Act. As he cannot avail himself of both the remedies he has to choose one between the two. The provisions in Chapter XIII of the Act are intended to provide a speedier remedy to the victims of accidents and untoward incidents. If he were to choose the latter that does not mean that he should be prepared to get a lesser amount. He is given the assurance by the legislature that the Central Government is saddled with the task of prescribing fair and just compensation in the Rules from time to time. The provisions are not intended to give a gain to the Railway Administration but they are meant to afford just and reasonable compensation to the victims as a speedier measure. If a person files a suit the amount of compensation will depend upon what the court considers just and reasonable on the date of determination. Hence when he goes before the Claims Tribunal claiming compensation the determination of the amount should be as on the date of such determination."

19. The amounts, therefore, which were required to be paid to the deceased by his employer by way of perks, should be included for computation of his monthly income as that would have been added to his monthly income by way of contribution to the family as contradistinguished to the ones which were for his benefit. We may, however, hasten to add that from the said amount of income, the statutory amount of tax payable thereupon must be deducted.



20. The term 'income' in P. Ramanatha Aiyar's Advanced Law Lexicon (3rd Ed.) has been defined as under:

"The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or a person who has substantial interest in the company, and any sum paid by such company in respect of any obligation, which but for such payment would have been payable by the director or other person aforesaid, occurring or arising to a person within the State from any profession, trade or calling other than agriculture."

It has also been stated:

'INCOME' signifies 'what comes in' (per Selborne, C., Jones v. Ogle, 42 LJ Ch.336). 'It is as large a word as can be used' to denote a person's receipts '(per Jessel, M.R. Re Huggins, 51 LJ Ch.938.) income is not confined to receipts from business only and means periodical receipts from one's work, lands, investments, etc. AIR 1921 Mad 427 (SB). Ref. 124 IC 511 : 1930 MWN 29: 31 MLW 438 AIR 1930 Mad 626 : 58 MLJ 337.'

21. If the dictionary meaning of the word 'income' is taken to its logical conclusion, it should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income-tax or profession tax although some elements thereof may or may not be taxable or would have been otherwise taxable but for the exemption conferred thereupon under the statute."

*(emphasis supplied)*

17. This Court has consistently held in case of the allowances which are included in the component of salary of the deceased, Tribunal has to take into consideration these allowances as they were used for supporting the family. The claimants have to show that these allowances were regularly received and used for the family's benefit. Further, while determining whether the allowances form a part of the salary or not, the Tribunal by looking into the facts of each case and by considering the extent of dependency of the claimants on the salary of the deceased including the allowances, have to determine whether these allowances should be excluded from determination of the income of the deceased. If the answer of the Tribunal is in affirmative, then the allowances may be excluded for

determination of loss of dependency. If the Tribunal answers the above point in negative, then the Tribunal has to include the allowances for computation of income of the deceased, thus determining the loss of dependency.

**18.** Applying the above principle to the case on hand, it can be seen that it is the consistent plea of the claimant that the deceased was earning Rs. 6,500/- and the same is evidenced by producing Ex. P6. No contrary evidence is produced by the Respondents to dispute the fact that the allowances which is about 50% of the salary of the deceased should be excluded from determination of the actual income. Further, it can be seen that after the accident, the entire burden of taking care of two minor children and herself fell on Appellant No.1. Therefore in view of the changing economic situation of the family after the death of the deceased, we are of the opinion that income which the deceased was earning at the time of the accident was Rs. 6,500/- p.m and same ought to have been taken into consideration.

**19.** Secondly, applying the principles laid down by this Court in *Sarla Verma (supra)* which was affirmed by the dictum of the Constitution bench in *Pranay Sethi*, out of Rs. 6,500/-, 1/3<sup>rd</sup> has to be deducted for the personal expenses of the deceased, thus  $\text{Rs. } 6,500/- \times 1/3 = 2,167$ . Therefore, the monthly income of the deceased would be Rs. 4,333. Considering the age of the deceased i.e. 35 years, 50% future prospects must be added to the income of Rs. 4,333 i.e.  $4,333 \times 50\% = \text{Rs. } 2,167/-$ . Thus, the monthly income of the deceased after adding future prospects would be  $\text{Rs. } 4,333 + 2,167 = \text{Rs. } 6,500/-$ . Further the appropriate multiplier to be adopted as per the judgment of *Sarla Verma (supra)* would be 16. Therefore, we award a sum of Rs. 12,48,000/- under the head of loss of dependency ( $6,500 \times 12 \times 16$ ).

20. *Thirdly*, the claimants are entitled to a sum of Rs. 18,150/- each under the heads of loss of estate and funeral expenses. Further, we award a sum of Rs. 48,400/- to Appellant No.1 under the head of spousal consortium and Appellant No.2 and 3 would be entitled to a sum of Rs. 48,400/- each under the head of parental consortium as per the law laid down in *Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram and Others*<sup>7</sup>.

21. Therefore, in total the Appellants would be entitled to a sum of Rs. 14,29,500/- under the following heads:

Heads	Compensation
Loss of Dependency	12,48,000/-
Loss of spousal consortium	48,400/-
Loss of parental consortium	48,400 x 2 = 96, 800/-
Loss of Estate	18,150/-
Funeral Expenses	18,150/-
<b>TOTAL</b>	<b>14,29,500/-</b>

22. The Respondents are jointly and severally liable to pay aforesaid compensation to the claimants. However, considering the fact that this Appeal is preferred after a period of 1855 days delay and further there is a delay of 75 days in refiling, the Respondents are not liable to pay interest for this delay period as ordered while disposing the application for condonation of delay. Respondent No.3 is hereby directed to deposit a sum of Rs. 14,29,500/- with interest @7% p.a. from the date of the filing of the petition till deposit, excluding the period of delay, before the jurisdictional Tribunal within a period of 8 weeks from the date of this judgment. Claimant Nos.1 to 3 shall be entitled to receive compensation in the ratio of 50:25:25, along

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<sup>7</sup> (2018) 18 SCC 130

with proportionate interest. The compensation awarded to Claimant No.1, along with proportionate interest, shall be released in their favour by the Jurisdictional Tribunal. The compensation awarded to Claimant Nos. 2 and 3, along with proportionate and accrued interest, shall be kept in fixed deposits (FD) in any nationalized bank of Claimant No.1's choice. Claimant No.1 shall be entitled to receive the periodical interest from the said fixed deposits, which shall be utilized for the benefit of Claimant Nos.2 and 3. The majority of the proceeds from the fixed deposits shall be paid to Claimant Nos.2 and 3 on proper identification. Consequently, the Appeal is allowed in part. Pending applications, if any are consigned to records.

....., J.  
[SUDHANSHU DHULIA]

....., J.  
[ARAVIND KUMAR]

**New Delhi;  
August 06, 2025.**