

preliminary decree, which were not within the control and knowledge of the parties. The provision of Section 97 C.P.C. or interpretation of the said provision by Hon'ble Apex Court does not restrict the power of the trial Court to amend the preliminary decree in case it necessitates to do justice between the parties.

22. In all the cases, referred above, only the intervening event had taken place, which was sought to be amended in the preliminary decree, which the Court had allowed and held that such intervening event can be taken note of and preliminary decree may be amended. The Court has never restricted for any event which was beyond the control of parties and also not within its knowledge.

23. In the instant case, the registered endowment deed of 1969 was not in the knowledge or possession of either of the parties. The petitioner has not raised any objection that it was well within the knowledge of plaintiff-respondent and he had deliberately concealed the said fact when partition suit was filed.

24. Once there was no denial to the fact that endowment deed of 1969 stands and was not in possession of plaintiff-respondent, the amendment of preliminary decree cannot be opposed. Had it been a case where the plaintiff-respondent was in possession of the endowment deed and had deliberately withheld the same, then the defendant-petitioner could have opposed the amendment to the preliminary decree and judgment relied upon by him would have come to his rescue. It is also not denied that a suit for eviction against the occupier of endowed property has been instituted on behalf of Deity in the year 2022. Once such is a position, the

defendant-petitioner cannot oppose the amendment of a preliminary decree.

25. Considering the facts and circumstances of the case, I find that no interference is required in the order impugned dated 16.02.2024 passed on application Paper No.45-A2 and order dated 11.03.2024 passed in Civil Revision No.6 of 2024. Writ Petition No.4107 of 2024 fails and is hereby **dismissed**.

26. As the Writ Petition No.4107 of 2024 has been dismissed, the connected Writ Petition No.3458 of 2025 also stands dismissed as the application, Paper No.171C-2, moved by the petitioner has been rejected and also the revision.

(2025) 5 ILRA 1625

**ORIGINAL JURISDICTION
CIVIL SIDE**

DATED: LUCKNOW 14.05.2025

BEFORE

THE HON'BLE PANKAJ BHATIA, J.

Matters Under Article 227 No. 9547 of 2019

UPPCL

...Petitioner

Versus

Sunita Verma & Ors.

...Respondents

Counsel for the Petitioner:

Vashu Deo Mishra, Abhinav Singh

Counsel for the Respondents:

C.S.C., Madhulika Yadav

**Civil Law-The Constitution of India, 1950-
Article 227 - The Legal Services
Authorities Act, 1987-Section 22C---**

Petition filed challenging the award whereby the Permanent Lok Adalat has awarded a sum of Rs.13,15,000/- to the claimants--- The deceased was a contractual worker, he would be deemed to be on a fixed salary, thus, an addition of 40%

of the established income is to be added as the deceased was less than 40 years of age which makes the income of the deceased as Rs.9,800/- (income Rs.7,000/- plus 40%)--- Respondents would be further entitled to loss of eSt. at Rs.16,500/- and funeral expenses at Rs.16,500/--- Respondents would also be entitled to spousal consortium, parental consortium and filial consortium at the rate of Rs.40,000/- each in respect of all the six claimants in Claim Petition--- Petition is dismissed with direction to the petitioners/corporation to pay the total amount of compensation of Rs.23,78,000/- along with interest at the rate of 9% per annum from the date of claim up to the actual payment/realization---A further cost of Rs.50,000/- is imposed upon the petitioners/corporation for denying the poor person of the legitimate compensation. (E-15)

List of the cases referred:-

1. St. of Haryana Vs Jasbir Kaur; (2003) 7 SCC 484
2. Canara Bank Vs G.S. Jayarama; (2022) 7 SCC 776
3. Madhyanchal Vidyut Vitran Nigam Ltd. Vs Smt. Alka Pandey; Neutral Citation No.2024:AHC-LKO:14527
4. Magma General Insurance Co. Limited Vs Nanu Ram Alias Chuhru Ram & ors.; (2018) 18 SCC 130
5. National Insurance Co. Limited Vs Pranay Sethi & ors.; (2017) 16 SCC 680
6. Yas Pal Singh (Minor) & anr. Vs St. of U.P. & ors.; 2017 (5) ADJ 696

(Delivered by Hon'ble Pankaj Bhatia, J.)

1. Heard Shri Abhinav Singh, learned counsel for the petitioners and Ms. Madhulika Yadav, learned counsel for the respondents.

2. This is a very sad case in which a public utility service has approached this

Court and is arguing in a manner which does not bear well for the public welfare for which the petitioner was established.

3. Present petition has been filed challenging the award dated 11.10.2018 whereby the Permanent Lok Adalat has awarded a sum of Rs.13,15,000/-.

4. The respondents herein who are the claimants had moved an application alleging that the husband of respondent no.1 was working as a contractual employee with the corporation (petitioners herein) and died while repairing a transformer. It was stated that the husband was working at the time of his death and was aged about 35 years and was drawing a remuneration of Rs.7,000/- per month, thus, it was claimed that the respondents/ corporation should be directed to pay the amount of compensation. It was also stated that an amount of Rs.1,00,000/- has been paid on account of death of the husband of claimant.

5. The respondents/corporation filed their written statement which is on record wherein they admitted that the husband of the claimant was working as a contractual worker with the corporation. It was also admitted that he died on account of an accident while at work. It was also admitted that the respondents herein are the claimants, however, the amount claimed was denied on the ground that an interim compensation of Rs.1,00,000/- has been paid through cheque.

6. With regard to jurisdiction, no reply was given as is evident from Para 6 of the written statement. It was also stated in Para 8 that all the claims made were not legally tenable.

7. The Permanent Lok Adalat recorded that after filing the written

statement, the respondents/corporation did not appear. It was further recorded that from the order dated 26.04.2018 passed by the Permanent Lok Adalat, it was clear that the respondents had failed to appear for conciliation and no reasons were specified for non-appearance and thereafter, it was recorded that on 06.05.2018, counsel for the respondents appeared in whose presence the points of determination were framed and thereafter on six dates, no one appeared for the respondents. Thereafter, the Permanent Lok Adalat recorded the judgment of the Supreme Court in the case of State of Haryana v. Jasbir Kaur; (2003) 7 SCC 484 wherein it was held that it is the duty of the Court and the Tribunal to award 'just and reasonable' compensation. Thereafter, the Permanent Lok Adalat admitting all the facts, which were not denied, to be correct proceeded to calculate the compensation taking into consideration the amount of monthly remuneration paid to the husband of the claimant at the rate of Rs.7,000/- per month total Rs.84,000/- per annum out of which 1/3rd was deducted on account of personal expenses and the dependency was assessed at Rs.56,000/- i.e. 2/3rd of the amount of remuneration paid to the husband of the claimant. As the age of the deceased at the time of death was 35 years, the compensation was awarded by multiplying Rs.56,000/- (assessed as dependency) with 25 i.e. the age of retirement. In addition thereto, the Permanent Lok Adalat awarded an amount of Rs.5,000/- towards loss of companionship, another Rs.5,000/- towards the funeral expenses and other Rs.5,000/- towards the cost of litigation, thus, the total amount payable by the respondents/corporation was assessed at Rs.14,15,000/- As the respondents/ corporation had already paid an amount of Rs.1,00,000/-, the total amount awarded against the

respondents/ corporation was Rs.13,15,000/- which was directed to be paid alongwith interest at the rate of 7% per annum from the date of the judgment up to actual payment/realization.

8. First contention of learned counsel for the petitioners/corporation is that in terms of the mandate of Section 22C of The Legal Services Authorities Act, the Permanent Lok Adalat could not have passed an award as has been done. Reliance is placed upon the judgment of the Supreme Court in the case of **Canara Bank v. G.S. Jayarama; (2022) 7 SCC 776** with emphasis on Paragraphs 36 & 37, which are quoted herein below:

"36. The appellant's argument, however, is that if the opposite party does not appear before the Permanent Lok Adalat, it can dispense with the conciliation proceedings and straightaway adjudicate the dispute under Section 22-C(8). We are unable to accept this submission. Even if the opposite party does not appear, the Permanent Lok Adalat is still bound to follow the step-by-step procedure laid down by Section 22-C. Under Section 22-C(3), it would require the party before it to file their submissions and documents, and make the best efforts to communicate them to the opposite party for their response. If it is satisfied that no response is forthcoming from the absent opposite party, the Permanent Lok Adalat shall still attempt to settle the dispute through settlement under Section 22-C(4). It is important to remember that Section 22-C(5) imposes a duty upon the Permanent Lok Adalat to be independent and impartial in attempting to amicably settle the dispute, while Section 22-C(6) imposes a duty upon the party present before the Permanent Lok Adalat to cooperate in good faith and assist the

Permanent Lok Adalat. Thereafter, the Permanent Lok Adalat, based on the materials before it, shall propose terms of settlement and communicate them to both parties, regardless of whether they participated in the proceedings. If the party present before the Permanent Lok Adalat does not agree or if the absent party does not respond in a sufficient period of time, only then can the Permanent Lok Adalat adjudicate the dispute on its merits under Section 22-C(8). Keeping in mind the principles enshrined in Section 22-D, the Permanent Lok Adalat shall once again notify the absent party of its decision to adjudicate the dispute on its merits, in case it wishes to join the proceedings at that stage.

37. Section 22-C(8) is amply clear that it only comes into effect once an agreement under Section 22-C(7) has failed. The corollary of this is that the proposed terms of settlement under Section 22-C(7), and the conciliation proceedings preceding it, are mandatory. If Permanent Lok Adalats are allowed to bypass this step just because a party is absent, it would be tantamount to deciding disputes on their merit ex parte and issuing awards which will be final, binding and will be deemed to be decrees of civil courts. This was simply not the intention of Parliament when it introduced the LSA Amendment Act. Its main goal was still the conciliation and settlement of disputes in relation to public utilities, with a decision on merits always being the last resort. Therefore, we hold that conciliation proceedings under Section 22-C of the LSA Act are mandatory in nature."

9. Reliance is also placed upon the judgment in the case of *Madhyanchal Vidyut Vitran Nigam Ltd. v. Smt. Alka Pandey*; Neutral Citation No.2024:AHC-

LKO:14527, which essentially follows the judgment in the case of *Canara Bank (supra)*.

10. Learned counsel for the respondents, on the other hand, argues that the amount awarded is based upon the compensation that was paid by the petitioners. There is no iota of pleading in the entire writ petition that the amount paid to the deceased at the time of his death was either wrongly awarded or in excess of what was actually paid to him. She further argues that in view of the law laid down in the case of *National Insurance Company Limited v. Pranay Sethi and Ors.*; (2017) 16 SCC 680 and in the case of *Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram and Others*; (2018) 18 SCC 130, it is fairly well settled that even if no claim is made, it is the duty of the Court and the Tribunal to ensure that a just and reasonable compensation is paid.

11. She further argues that the amount of Rs.5,000/- paid towards loss of consortium, funeral expenses and cost of litigation is meagre and prays that this may be enhanced by this Court as may be deemed fit. It is further argued that the stand taken by the petitioners is against the spirit for which the Legal Services Authorities Act was framed. It is further argued that the petitioners after having put in appearance, showed scant regard even in respect of an employee who had died in an accident while repairing transformer and only a meagre amount of Rs.1,00,000/- was paid. It is further argued that on account of death of the bread earner, the entire family of the respondents have badly suffered and no amounts have been paid by the petitioners despite the award being passed in the year 2018.

12. Considering the submissions made at the Bar and recorded above, this Court has no hesitation in holding that the petitioners have been absolutely unreasonable in not understanding the concept of the mandate of a beneficial piece of legislation. On the one hand, the petitioners have admitted everything in their written statement as recorded above, on the other hand, counsel for the petitioners, has raised all the matters in the writ petition without there being any ground in the written statement. This conduct of the petitioners deserves to be deprecated and is accordingly deprecated in strongest possible terms.

13. Considering the submissions as made by learned counsel for the petitioners, in the judgment in the case of **Canara Bank (supra)**, the Supreme Court has observed that the first effort of the Permanent Lok Adalat should be to ensure conciliation even if no written statement is filed and thereafter, the powers under Section 22C(1) of The Legal Services Authorities Act can be exercised. It is no doubt true that the effort has to be made for conciliation first, however, in view of the stand taken in the written statement where almost everything was admitted, the only conciliation part was the quantum.

14. Considering the fact that the Permanent Lok Adalat has awarded a compensation and the petition has been filed challenging the said compensation, I do not see any reason to interfere with the said award.

15. Now, coming to the issue of quantum awarded by the Permanent Lok Adalat, it is fairly well settled in a catena of decisions that it is incumbent upon the Tribunals and the Courts to ensure that ‘just

compensation’ is awarded irrespective of whether the same is claimed or not. Reference may be made to the case of **Yas Pal Singh (Minor) and Anr. v. State of U.P. and Ors.; 2017 (5) ADJ 696, Pranay Sethi (supra)**, as well as in **Magma General Insurance Company Limited (supra)** wherein the Supreme Court has observed as under:

“21. A Constitution Bench of this Court in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] 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: [Rajesh v. Rajbir Singh, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149]

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, cooperation, affection, and aid of the other in every conjugal relation”. [Black's Law Dictionary (5th Edn., 1979).]

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.*”

16. In the light of the said judgment, this Court is to determine as to what would be the ‘just compensation’. Admittedly, the petitioner was working as a contractual labour with the petitioners/corporation and was drawing a salary of Rs.7,000/- per month. In ***Pranay Sethi’s case (supra)***, the following has been observed:

“59. In view of the aforesaid analysis, we proceed to record our conclusions:

59.1. *The two-Judge Bench in Santosh Devi [Santosh Devi v. National Insurance Co. Ltd., (2012) 6 SCC 421 : (2012) 3 SCC (Civ) 726 : (2012) 3 SCC (Cri) 160 : (2012) 2 SCC (L&S) 167] 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 [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002], 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 [Rajesh v. Rajbir Singh, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149] has not taken note of the decision in Reshma Kumari*

[Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826] , which was delivered at earlier point of time, the decision in Rajesh [Rajesh v. Rajbir Singh, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149] is not a binding precedent.

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 paras 30 to 32 of Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] which we have reproduced hereinbefore.*

59.6. *The selection of multiplier shall be as indicated in the Table in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2*

SCC (Cri) 1002] read with para 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.”

17. In the light of the said, as the deceased was a contractual worker, he would be deemed to be on a fixed salary, thus, an addition of 40% of the established income is to be added as the deceased was less than 40 years of age which makes the income of the deceased as Rs.9,800/- (income Rs.7,000/- plus 40%).

18. The respondents would be further entitled to loss of estate at Rs.16,500/- and funeral expenses at Rs.16,500/-.

19. Further, in the light of the judgment in the case of *Magma General Insurance Company Limited (supra)*, the respondents would also be entitled to spousal consortium, parental consortium and filial consortium at the rate of Rs.40,000/- each in respect of all the six claimants in Claim Petition No.46 of 2017.

20. In the light of the above-mentioned discussion, the total compensation as computed, which the respondents are entitled to, are as under:

Sl.No.	Head	Compensation awarded
1.	Monthly income of the	Rs.7,000/- per month

	deceased	
2.	Adding 40% in the light of judgment in <i>Pranay Sethi's case (supra)</i>	Rs.7,000/- + Rs.2,800/- = Rs.9,800/- per month
3.	Net yearly income	Rs.1,17,600/-
4.	Deducting 1/4th towards personal expenses	Rs.1,17,600 x 25% = Rs.29,400/- After deduction : Rs.1,17,600 - Rs.29,400 = Rs.88,200/-
5.	Applying multiplier of '25' at the age as applied by the Permanent Lok Adalat	Rs.88,200 x 25 = Rs.22,05,000/-
6.	Amount under the conventional heads: (i) loss of estate Rs.16,500/-, (ii) Funeral expenses Rs.16,500/- as per <i>Pranay Sethi's case (supra)</i> (iii) loss of consortium Rs.40,000/- (each of the dependents); Rs.40,000/- x 6 = Rs.2,40,000/-.	Rs.16,500/- +Rs.16,500/- <u>+Rs.2,40,000/-</u> = Rs.2,73,000/-
7.	Total amount of compensation (Sr. No.5 + Sr.	Rs.22,05,000 + Rs. 2,73,000 = Rs.24,78,000/-

	No.6)	
8.	Amount already paid as compensation	Rs.1,00,000/-
	Total amount of compensation payable to the respondents (Sr.No.7 – Sr. No.8)	Rs.24,78,100/- - Rs. 1,00,000/- = Rs.23,78,000/-

21. In view thereof, present petition is *dismissed* with direction to the petitioners/corporation to pay the total amount of compensation of Rs.23,78,000/- alongwith interest at the rate of 9% per annum from the date of claim up to the actual payment/realization.

22. A further cost of Rs.50,000/- is imposed upon the petitioners/corporation for denying the poor person of the legitimate compensation.

23. The petitioners/corporation shall deposit the aforesaid amount awarded alongwith cost within a period of three months from today before the Permanent Lok Adalat which shall be paid to the claimants by the Permanent Lok Adalat in accordance with law.

24. Let a copy of this order be sent to the Chairman of the petitioners/corporation to ensure that this kind of frivolous litigation is not filed in the future.

(2025) 5 ILRA 1632
ORIGINAL JURISDICTION
CRIMINAL SIDE
DATED: ALLAHABAD 14.05.2025

BEFORE

THE HON'BLE NALIN KUMAR SRIVASTAVA, J.

Application U/S 529 BNSS No. 285 of 2025

Sudha Shukla ...Applicant
Versus
State of U.P. & Ors. ...Opposite Parties

Counsel for the Applicant:
 Brij Bhushan Prasad Srivastava

Counsel for the Opposite Parties:
 G.A.

Criminal Law-The Code of Criminal Procedure,1973-Sections 483 & 145-(The Bharatiya Nagarik Suraksha Sanhita,2023-Section 529--- The High Court is empowered to exercise its superintendence over the Court of Judicial Magistrates subordinate to it to ensure the expeditious and proper disposal of the cases by such Magistrate but when an order is passed by an Executive Magistrate or any direction is required to be issued for expeditious and proper disposal of a case which is pending before the Executive Magistrate, the High Court can't exercise its superintendence over the courts of Executive Magistrates--- The High Court under Sec. 529 BNSS(Section 483 Cr.P.C.) is not required to make any superintendence over the working of a Executive Magistrate and no direction under Section 483 Cr.P.C. (Section 529 of BNSS) can be issued to the Executive Magistrates where a case under Section 145 Cr.P.C. is pending before it as prescribed in Section 483 Cr.P.C.(Section 529 of BNSS).

Application rejected. (E-15)

List of the cases referred:-

1. Dutch Ophthalmic Research Centre International B.VS Vs Ultramad Pvt. Ltd. & ors. 1997 SCC Online Raj 941
2. Sarjoo & anr. Vs Babadin & anr.1975 CRLJ 1562 (Allahabad)

(Delivered by Hon'ble Nalin Kumar Srivastava, J.)