

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 582 of 2012

Smt. Leela and others

.....Appellants

Versus

Ganesh Chandra and others

.....Respondents

Present:-

Mr. Kamal Pandey, Advocate, holding brief of Mr. Tarun Lakhera, Advocate for the appellants.

Mr. S.C. Bhatt, Advocate for the respondent no.1.

Mr. Subhash Joshi, Advocate for the respondent no.3.

Hon'ble Ravindra Maithani, J. (Oral)

Instant appeal is preferred against the order dated 09.10.2012, passed in Motor Accident Claim Petition No. 296 of 2010, Smt. Leela and others Vs. Ganesh Chandra and others, by the MACT/District Judge, Rudrapur, District Udham Singh Nagar. By it, the appellants/claimants have awarded compensation of Rs.3,86,000/-

2. Heard learned counsel for the parties and perused the record.

3. The deceased Rajendra Singh was riding a motorcycle on 22.06.2010, when at 07:30 p.m., a vehicle bearing Registration No. UP-78AN-3897 ("the vehicle") being driven in rash and negligent manner hit the motorcycle from behind. Due to which, the deceased died at the spot. A report was lodged. Appellant no.1.Smt. Leela is wife of the deceased, the appellant no.2, Vijay Singh is his son and the appellant no.3 Smt. Rukma Devi is mother of the deceased. According to the appellants/claimants the deceased was 30 years of age and was earning Rs.8,000/- per month. Accordingly, a claim petition was filed seeking compensation.

4. Objections were filed by the respondents, based on which issues were framed. Issue no.1 relates to, as to whether the deceased died due to rash and negligent driving of the driver of the vehicle. Issue no.2 was with regard to the validity of the documents of the vehicle. Issue no.3 is with regard to the relief. On issue no.1 the Tribunal decided that the accident took place due to rash and negligent driving of the driver of the vehicle, due to which, the deceased died. On issue no.2, the Tribunal opined that the driver of the vehicle as well as the vehicle had all the valid documents. On issue no.3, the Tribunal fixed the income of the deceased as notional income and while making deduction of 1/3rd , a multiplier of 16 was applied. Accordingly, Rs.3,84,000/- compensation was calculated on which Rs.2,000/- for funeral expenses was granted. Thereby total Rs.3,86,000/- compensation has been awarded. It is impugned.

5. Learned counsel for the appellants submits that under the following heads, the amount has not been paid:-

- (i) Future prospects have not been calculated.
- (ii) Loss of consortium has not been awarded.
- (iii) Loss of estate has not been awarded.
- (iv) For funeral expenses, the amount of Rs.2,000/- is on lesser side. It should be enhanced to Rs.15,000/-

6. The claim made by learned counsel for the appellant has not been dispute on behalf of the respondent nos. 1 and 2.

7. In the cases of notional income also, the future prospects has to be granted as held by the Hon'ble Supreme Court in the case of

Kirti and another Vs. Oriental Insurance Company Limited, (2012) 2 SCC 166.

8. Insofar as, compensation under different heads is concerned, in the case of National Insurance Company Limited Vs. Pranay Sethi and others, (2017) 16 SCC 680, the Hon'ble Supreme Court has held that **“under the conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15000, Rs. 40,000 and Rs.15,000 respectively.”** In the case of Pranay Sethi (*supra*), the Hon'ble Supreme Court has also held that **“aforementioned amount should be enhanced at the rate of 10% in every three years.”**

9. Insofar as, loss of consortium is concerned, in the case of Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130, the Hon'ble Supreme Court has defined consortium under three categories in para 21 as below:-

“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.”

10. The judgment in the case of Pranay Sethi (*supra*) was delivered on 31.10.2017, the question is whether the guidelines for commutation of compensation as laid down in the case of Pranay Sethi (*supra*) will carry retrospective effect.

11. In the case of Hasina Yasmin and others Vs. National Insurance Co. Ltd., 2025 SCC OnLine SC 2919, the Hon’ble Supreme Court has held that the standardisation as made in the case of Pranay Sethi can be made application to the fact of the case in which case the accident had taken place in the year 1998. But, insofar as, the enhancement at the rate of 10% calculated on three years basis, the issue was referred to the Larger Bench.

12. In the case of Vidyadevi Vs. Firoz Khan and others, MANU/MH/1811/2026, the Hon’ble Bombay High Court has relied upon the principles of law, as laid down by the Hon’ble Supreme Court in the case of Hasina Yasmin (*supra*).

13. Therefore, this Court is of the view that the appellants are entitled to get compensation with future prospects at the rate of 40% on the established income. Each of the appellants is also entitled to loss of consortium at the rate of Rs. 40,000/-. Under the conventional

heads, namely, loss of estate, and funeral expenses, they are also entitled to Rs.15,000/-. Accordingly, the computation comes as follows:-

SL. No.	Particulars	Amount
1.	Income of the deceased	Rs.3000/- (Notional)
2.	1/3 rd deduction (personal expenses)	Rs.3000 – Rs.1000 = Rs.2000/-
3.	Future prospects (40% addition)	Rs.2000 + Rs.800 = Rs.2800/-
4.	Annual Income	Rs.2800 x 12 = Rs. 33,600/-
5.	Multiplier of 16	Rs.33,600 x 16 = Rs. 5,37,600/-
6.	Loss of Consortium	Rs.40,000 x 3 = Rs.1,20,000/-
7.	Funeral Expenses	Rs.15,000/-
8.	Loss of estate	Rs. 15,000/-
9.	Total	Rs.6,87,600/-

14. Therefore, this Court is of the view that the appellants are entitled to get compensation of Rs.6,87,600/-. They are also entitled to get interest @ 7% on this amount w.e.f. the date when the application for compensation was filed. The appellants shall get the compensation in equal shares.

15. Accordingly, the amount of compensation awarded by the Tribunal is enhanced and the appeal deserves to be allowed.

16. The appeal is allowed accordingly.

(Ravindra Maithani, J.)
15.05.2026