

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.96 of 2014

1. Sahdeo Prasad @ Ravindra Kumar. S/o Late Lal Kishun Singh
 2. Raju Ranjan. S/o Sri Sahdeo Prasad @ Ravindra Kumar
 3. Rakesh Ranjan. S/o Sri Sahdeo Prasad @ Ravindra Kumar
All Are Resident Of East Lohanipur, P.O and P.S- Kadam Kuan, Patna.
- Appellants

Versus

1. English Prasad, S/o Lal Mohan Rai, Resident Of Village- Jharahapar, P.S- Karai Parsurai, District- Nalanda.
(Driver of Mini Bus bearing registration No. BR – 21B/6744).
 2. Rajiv Ranjan Kumar, S/o Shri Shailendra Kumar Resident Of Jharahapar, P.O- Mehrma, P.S- Karai Parsurai, District- Nalanda.
(Owner of Mini Bus bearing registration No. BR -21B/6744).
 3. The Regional Manager, The Oriental Insurance Co. Ltd., Patna, Regional Office, Pirmohani, More, P.O. & P.S. - Kadam Kuan, Patna - 3.
- Respondent/s

Appearance :

For the Appellants : Mr. Rajen Sahay, Advocate
For the Resp. No. 3 : Mr. Bimlesh Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
CAV JUDGMENT

Date : 18-11-2025

The present Miscellaneous Appeal under Section 173 of the Motor Vehicles Act has been preferred by the appellants, who were Claimants before the Motor Accident Claim Tribunal, against the judgment/award dated 18.06.2013, passed by learned Additional District and Sessions Judge-XIV-cum-Motor Accident Claims Tribunal, Patna in Claim Case No. 31 of 2010, whereby learned Tribunal has awarded the compensation of Rs. 2,73,500/- to the Claimants, who are appellants herein, payable by the Insurance Company, who is Respondent No. 3 herein, along with interest @ 6% per annum



from the date of filing of the claim case i.e. 19.01.2010. The appellants have filed this appeal for higher amount of compensation. However, they have already received the total amount of the compensation with protest from the Insurance Company (Respondent No.3 herein) as granted by learned Tribunal by the impugned award.

2. The factual background of the case is that the Claimants (appellants herein) filed a claim case bearing No. 31 of 2010 for compensation of Rs. 3,00,000/- against the owner and driver of the Mini Bus bearing Registration No. BR-21B-6744 viz., Rajiv Ranjan Kumar and English Prasad respectively and the Oriental Insurance Company Ltd. (Respondent No. 3 herein) on account of death of one Ameriki Devi in the motor accident involving the said Mini Bus on 13.11.2008. Claimant No.1, Sahdeo Prasad is husband, whereas the rest two claimants are sons of the deceased Ameriki Devi.

3. As per the case of the claimants, the said Ameriki Devi along with her son Rajiv Ranjan was traveling in the said Mini Bus, but on account of altercation between Rajiv Ranjan and conductor of the said Mini Bus, in regard to fare, Rajiv Ranjan was thrown out of the bus by the conductor and he was ran over by the bus. With intent to save her son, Ameriki



Devi also got down from the bus, getting multiple injuries and ultimately died on way to PMCH for treatment. Ameriki Devi is stated to be 50 years of age at the time of death and she was having monthly income of Rs. 3,000/- from a milk business. As per the claim petition, the accident has taken place near Chilka of Kanupipar village on 13.11.2008 at about 06:30 AM, situated in Chandi police station, Nalanda. As per claim of the Claimants, the offending Mini Bus was insured by the Oriental Insurance Co. Ltd. (Respondent No. 3).

4. On account of the accident, Chandi P.S. Case No. 199 of 2008 was registered on 04.12.2008 for offence punishable under Sections 279 and 304(A) of the Indian Penal Code and after investigation, charge-sheet bearing No. 131 of 2009 dated 19.08.2009 was submitted against the driver of Mini Bus, English Prasad, for offence punishable under Sections 279 and 304(A) of the Indian Penal Code.

5. On notice, the owner and driver of the vehicle did not appear and they were proceeded *ex-parte*. However, the Insurance Company appeared and filed one application under Section 170 of the Motor Vehicles Act for permission to contest the claim petition, which was allowed by learned Tribunal vide order dated 03.04.2012. The Insurance Company filed its



written statement contesting the claim petition.

6. On the basis of the pleading of the Claimants and the Insurance Company, the following issues were framed:

- “(i) Whether the claim case as framed is maintainable?
- (ii) Whether the accident took place on 13.11.2008 near Chilka Village Kanu Pipra P.S. Chandi, Dist. Nalanda due to rash and negligent act of conductor of vehicle number BR-21B-6774?
- (iii) Whether the accident took place due to rash and negligent act of conductor and driver of vehicle number BR-21B-6774 in which the deceased died and for which Chandi Case No. 199/08 dated 04.12.2008 was registered?
- (iv) Whether the driver of said vehicle was possessing effective D.L. at the relevant time?
- (v) Whether the claimants are entitled to get compensation, if so what would be the amount and from whom?
- (vi) Whether the claimants are entitled to get any other relief or reliefs”

7. During trial, the Claimants have examined two witnesses, namely, Sahdeo Prasad @ Arbind Kumar, who is one of the claimants himself, as A.W.1 and Kedar Prasad as A.W.2. The Claimants have also brought on record the following documents: **Ext. 1** - FIR of Chandi P.S. Case No. 199 of 2008, **Ext. 2** - charge sheet bearing No. 131 of 2009 , **Ext. 3** - death certificate of Ameriki Devi dated 14.08.2012, issued by Govt. of Bihar, **Ext. 4** - photocopy of R.C. Book of Mini Bus, **Ext. 5** - photocopy of insurance policy No. 331108/2008/8031, showing that the Mini Bus, bearing Registration No. BR-21B-6774, was insured from 14.02.2008 to 13.02.2009 by the Oriental Insurance Company Ltd. **Ext. 6** – fitness certificate of the Mini



Bus, **Ext. 7** - Road Permit of the Mini Bus, **Ext. 8** - photocopy of the driving licence of the driver, English Prasad. It transpires from the order dated 04.09.2012 passed by learned Tribunal that only death certificate (Exhibit-3) has been exhibited with objection from the Insurance Company, whereas the rest documents have been exhibited without any objection whatsoever.

8. However, Insurance Company has not examined any witness, nor has it brought any document on record.

9. After trial, learned Tribunal came to the conclusion that the motor accident had taken place involving the mini bus bearing Registration No. BR-21B-6744 due to rash and negligent driving of the driver of the vehicle in which the deceased/Ameriki Devi died and the offending vehicle was insured by the Insurance Company (Respondent No. 3) at the relevant time and the driver was holding valid driving license at the time of accident.

10. Learned Tribunal further found that the deceased was aged between 50 to 55 years and here it applied multiplier of 11 for calculation of the compensation. It also presumed monthly income of the deceased at the rate of Rs. 3,000/- per month and it deducted 1/3rd of the income



towards personal expenses of the deceased and as per calculation by the Tribunal the loss of dependency came to be Rs. 2,64,000/-. Learned Tribunal also awarded compensation of Rs. 5,000/- towards loss of love and consortium and Rs. 2,000/- for funeral expenses and Rs. 2,500/- for loss of estate. The total compensation amount came to be Rs. 2,73,500/-, out of which Rs. 50,000/- was directed to be adjusted which was already paid as interim compensation to the claimants by the Insurance Company. Hence, Rs. 2,23,500/- was directed to be paid by the Insurance Company to the Claimants along with interest @ 6% per annum from the date of filing of the claim case i.e. 19.01.2010.

11. I heard learned counsel for the Appellants and learned counsel for the Respondent No.3/Insurance Company. Respondent Nos.1 and 2 have not appeared despite service of notice.

12. Learned counsel for the Appellants submits that learned Motor Accident Claim Tribunal has erroneously determined @ Rs.3000/- per month and learned Tribunal has also not made any addition to the income of the deceased towards future prospectus. Quantum of compensation given under the conventional heads are also on lower side and the age



of the deceased has been arbitrarily determined between 50 to 55 years and multiplier of only 11 has been applied, whereas it should have been 13 as per prevailing law. Hence, the quantum of compensation is not just. The appellants are entitled to get higher compensation amount.

13. However, learned counsel for the Respondents defence the impugned judgment/award submitting that there is no illegality or infirmity in it and the appeal is liable to be dismissed for want of any merit.

Points For Determination

14. In view of the pleadings of the parties and the evidence on record, there is no dispute that deceased Ameriki Devi had died in motor vehicle accident involving the mini bus bearing Registration No. BR-21B-6744 and the accident taking place on 13.11.2008 and the death of the deceased being on account of the said motor accident on account of rash and negligent driving of the bus. The dispute is only regarding income and age of the deceased and the number of the appropriate multiplier and grant of compensation on conventional heads. Hence, the points which arise for determination by this Court are as follows:

- (i) What was the monthly income of the deceased,



Ameriki Devi at the time of death on account of the motor vehicle accident?

(ii) What was the age of the deceased, Ameriki Devi at the time of her death?

(iii) What should be just compensation?

15. Now my point was findings are as follows:

Point No. (i)

Income of the deceased, Ameriki Devi

16. As per the pleadings of the claimants in their claim petition, the deceased was earning Rs.3000/- per month from milk business. Oral evidence has been also adduced in support of such claim by the claimants. However, no documentary evidence was produced in support of the claim of the income of the deceased. Hence, learned Tribunal has not believed that deceased was earning Rs.3000/- per month from milk business and hence, he has presumed notional income of the deceased @ Rs.3000/-. From perusal of the evidence on record, I find that learned Tribunal has erroneously rejected the claim of the claimants that deceased was earning Rs.3000/- per month from milk business only for want of documentary evidence, being oblivious of the reality prevailing in the rural areas of the State of Bihar, where the poor persons are hardly in



position to produce documentary evidence in support of their vocation like animal husbandry and doing milk business. Hence, there was no reason to reject the claim of the appellants/claimants that deceased was doing milk business and earning Rs.3000/- per month. But even after such acceptance by the Tribunal, monthly income of the deceased remains Rs.3000/- per month which learned Tribunal has already accepted as her income.

Point No. (ii)

Age of the deceased, Ameriki Devi

17. Regarding age of the deceased, Ameriki Devi, it has been claimed by the appellants/claimants in their claim petition that she was 50 years of age as the deceased and the claimants who are villagers belonging to poor strata of the society, were unable to produce any documentary proof in support of the age of the deceased. Hence, on account of the age of her husband being 55 years, the age of the deceased-wife was presumed by learned Tribunal between 50 to 55 years, only on the basis of arbitrary presumption, ignoring the fact that the age of the deceased was assessed to be 50 years by the doctor, who had conducted her postmortem. Hence, learned Tribunal has committed error by determining the age of the deceased



between 50 to 55 years. Her age should have been accepted as 50 years.

Point No. (iii)

Just Compensation

18. Before I proceed to determine the just compensation, it would be pertinent to point out what is law regarding just compensation in case of death arising out of motor vehicle accident on account of rash and negligent driving of the offending vehicle.

Law Regarding Just Compensation

19. **Sarla Verma Vs. DTC, (2009) 2 SCC 770** is a land mark judgment of Hon'ble Supreme Court in regard to assessment of compensation in cases of death. In this judgment, Hon'ble Supreme Court has laid down principles to provide uniformity and consistency in awarding compensation. The principles as laid down in **Sarla Verma Case** (supra) has been subsequently modified and improved by Hon'ble Apex Court in subsequent judgments which are as follows:

- (i) Reshma Kumari Vs. Madan Mohan,
(2013) 9 SCC 65
- (ii) Royal Sundram Alliance Insurance Co. Ltd. Vs.
Mandala Yadagari Goud, (2019) 5 SCC 554
- (iii) National Insurance Co. Ltd. Vs. Pranay Sethi,
(2017) 16 SCC 680



(iv) Magma General Insurance Co. Ltd. Vs. Nanu
Ram, (2018) 18 SCC 130

20. All the aforesaid landmark judgments have been referred to and discussed by Hon'ble Supreme Court in **United India Insurance Co. Ltd. Vs. Satinder Kaur, (2021) 11 SCC 780** providing complete prevailing law regarding assessment of compensation in cases of death arising out of Motor Vehicle Accident. The relevant paragraphs of the judgment read as follows:

“Relevant principles for assessment of compensation in cases of death as evolved by judicial dicta.

11. The criteria which are to be taken into consideration for assessing compensation in the case of death are : (i) the age of the deceased at the time of his death; (ii) the number of dependants left behind by the deceased; and (iii) the income of the deceased at the time of his death.

12. In **Sarla Verma v. DTC (2009) 6 SCC 121** this Court held that to arrive at the loss of dependency, the Tribunal ought to take into consideration three factors : (SCC p. 132, para 18)

(i) additions/deductions to be made for arriving at the income;

(ii) the deduction to be made towards the personal living expenses of the deceased; and

(iii) the multiplier to be applied with reference to the age of the deceased.

13. In order to provide uniformity and consistency in awarding compensation, the following steps are required to be followed : Sarla Verma case (2009) 6 SCC 121

“Step 1 (Ascertaining the multiplicand)

The income of the deceased per annum should be determined. Out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of personal and living



expenses. The balance, which is considered to be the contribution to the dependant family, constitutes the multiplicand.

Step 2 (Ascertaining the multiplier)

Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a Table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said Table with reference to the age of the deceased.

Step 3 (Actual calculation)

The annual contribution to the family (multiplicand) when multiplied by such multiplier gives the “loss of dependency” to the family. Thereafter, a conventional amount in the range of Rs 5000 to Rs 10,000 may be added as loss of estate. Where the deceased is survived by his widow, another conventional amount in the range of 5000 to 10,000 should be added under the head of loss of consortium. But no amount is to be awarded under the head of pain, suffering or hardship caused to the legal heirs of the deceased.

The funeral expenses, cost of transportation of the body (if incurred) and cost of any medical treatment of the deceased before death (if incurred) should also added.”

(emphasis supplied)

(a) Deduction for personal and living expenses

14. The personal and living expenses of the deceased should be deducted from the income, to arrive at the contribution to the family. In *Sarla Verma* (2009) 6 SCC 121, this Court took the view that it was necessary to standardise the deductions to be made under the head personal and living expenses of the deceased. Accordingly, it was held that:

14.1. Where the deceased was married, the deduction towards personal and living expenses should be 1/3rd if the number of dependant family members is two to three.

14.2. 1/4th if the number of dependant family members is four to six.

14.3. 1/5th if the number of dependant family members exceeds six.

14.4. If the deceased was a bachelor, and the claim



was filed by the parents, the deduction would normally be 50% as personal and living expenses of the bachelor. Subject to evidence to the contrary, the father was likely to have his own income, and would not be considered to be a dependant. Hence, the mother alone will be considered to be a dependant. In the absence of any evidence to the contrary, brothers and sisters of the deceased bachelor would not be considered to be dependants, because they would usually either be independent and earning, or married, or dependant on the father. Thus, even if the deceased was survived by parents and siblings, only the mother would be considered to be a dependant. The deduction towards personal expenses of a bachelor would be 50%, and 50% would be the contribution to the family.

14.5. However, in a case where the family of the bachelor was large and dependant on the income of the deceased, as in a case where he had a widowed mother, and a large number of younger non-earning sisters or brothers, his personal and living expenses could be restricted to 1/3rd, and contribution to the family be taken as 2/3rd.

15. A three-Judge Bench in **Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65** affirmed the standards fixed in *Sarla Verma*, (2009) 6 SCC 121 with respect to the deduction for personal and living expenses, and held that these standards must ordinarily be followed, unless a case for departure is made out. The Court held : *Reshma Kumari* case, (2013) 9 SCC 65 : paras 41-43)

“41. The above does provide guidance for the appropriate deduction for personal and living expenses. One must bear in mind that the proportion of a man's net earnings that he saves or spends exclusively for the maintenance of others does not form part of his living expenses but what he spends exclusively on himself does. The percentage of deduction on account of personal and living expenses may vary with reference to the number of dependant members in the family and the personal living expenses of the deceased need not exactly correspond to the number of dependants.

42. In our view, the standards fixed by this Court in *Sarla Verma* (2009) 6 SCC 121 on the aspect of deduction for personal living expenses in paras 30, 31 and 32 must ordinarily be followed unless a case for departure in the circumstances noted in the preceding para is made out.

43. In what we have discussed above, we sum up our



conclusions as follows:

43.6. Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paras 30, 31 and 32 of the judgment in Sarla Verma 6 SCC 121 subject to the observations made by us in para 41 above.”
(emphasis supplied)

16. A Constitution Bench of this Court in **National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC 680** held that the standards fixed in Sarla Verma (2009) 6 SCC 121 would provide guidance for appropriate deduction towards personal and living expenses, and affirmed the conclusion in para 43.6 of Reshma Kumari (2013) 9 SCC 65.

(b) Determination of multiplier

17. With respect to the multiplier, the Court in Sarla Verma (2009) 6 SCC 121, prepared a chart for fixing the applicable multiplier in accordance with the age of the deceased, after considering the judgments in Kerala, SRTC v. Susamma Thomas (1994) 2 SCC 176 , U.P. SRTC v. Trilok Chandra (1996) 4 SCC 362] and New India Assurance Co. Ltd. v. Charlie, (2005) 10 SCC 720 : .

18. The relevant extract from the said chart i.e. Column 4 has been set out hereinbelow for ready reference:

Age of the deceased	Multiplier (Column 4)
Up to 15 years	-
15 to 20 years	18
21 to 25 years	18
26 to 30 years	17
31 to 35 years	16
36 to 40 years	15
41 to 45 years	14
46 to 50 years	13
51 to 55 years	11
56 to 60 years	9
61 to 65 years	7
Above 65 years	5

19. The Court in **Sarla Verma, (2009) 6 SCC 121** held : (SCC p. 140, para 42)



“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*, (1994) 2 SCC 176, *Trilok Chandra*, (1996) 4 SCC 362 and *New India Assurance Co. Ltd. v. Charlie*, (2005) 10 SCC 720, 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.”

(emphasis supplied)

20. In **Reshma Kumari v. Madan Mohan**, (2013) 9 SCC 65, this Court affirmed Column 4 of the chart prepared in *Sarla Verma v. DTC*, (2009) 6 SCC 121, and held that this would provide uniformity and consistency in determining the multiplier to be applied. The Constitution Bench in **National Insurance Co. Ltd. v. Pranay Sethi**, (2017) 16 SCC 680 affirmed the chart fixing the multiplier as expounded in *Sarla Verma v. DTC*, (2009) 6 SCC 121, and held : *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680, paras 44 & 59)

“44. At this stage, we must immediately say that insofar as the aforesaid multiplicand/multiplier is concerned, it has to be accepted on the basis of income established by the legal representatives of the deceased. Future prospects are to be added to the sum on the percentage basis and “income” means actual income less the tax paid. The multiplier has already been fixed in *Sarla Verma v. DTC*, (2009) 6 SCC 121 which has been approved in *Reshma Kumari v. Madan Mohan*, (2013) 9 SCC 65 with which we concur.”

59.6. The selection of multiplier shall be as indicated in the Table in *Sarla Verma v. DTC*, (2009) 6 SCC 121 read with para 42 of that judgment.”

(emphasis supplied)

(c) Age of the deceased must be the basis for determining the multiplier even in case of a bachelor

21. In **Sarla Verma v. DTC**, (2009) 6 SCC 121, this Court held that the multiplier should be determined with reference to the age of the deceased. This was subsequently affirmed in **Reshma Kumari v. Madan**



Mohan, (2013) 9 SCC 65, and followed in a line of decisions. A three-Judge Bench in *Munna Lal Jain v. Vipin Kumar Sharma*, (2015) 6 SCC 347 held that the issue had been decided in *Reshma Kumari v. Madan Mohan*, (2013) 9 SCC 65, wherein this Court held that the multiplier must be with reference to the age of the deceased. The decision in *Munna Lal Jain v. Vipin Kumar Sharma*, (2015) 6 SCC 347 was followed by another three-Judge Bench of this Court in *Sube Singh v. Shyam Singh*, (2018) 3 SCC 18.

22. The Constitution Bench in **National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680** affirmed the view taken in *Sarla Verma v. DTC*, (2009) 6 SCC 121 and *Reshma Kumari v. Madan Mohan*, (2013) 9 SCC 65, and held that the age of the deceased should be the basis for applying the multiplier.

23. Another three-Judge Bench in **Royal Sundaram Alliance Insurance Co. Ltd. v. Mandala Yadagari Goud, (2019) 5 SCC 554** traced out the law on this issue, and held that the compensation is to be computed based on what the deceased would have contributed to support the dependants. In the case of the death of a married person, it is an accepted norm that the age of the deceased would be taken into account. Thus, even in the case of a bachelor, the same principle must be applied.

24. The aforesaid legal position has recently been re-affirmed by this Court in **Sunita Tokas v. New India Insurance Co. Ltd., (2019) 20 SCC 688**.

(d) Future prospects

25. In the wake of increased inflation, rising consumer prices, and general standards of living, future prospects have to be taken into consideration, not only with respect to the status or educational qualifications of the deceased, but also other relevant factors such as higher salaries and perks which are being offered by private companies these days. The dearness allowance and perks from which the family would have derived monthly benefit, are required to be taken into consideration for determining the loss of dependency.

26. In **Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121]**, this Court held : (SCC p. 134, para 24)

“24. In *Kerala SRTC v. Susamma Thomas*, (1994) 2 SCC 176, this Court increased the income by nearly 100%, in *Sarla Dixit v. Balwant Yadav*, (1996) 3 SCC 179], the income was increased only by 50% and in



Abati Bezbaruah v. Geological Survey of India, (2003) 3 SCC 148 the income was increased by a mere 7%. In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words “actual salary” should be read as “actual salary less tax”.) The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances.”

(emphasis supplied)

27. In **National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680**, the Constitution Bench evaluated all the judicial precedents on the issue of future prospects including *Sarla Verma v. DTC*, (2009) 6 SCC 121, and devised a fixed standard for granting future prospects. It was held : *National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680* pp. 712-14, paras 57-59)

“57. Having bestowed our anxious consideration, we are disposed to think that when we accept the principle of standardisation, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust. The determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Act. In case of a deceased who had held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to state that the legal representatives of a deceased who was on a fixed salary



would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be inapposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and staticness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a perception is fallacious. It is because the price rise does affect a self-employed person; and that apart there is always an incessant effort to enhance one's income for sustenance. The purchasing capacity of a salaried person on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to garner his resources and raise his charges/fees so that he can live with same facilities. To have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in the case of a person having a permanent job, yet the said perception does not really deserve acceptance. We are inclined to think that there can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary. But not to apply the principle of standardisation on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground reality. And, therefore, degree-test is imperative. Unless the degree-test is applied and left to the parties to adduce evidence to establish, it would be unfair and inequitable. The degree-test has to have the inbuilt concept of percentage. Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life, etc., an addition of 40% of the established income of the deceased towards future prospects and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable.



58. The controversy does not end here. The question still remains whether there should be no addition where the age of the deceased is more than 50 years. *Sarla Verma v. DTC*, (2009) 6 SCC 121 thinks it appropriate not to add any amount and the same has been approved in *Reshma Kumari v. Madan Mohan*, (2013) 9 SCC 65. Judicial notice can be taken of the fact that salary does not remain the same. When a person is in a permanent job, there is always an enhancement due to one reason or the other. To lay down as a thumb rule that there will be no addition after 50 years will be an unacceptable concept. We are disposed to think, there should be an addition of 15% if the deceased is between the age of 50 to 60 years and there should be no addition thereafter. Similarly, in case of self-employed or person on fixed salary, the addition should be 10% between the age of 50 to 60 years. The aforesaid yardstick has been fixed so that there can be consistency in the approach by the tribunals and the courts.

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

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.”

(emphasis supplied)

(e) Three conventional heads

28. In ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680, the Constitution Bench held that in death cases, compensation would be awarded only under three conventional heads viz. loss of estate, loss of



consortium and funeral expenses. The Court held that the conventional and traditional heads, cannot be determined on percentage basis, because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified, which has to be based on a reasonable foundation. It was observed that factors such as price index, fall in bank interest, escalation of rates, are aspects which have to be taken into consideration. The Court held that 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 Court was of the view that the amounts to be awarded under these conventional heads should be enhanced by 10% every three years, which will bring consistency in respect of these heads:

(a) Loss of estate — Rs 15,000 to be awarded.

(b) Loss of consortium.

29. **Loss of consortium**, in legal parlance, was historically given a narrow meaning to be awarded only to the spouse i.e. the right of the spouse to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. The loss of companionship, love, care and protection, etc., the spouse is entitled to get, has to be compensated appropriately. The concept of non-pecuniary damage for loss of consortium is one of the major heads for awarding compensation in various jurisdictions such as the United States of America, Australia, etc. English courts have recognised the right of a spouse to get compensation even during the period of temporary disablement.

30. In **Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130** this Court interpreted “**consortium**” to be a compendious term, which encompasses spousal consortium, parental consortium, as well as 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.

31. **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. **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 and affection, and their role in the family unit.

32. Modern jurisdictions world over have recognised 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 permit parents to be awarded compensation under the loss of consortium on the death of a child. The amount awarded to the parents is the compensation for loss of love and affection, care and companionship of the deceased child.

33. The Motor Vehicles Act, 1988 is a beneficial legislation which has been framed with the object of providing relief to the victims, or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to the children who lose the care and protection of their parents in motor vehicle accidents. The amount to be awarded for loss consortium will be as per the amount fixed in National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680.

34. At this stage, we consider it necessary to provide uniformity with respect to the grant of consortium, and loss of love and affection. Several Tribunals and the High Courts have been awarding compensation for both loss of consortium and loss of love and affection. The Constitution Bench in National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680, has recognised only three conventional heads under which compensation can be awarded viz. loss of estate, loss of consortium and funeral expenses. In Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130, this Court gave a comprehensive interpretation to consortium to include spousal consortium, parental consortium, as well as filial consortium. Loss of love and affection is comprehended in loss of consortium.

35. The Tribunals and the High Courts are directed to award compensation for loss of consortium, which is a legitimate conventional head. There is no justification to award compensation towards loss of love and affection as a separate head.

(c) Funeral expenses — Rs 15,000 to be awarded

36. The aforesaid conventional heads are to be



revised every three years @ 10%.”

Present Case

21. Coming to the case on hand, it is found that the deceased, Ameriki Devi was 50 years of age at the time of her death and her income has been assessed to be Rs.3000/- per month. As per the pleadings and evidence on record, she was survived by her husband (Appellant No. 1) and two sons, who are Appellant Nos. 2 and 3.

Computation of Compensation

22. In view of monthly income of Rs.3000/- per month, the annual income of deceased would work out to Rs.36,000/- (Rs.3000 x 12). As there is no pleading or evidence that deceased was paying any tax, there is no question of any deduction towards payment of tax. Now as per law, there has to be addition to her annual income towards future prospects. As the deceased was self employed, addition to her annual income towards future prospects would be 25% in view of the **Pranay Sethi Case** (supra). Hence, annual income of the deceased after addition towards future prospects comes to be Rs.45,000/- (Rs.36,000+Rs.9000).

23. Now as per law, there has to be deduction from the annual income towards personal living expenses. In view of the



number of the dependents being three, this deduction has to be one third. Hence, after deduction from the annual income of the deceased comes to be Rs.30,000/- (Rs.45,000 - Rs.15,000). This annual income of Rs.30,000/- constitutes multiplicand. To find out loss of annual dependency/loss of annual future income could be determined by multiplying this multiplicand by appropriate multiplier. As per law, the appropriate multiplier in this case would be 13 in view of the age of the deceased being 50 years, in view of **Sarla Verma Case** (supra). Hence, total loss of dependency comes out to be $\text{Rs.30,000} \times 13 = \text{Rs.3,90,000/-}$.

24. In view of the **Pranay Sethi Case** (supra), compensation has to be awarded under three conventional heads also, namely, loss of Estate, loss of Consortium and Funeral expenses. The figures on such conventional heads was provided by Hon'ble Supreme Court in **Pranay Sethi Case** (supra) as Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, respectively in the year 2017 with stipulation that compensation under such conventional heads should be increased every three years @ 10%. However, in the case on hand, it is found that the accident had taken place in the year 2008 i.e., 9 years prior to **Pranay Sethi Case**, but about 8 years have passed since the **Pranay**



Sethi Case. Hence, the claimants/appellants are entitled to get compensation under conventional heads on the date of the accident at a lower rate than what has been decided by Hon'ble Supreme Court in **Pranay Sethi Case** (supra) in the year of 2017. However, they are also entitled to get increase in their compensation under conventional heads @ 10% per three years. Hence, as of today, the Appellants/Claimants would be broadly entitled to get under conventional heads only at the rate, as decided by Hon'ble Supreme Court in the **Pranay Sethi Case** (supra) in the year 2017 in view of the aforesaid decrease and increase. Hence, Appellants are awarded compensation under the conventional heads as follows:

(i) Towards Loss of Estate:- Rs.15,000/-.

(ii) Towards loss of spousal consortium to husband/Appellant No.1 - Rs. 40,000/-, towards loss of parental consortium to sons of the deceased who are Appellant Nos. 2 and 3 - Rs.40,000 x 2 = Rs.80,000/-.

(iii) Towards funeral expenses - Rs.15,000/-.

25. Hence, total compensation payable to the Claimants/Appellants would work out to be Rs.5,40,000/- (Rs.3,90,000+Rs.15,000+Rs.40,000+Rs.80,000+Rs.15,000). As per the pleading of the parties, the claimants/appellants have



already received total Rs.2,73,500/- with interest @ 6%.

26. Hence, the balance amount i.e., Rs.2,66,500/- (Rs.5,40,000 – Rs.2,73,500) is directed to paid by the Insurance Company/Respondent No.3 to the Appellants/Claimants within two months, failing which the Respondent No.3/Insurance Company would be liable to pay penal interest @ 12% per annum. All three Appellants/Claimants would get the compensation amount in equal share i.e. 1/3rd of the balance amount of Rs. 2,66,500/-. This amount must be paid by way of account payee cheque or Bank Draft in the names of the Appellants separately as per their shares.

27. The present Miscellaneous Appeal stands allowed, accordingly.

28. LCR be sent back to the Court below forthwith.

(Jitendra Kumar, J.)

Shoaib/Ravi shankar

AFR/NAFR	AFR
CAV DATE	16.09.2025.
Uploading Date	19.11.2025.
Transmission Date	19.11.2025.

