

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

FAO (MV) No. 417 of 2015

Reserved on: 15.07.2026

Date of decision: 27.07.2026

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Satya Ditta

.....Appellant

Versus

IFFCO TOKIO General Insurance Co. Ltd. & Anr.

.....Respondents

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting? Yes.*

For the appellant:

Mr. Sameer Thakur, Advocate.

For the respondents:

Respondent No. 1 ex parte.

Mr. Davinder Singh Nainta,
Advocate, for respondent No. 2.

Sushil Kukreja, Judge.

The instant appeal has been maintained by appellant, who was the petitioner before the learned Motor Accidents Claims Tribunal (III), Shimla, H.P. (hereinafter referred to as “the learned Tribunal”) under Section 173 of the Motor Vehicles Act, 1988 (for short ‘The Act’) against impugned award, dated 07.08.2015, passed by the learned

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Tribunal, whereby MAC Petition No. 46-S/2 of 2012, filed by the petitioner was allowed against the respondents and she was held entitled for compensation to the tune of Rs. 7,19,000/- alongwith interest @ 7.5% per annum from the date of filing of the petition till realization of the entire amount. Respondent No. 1, being insurer, was directed to indemnify the award.

2. The brief facts of the case are that on 08.11.2011, Mohit Dilta (since deceased) who was the son of the petitioner, boarded the vehicle bearing registration No. HP-10A-3281 from Khalini to Chandigarh. When the said vehicle reached near Kanlog, the same rolled down and fell into a deep gorge, as a result of which, he got seriously injured and succumbed to death. The accident had occurred due to rash and negligent driving of the driver of said vehicle, who also died in the accident. According to the petitioner, the deceased was an agriculturist and horticulturist and also running the business of selling empty apple boxes on commission basis and was earning more than Rs. 50,000/- per month from all sources. On the basis of these

submissions, the petitioner filed the claim petition under Section 166 of MV Act seeking compensation to the tune of Rs. 50,00,000/- alongwith interest.

3. Respondent No. 1, contested the petition by filing reply, wherein, preliminary objections qua maintainability,THA the vehicle was being plied in violation of the terms and conditions of the insurance policy without having a valid and effective registration-cum-fitness certificate and route permit and the driver did not possess a valid and effective driving licence, have been taken. On merits, it has been denied that the deceased was agriculturist and horticulturist and was doing the business of selling empty boxes of apple on commission basis. It has further been denied that the monthly income of the deceased was Rs. 50,000/-.

4. Respondent No. 2 by filing reply took preliminary objections qua maintainability and cause of action. On merits, contents of the claim petition have been denied for want of knowledge.

5. On 29.05.2014, the learned Tribunal below had framed the following issues for consideration and

adjudication:

- “1. Whether deceased Mohit Dilta received fatal injury and died on account of rash and negligent driving on the part of respondent No. 2? OPP*
- 2. If issue No. 1 is proved in affirmative, whether the petitioner is entitled for compensation and if so to what amount and from whom? OPP*
- 3. Whether offending vehicle was being plied by respondent No. 2 in contravention of the terms and conditions of the insurance policy? OPR*
- 4. Whether the driver of the vehicle did not possess a valid and effective driving licence at the time of this accident? OPR*
- 5. Whether this petition is bad for non-joinder and mis-joinder of necessary parties? OPR*
- 6. Whether the petitioner is stopped to file the present petition due to her own acts, deeds, conduct and acquiescence etc? OPR*
- 7. Relief.”*

6. After the parties led evidence and after hearing the learned counsel for the parties, the petition was allowed and the petitioner was held entitled for compensation to the tune of Rs. 7,19,000/- alongwith interest @ 7.5% per annum from the date of filing of the petition till realization of the entire amount. Respondent No. 1, being insurer, was directed to indemnify the award.

7. Feeling aggrieved and dissatisfied, the appellant

preferred the instant appeal against the impugned award dated 07.08.2015 for enhancement of the same.

8. The learned counsel for the appellant contended that the compensation awarded by learned Tribunal below is on a very lower side, as the deceased was the joint owner of 30 bighas of land as per Jamabandis, Ext. PW-2/C to C-3 and the deceased had grown approximately 1500 apple plants on the joint land and was producing 4000 apple boxes annually. Thus, the deceased was earning about Rs. 45,000/- monthly from selling apples and was also earning Rs. 5,000/- monthly from selling empty apple cartons. However, learned Tribunal below has taken his income as Rs. 6,000/- per month, which is on a very lower side. He further contended that age of the deceased has been wrongly taken by the learned Tribunal below as 33 years, whereas, at the time of accident, the deceased was 23 years of age. He also contended that a wrong multiplier of 11 has been taken by the learned Tribunal below, whereas, a multiplier of 18 was to be applied while calculating the compensation. Therefore, he prayed that present appeal

may be allowed and the compensation, as awarded, may be enhanced.

9. I have heard the learned counsel for the appellant, learned counsel for respondent No. 2 and have carefully examined the entire records.

10. It is not in dispute that the Mohit Ditta (since deceased) received fatal injuries and died in a motor accident occurred on 08.11.2011 at Kanlog *Nullah* and the vehicle involved in the accident was a Scorpio bearing registration No. HP-10A-3281, owned by respondent No. 2, Surender Dutta and insured with respondent No. 1/IFFCO Tokio General Insurance Company. Learned Tribunal below had categorically held that the deceased died on account of rash and negligent driving on the part of the driver of the offending vehicle, i.e. Scorpio.

11. Learned counsel for the appellant contended that the amount of compensation, awarded by the learned Tribunal below on account of death of the deceased is highly inadequate and the learned Tribunal below had erred in taking the monthly income of the deceased at Rs. 6,000/-, as

the deceased was working as his income from all the sources was more than Rs. 50,000/- per month.

12. Now the question which arises for consideration before this Court is as to what income should be assessed in the present case. In ***National Insurance Company Limited Versus Pranay Sethi & others, (2017) 16 SCC 680***, a Constitution Bench of the Hon'ble Apex Court held that the compensation has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. Para-55 of the judgment is reproduced as under:-

"55. Section 168 of the Act deals with the concept of "just compensation" and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. The conception of "just compensation" has to be viewed through the prism of fairness, reasonableness and non-violation of the principle of equitability. In a case of death, the legal heirs of the claimants cannot expect a windfall. Simultaneously, the compensation granted cannot be an apology for

compensation. It cannot be a pittance. Though the discretion vested in the tribunal is quite wide, yet it is obligatory on the part of the tribunal to be guided by the expression, that is, "just compensation". The determination has to be on the foundation of evidence brought on record as regards the age and income of the deceased and thereafter the apposite multiplier to be applied. The formula relating to multiplier has been clearly stated in Sarla Verma (supra) and it has been approved in Reshma Kumari (supra). The age and income, as stated earlier, have to be established by adducing evidence. The tribunal and the Courts have to bear in mind that the basic principle lies in pragmatic computation which is in proximity to reality. It is a well accepted norm that money cannot substitute a life lost but an effort has to be made for grant of just compensation having uniformity of approach. There has to be a balance between the two extremes, that is, a windfall and the pittance, a bonanza and the modicum. In such an adjudication, the duty of the tribunal and the Courts is difficult and hence, an endeavour has been made by this Court for standardization which in its ambit includes addition of future prospects on the proven income at present. As far as future prospects are concerned, there has been standardization keeping in view the principle of certainty, stability and consistency. We approve the principle of "standardization" so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age."

13. In the instant case, the learned Tribunal below had taken notional income of the deceased at Rs. 6,000/- per month. In order to prove her case, petitioner Satya Dilta appeared in the witness box as PW-2 and deposed that deceased Mohit Dilta was her only son, who died in an accident on 08.11.2011, while travelling in vehicle bearing registration No. HP-10A-3281 at Kanlog Nullah, as the aforesaid vehicle was being driven by its driver in rash and negligent manner. In the aforesaid accident, Anshul Dutta

also died on the spot alongwith her son. As per this witness, her son was agriculturist and horticulturist and in addition to this, he was also doing the business of selling empty apple boxes on commission basis and his income was Rs. 50,000/- per month.

14. However, except for the bald statement of the petitioner, Satya Ditta, no evidence has been led to prove that income of the deceased was more than Rs. 50,000/- per month at the time of his death. Merely from the copy of Jamabandies, Exts. PW-2/C to PW-2/C-3 placed on record, the income of the deceased cannot be assessed. No income tax return has been placed on record by the petitioner with respect to income of the deceased. There is also no evidence on record that the deceased was also doing the business of selling empty apple boxes on commission basis. In fact there is no cogent and satisfactory evidence on record to suggest that the deceased was earning more than Rs. 50,000/- per month. However, the notional income of the deceased in the sum of Rs. 6,000/- per month, as taken by learned Tribunal below is on the lower side. Since the

deceased was an agriculturist and horticulturist and the accident had taken place in the year 2011, his income can be taken at Rs. 8,000/- per month.

15. It has further been held in **Pranay Sethi's** case that while determining the income, in case the deceased was self-employed or on a fixed salary and below the age of 40 years, an addition of 40% of the established income to the income of the deceased towards future prospects should be made. Paras 59.3 and 59.4 of the said judgment read as follows:-

"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."

16. In the instant case, at the time of accident, the deceased was aged about 23 years as such in view of the law laid down by the Apex Court in **Pranay Sethi's** case

(supra), an addition of 40% of the notional monthly income of the deceased, in this appeal, can be made towards future prospects.

17. In ***Sarla Verma and others Versus Delhi Transport Corporation and another, 2009) 6 SCC 121***, the Apex Court, on the question of deduction towards the personal and living expenses of the deceased held that, the personal and living expenses of the deceased should be deducted from his monthly income, to arrive at the contribution to the dependents. Where the deceased was married, the deduction towards personal and living expenses of the deceased should be one-third where the number of dependent family members is 2 to 3; one-fourth where the number of dependent family members is 4 to 6; and one-fifth where the number of dependent family members exceeds 6. In 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 either 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 a dependent, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family.

18. As far as the multiplier is concerned, the Hon'ble Supreme Court in ***Amrit Bhanu Shali and others*** Versus ***National Insurance Company Limited and others, (2012) 11 SCC 738***, held that the selection of multiplier is based on the age of the deceased and not on the basis of the age of dependent. Paras 15 & 16 of the judgment reproduced as follows:-

"15. The selection of multiplier is based on the age of the deceased and not on the basis of the age of dependent.

There may be a number of dependents of the deceased whose age may be different and, therefore, the age of dependents has no nexus with the computation of compensation.

16. In the case of Sarla Verma (supra) this Court held that the multiplier to be used should be as mentioned in Column (4) of the table of the said judgment which starts with an operative multiplier of 18. As the age of the deceased at the time of the death was 26 years, the multiplier of 17 ought to have been applied. The Tribunal taking into consideration the age of the deceased rightly applied the multiplier of 17 but the High Court committed a serious error by not giving the benefit of multiplier of 17 and bringing it down to the multiplier of 13."

19. ***M.Mansoor and another Versus United India***

Insurance Company Limited and another, (2013) 15 SCC

603 was a case where the deceased was a bachelor of 24 years of age and the Hon'ble Supreme Court held that the selection of the multiplier is based on the age of the deceased and not the age of the dependents. Para-13 of the judgment reads as under:-

"13. The Tribunal adopted the multiplier of 17 and the High Court determined the multiplier as 12 on the basis of the age of the parents/claimants. This Court in the decision in Amrit Bhanu Shali & Ors. vs. National Insurance Company Limited & Ors. (2012) 11 SCC 738 held as follows :

"15. The selection of multiplier is based on the age of the deceased and not on the basis of the age of the dependent. There may be a number of dependents of the deceased whose age may be different and, therefore, the age of the dependents has no nexus with the computation of compensation."

20. In ***Pranay Sethi's*** case (supra) also, it has

been held by the Hon'ble Apex Court that the age of the deceased should be the basis for applying the multiplier. Paras 42 and 59.7 of the said judgment reproduced as under:-

"42. As far as the multiplier is concerned, the claims tribunal and the Courts shall be guided by Step 2 that finds place in paragraph 19 of Sarla Verma read with paragraph 42 of the said judgment. For the sake of completeness, paragraph 42 is extracted below :-

"42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M- 16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."

59.7. The age of the deceased should be the basis for applying the multiplier.

(emphasis supplied)"

21. As per the matriculation certificate of the deceased, Ext. PW-2/B placed on record, the date of birth of the deceased was 31.03.1988, as such, as such, at the time of accident, he was about 23 years of age. Therefore, in the light of the aforesaid decisions of the Apex Court, the multiplier of '11' applied by the Tribunal in the instant case is not correct and proper, whereas, the correct multiplier in the

instant case would be “18”. Thus, after fixing the notional monthly income of the deceased at Rs. 8,000/- and adding 40% of the monthly income towards future prospects, the amount comes to Rs. 11,200/- (8,000/- + 3200 = 11,200). Since the deceased was a bachelor at the time of the accident, 50% of the amount has to be deducted towards his personal expenses. By deducting 50% towards the personal and living expenses of the deceased, the amount comes to Rs. 5,600/- per month. By applying the multiplier of ‘18’ as per the settled law, the compensation under the head loss of dependency is re-fixed as Rs. **12,09,600/-** (5,600 x 12 x 18).

22. In ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others, reported in (2018) 18 Supreme Court Cases 130***, the Hon’ble Supreme Court has laid down that consortium is not limited to spousal consortium and it also includes parental consortium as well as filial consortium. The relevant portion of the aforesaid judgment reads as under:-

“21. A Constitution Bench of this Court in Pranay Sethi 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:

21.1. Spousal consortium is general defined as rights pertaining to the relationship of a husband-wife which allows compensation o the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".

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.

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of love, affection, care and companionship of the deceased child."

23. While placing reliance upon the judgment passed

by the Hon'ble Apex Court in **Pranay Sethi's** case (supra), the Hon'ble Supreme Court in **Sunita & ors. Vs. United India Insurance Co. Ltd. & ors., Civil Appeal No.9538 of 2025**, decided on July 17, 2025, had enhanced the compensation under the conventional heads @ 10% after a span of every three years w.e.f. the year 2017 and held as follows:-

"20. Regarding the monthly income of the deceased, we concur with the view taken by the Courts below in assessing the same to be Rs.12,000/- per month, for there being no error therein. Hence, in awarding compensation which is just and fair, we are inclined to increase the amount awarded under the conventional heads, namely, loss of estate, loss of consortium, and funeral expenses by 10% adverting to the settled principle of law laid down by this Court in National Insurance Co. Ltd. v. Pranay Sethi, that such amount should be revised every three years."

24. Accordingly in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** as well as **Sunita's** cases (supra), by enhancing the compensation under the conventional heads @ 10%, after every three years from the year 2017, the petitioner is entitled to loss of estate at Rs. 19,965/-, funeral expenses at Rs.19,965/-. Petitioner, being mother of the deceased, is also entitled to filial consortium of Rs. 53,240/-. Accordingly, the total

amount of compensation comes out as under:-

<u>Head</u>	<u>Amount</u>
(i) Loss of dependency	: Rs. 12,09,600/-
(ii) Loss of Estate	: Rs.19,965/-
(iii) Funeral Expenses	: Rs.19,965/-
(iv) Filial consortium	: Rs.53,240/-
Total compensation awarded : <u>Rs.13,02,770/-</u>	

25. Consequently, in view of detailed discussion made here-in-above and the law laid down by the Hon'ble Apex Court, the appeal is partly allowed. The impugned award dated 07.08.2015, passed by learned Tribunal below, is modified in the aforesaid terms. Rest of the terms of the impugned award, including the interest part, shall remain same.

The appeal stands disposed of in the above terms, so also the pending application(s), if any.

(Sushil Kukreja)
Judge

27th July, 2026
(raman)