

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5289 OF 2025

SAMYAK JAIN AND ORS.

....Appellant (s)

VERSUS

KESRILAL MEHTA AND ORS.

....Respondent(s)

JUDGMENT

N.V. ANJARIA, J.

The challenge in this appeal is addressed to judgment and order dated 17th July, 2023 passed by the High Court of Judicature of Rajasthan, Bench at Jaipur in S.B. Civil Miscellaneous Appeal No. 2499 of 2015 and allied cases. The High Court allowed the appeal before it by partially modifying the judgment and award of the

Motor Accidents Claim Tribunal, Bara, enhancing the compensation payable to the claimants from Rs. 50,51,000/- to Rs. 55,27,800/- with interest at the rate of 7% to be paid on the enhanced amount on the date of filing of the claim petition till the actual payment.

2. The appellants-claimants are aggrieved on three counts. In other words, for assailing the judgment of the High Court, the following grounds are raised.

- (i) Deduction of income tax at flat 20% on the income of the deceased is erroneous, instead of tax in accordance with the tax slab prevalent at the time of occurrence of the accident.
- (ii) The unmarried daughter is not treated as dependent.
- (iii) The amount towards consortium has to be awarded separately to each of the claimants.

3. The proceedings of the Claim Petition before the Motor Accident Claim Tribunal, Bara, were initiated pursuant to the accident which took place on 05.09.2010, in which one Dr. Ashok Kumar Jain died. The deceased happens to be the father of the appellants-claimants No.

1, 3 and 4, whereas husband of claimant No. 2. In the said accident, along with the deceased, appellant–claimant No. 2–wife Gunmala Jain, appellant–Claimant No. 3, daughter, Ritu Jain sustained grievous injuries.

3.1 On the fateful day the deceased was going from Singoli to Shivpuri by Indica car bearing No. MP-44-C-0185 with his wife Gunmala Jain and daughter Ritu Jain. It was around 11:00 am when they reached near Mandola Phatak, a tractor bearing registration No. RJ-28-R-2736 which was driven rash and negligently came all of a sudden, rushing from Shahabad Road and dashed with the car resulting into the death of Dr. Ashok Kumar Jain and inflicting injuries to the wife and daughter.

3.2 The First Information Report was lodged on 30.09.2010 at the police station, Kotwali Bara, a charge-sheet was filed holding the driver of the tractor named Kesarailal responsible.

3.3 The said Dr. Ashok Kumar Jain who had sustained injuries and on 30.09.2010 while being treated at the Max Hospital, Delhi, succumbed to death. He was 59 years of age working as Medical Officer in the government hospital

receiving salary of Rs. 56,509/- per month. The claim petition No. 3 of 2012 was filed by the appellants before the Tribunal.

3.4 The Motor Accidents Claim Tribunal, Bara accepting the plea that the deceased had been earning Rs. 56,509/- per month, calculated his annual income at Rs. 6,50,000/-. The Tribunal deducted Rs. 10,000/- per month at the rate of 20% from the said income towards the income tax, resultantly adopting the figure of Rs. 46,000/- as monthly income for the purpose of calculating the compensation. For deducting the personal expenses, the Tribunal followed the dictum of compensation in **Sarla Verma vs. Delhi Transport Corporation**¹ and deducted one-fourth amount towards personal expenses on the basis of that there were four dependents of the deceased. It thus assessed the total compensation of Rs. 50,51,000/- by applying the precedent for determining the compensation.

3.5 The claimants preferred an appeal before the High Court. The High Court enhanced the amount of

¹ [(2009) 6 SCC 121]

compensation by Rs. 4,76,800/- to hold that the claimants were entitled to total Rs. 55,27,800/- with 7% interest requiring the Insurance Company to deposit an additional amount along with interest.

3.6 The High Court recorded its findings to observe that:

- (a) The salary certificate of the deceased indicated that he was getting a salary of Rs. 56,509/-. Therefore, the Tribunal was right in deducting an amount of Rs. 10,000/- per month towards income tax;
- (b) However the Tribunal had failed to award amount towards future prospects and that the age of the deceased was 59 years, future prospects at the rate of 15% was required to be applied in determining the compensation.
- (c) Instead of multiplier of 8 as applied by the Tribunal, the multiplier of 9 ought to have been applied in view of the age of the deceased.

- (d) The Tribunal was not justified in awarding Rs. 50,000/- as loss of consortium, love and affection. According to the High Court as per the decision of this Court, it should have been awarded Rs. 40,000/- in total for all claimants.
- (e) The amount of Rs. 25,000/- awarded towards the funeral expenses should have been Rs. 15,000/-
- (f) Towards personal expenses, the deduction of 1/4 was not justified but the Tribunal should have deducted 1/3 amount.

4. Heard learned counsel Mr. Anuj Bhandari, AOR appearing for the appellant and learned counsel Mr. Anith Johnson appearing for the respondent.

4.1 Having taken such a view on different scores as above, the High Court proceeded to calculate the total compensation to enhance the amount from what was awarded by the Tribunal to Rs. 4,76,800/- as per the following tabulation details:

Monthly Income	Rs. 56,509/-
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Less income tax	Rs. 10,000/- (56,509 – 10,000 = 46,509) (round off Rs. 46,000/-)
Since the deceased was 59 years of age add 15% towards future prospects	46,000 x 15% = 6,900/- (46,000 + 6,900 = 52,900)
Accordingly to the age of the deceased, multiplier of 9 should be applied	52,900 x 9 = 4,76,100
1/3 income to be deducted for personal expenses of the deceased	4,76,100 x 1/3 = 1,58,700 (4,76,100 – 1,58,700 = 3,17,400)
Annual Income	3,17,400 x 12 = 38,08,800
Loss of consortium and love of affection	40,000
Funeral expense	15,000
Medical Bills	16,64,000
Total	55,27,800
Less amount awarded by the tribunal	50,51,000
Enhanced amount of compensation	55,27,800 – 50,51,000 = 4,76,800

5. Having seen the facts, it is on three planks that the High Court committed an error in calculating the compensation as above. Firstly, monthly income of the deceased was undisputedly Rs. 56,509/- which would

amount to an annual income of Rs. 6,78,000/-. From this annual income, the High Court deducted the income tax at the flat rate of 20% by deducting Rs. 1,20,000/-.

5.1 It was not disputed that the tax slab applicable for the financial year 2010-11 were as under,

Income	Tax Rate
Upto 160,000	Nil
160,000 to 500,000	10% of the amount exceeding 160,000
500,000 to 800,000	Rs. 34,000 + 20% of the amount exceeding 500,000
800,000 & above	Rs. 94,000 + 30% of the amount exceeding 800,000

5.1.1 The High Court ought to have applied the above rates. Accordingly, Rs. 69,600/- would be a tax amount required to be deducted from the total annual income of Rs. 6,78,000/-. The slab of tax rates applicable on the

date of accident has to be applied and the tax will have to be deducted as per the said rates.

5.2 It is well settled that an unmarried daughter of the deceased at the time of accident is to be treated as dependent on the deceased. Merely because an unmarried daughter was engaged in some kind of job, it would not drive her out of the purview as dependent. The expenses towards education, marriage and other living expenses are expected to be borne by the father.

5.2.1 Accordingly, an unmarried daughter is considered as a dependent on the father. Treating the unmarried daughter to be dependent as above, in the present case the total number of dependents comes to four whereas the High Court has excluded the unmarried daughter and the number of dependents are taken as three.

5.2.2 Since there are four dependents of the deceased including the unmarried daughter as per the law laid down in **Sarla Verma (supra)**¹, where the dependent are four to six in number, one-fourth amount would be deductible towards personal expenses. Therefore, instead of one-third of amount as deducted by the High Court,

one-fourth amount shall have to be deducted towards personal expenses of the deceased. The High Court misdirected itself in ignoring the unmarried daughter as one of the dependents.

5.3 The third aspect is about grant of amount under the head of consortium. The High Court has granted lumpsum amount of Rs. 40,000/- towards this consortium. This Court in **Magma General Insurance Co. Ltd. vs. Nanu Ram**² followed in **National Insurance Company Limited vs. Satish Kumar Verma & Ors.**³ in **Vimla Devi vs. National Insurance Company Limited**⁴ and other decisions, interpreted the term “consortium”. The consortium is a compendious term which encompasses spousal consortium, parental consortium as well as filial consortium.

5.3.1 The right to consortium would include the company, care, help, comfort, guidance, solace and affection with the deceased which the family would be deprived of for ever. Each of the dependents will be entitled

² (2018) 18 SCC 130

³ (2019) 8 SCC 660

⁴ (2019) 2 SCC 186

to separate amount of Rs. 40,000/- towards and under the head of consortium. It is also well settled as per the law laid down in **National Insurance Company Ltd. Vs. Pranay Sethi**⁵ that 10% increase would have to be added every three years from the date of the Judgment thereunder in the amounts to be awarded under the heads of Loss of Consortium, Funeral expenses and Loss of Estate.

5.3.2 The High Court ignored the above parameter regarding award of consortium. The High Court was required to award separate amount towards consortium to each of the claimants, rather awarding only Rs. 40,000/- and further ignoring 10% increase every three years⁰ as stated above. Each of the four claimants would thus be entitled to total consortium of Rs. 1,93,600/- (48,400 X 4).

5.3.3 The High Court further erred in not awarding any compensation under the head 'Loss of Estate', in accordance with settled law. The claimants would thus be entitled to receiving Rs. 18,150/- under the head 'Loss of Estate' having regard to 10% increase to be given every

⁵ (2017) 16 SCC 680

three years from the date of the judgment in **Pranay Sethi⁵ (supra)**.

5.3.4 Similarly, the High Court only awarded Rs. 15,000/- towards funeral expenses ignoring 10% increase to be granted every three years from the date of the judgment in **Pranay Sethi (supra)⁵**. The claimants would thus be entitled to receiving total funeral expenses of Rs. 18,150/-.

6. In view of the above discussion, the judgment and award of the High Court insofar as it wrongly deducted the income tax at flat rate, deducted one-third instead of one-fourth amount towards personal expenses deducted and further did not award the consortium amount separately to each of the four dependents at the rate of 40% with 10% increase to make it Rs. 48,000/-, deserves to be modified by giving effect to the said corrections and giving additions. Multiple of 9 is rightly applied. The amount awarded under the rest of the heads would remain unchanged. The total compensation payable to the appellants shall be counted by giving effect to what is held and provided as above.

6.1 Therefore, the final calculation of the compensation payable would be as under,

Heads	This Court's compensation
Annual Income	56,509/- p.m. 56, 509 x 12 = 6,78,000/- p.a.
Less Income Tax	6,78,000 – 69,600 = 6,08,400/-
Since Deceased was 59 yrs old; add 15% to future prospects	6,08,400 + 15% (91,260) = 6,99,660/-
Multiplier 9	6,99,660 x 9 = 62,96,940/-
1/4 th Deduction	62,96,940 – ¼ (15,74,235) = 47,22,705/-
Loss of Dependency	47,22,705/-
Loss of consortium and love and affection	48,400 x 4 = 1,93,600/-
Funeral Expense	18,150/-
Loss of Estate	18,150/-
Medical Bills	16,64,000
Total	66,16,605/-

6.2 The differential additional amount of Rs. 10,88,805/- shall be deposited by the respondent No. 2 – Insurance Company with interest as already awarded by the Tribunal within eight weeks from today. Upon deposit, the appellants-claimants shall be entitled to withdraw the same after complying with the procedure of identification

etc. The amount in equal proportion shall be directly credited in their respective bank accounts.

7. The appeal is allowed in part to the above extent.

..... J.
N.V. ANJARIA

..... J.
ATUL S. CHANDURKAR

NEW DELHI;
September 24, 2025