IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 283 of 2025

United India Insurance Company Ltd.

VERSUS

Kalpana Baske and Ors.

For the appellant/Insurance company.:	Mr. Rajesh Singh, Adv. Mr. Sucharita Paul, Adv.
For the respondents/claimants:	Mr. Krishanu Banik, Adv. Mr. Tathagata Banik, Adv.

Last Heard on: November 07, 2025

Judgment on: November 26, 2025

Biswaroop Chowdhury,J:

The respondent before this Court was a claimant in a motor accident claim case and the appellant before this court was the opposite party in the said case being MAC case no 68 of 2022 and is aggrieved by the Judgment and Award dated 19.08.2024 passed by the Learned Additional District Judge 3rd- Court Paschim Medinipur in MAC Case No – 68 of 2022.

The case of the claimants before the Learned Trial Court may be summed up thus;

On 22.11.2021 at about 06:10pm deceased Rilamala Baske and her brother Akash Baske was returning home after the end of private tuition from Fulkusima by riding a bicycle through Jhargram Bankura pitch road and at about 06:10pm while they reached near the shop of Soukhin enterprise at that time one vehicle bearing NoWB23E/3911(Truck) was coming from Fulkusma side at a very high speed and driven in a rash and negligent manner without blowing horn suddenly dashed the bicycle of the victim with great force. As a result victim and her brother was thrown away from the bicycle. As a result of which both of them were seriously injured

Subsequently with the help of local people victim and her brother were immediately taken to Fulkusma Hospital and thereafter on account of serious condition the attending doctor of Fulkusma Hospital referred the victim to Raipur Hospital and after examination the attending doctor of Raipur Hospital declared her dead. Pursuant to the accident complaint was lodged before the Police authority and investigation was taken up and on completion of investigation charge sheet was submitted against driver of the offending vehicle.

The owner of the vehice being respondent no3 and appellant contested the case by filing written statement. Thereafter issues were framed and evidence was adduced by the claimants/respondent no1and2 .No evidence was adduced by the appellant insurance company.

Upon consideration of the evidence adduced and upon hearing the Learned Advocates for the parties the Learned Trial Court was pleased to dispose the claim case by observing and directing as follows;

'Hence it is ORDERED that the instant case filed U/S. 166 of Motor Vehicles Act, 1988 is allowed ex-parte against the O.P No-1/owner and allowed on contest against O.P. No-2/Insurer United India Ins. Co. Ltd.

The petitioners do get an award of Rs. 8,66,000/-(Eight Lakhs Sixty Six Thousand Only) in total, out of which Rs. 8,26,000/- payable to petitioner No. 1. Kalpana Baskey and petitioner No. 2 Sunil Baskey do get a consortium amount of Rs. 40,000/- (Rupees Forty Thousand Only).

The amount of compensation, as awarded, shall carry a simple interest @ 5 % per annum from the date of filing of this amended claim application ie. 26.02.2024 till final realization of the entire amount.

The OP No-2/Insurer, is directed to pay the awarded amount to the Petitioners/claimants as mentioned above with interest within three months from the date of this order and the same to be defrayed without deduction of any TD S, whatsoever over the interest amount or the awarded amount after deposit of deficit court fees by the claimant before the tribunal, in default, the petitioners shall be at liberty to put this award in execution in accordance with law.

However, considering the entire aspects this court passes no order as to cost.'

The Appellant United India Insurance Company Ltd being aggrieved by the Judgment and Order dated 19-08-2024 passed by the Learned Trial Court has come up with this instant appeal.

The Judgment of the Learned Trial Court is assailed on ground that income of the victim ought not to be considered as Rs. 5,000/- per month. It is further submitted that there is no proof that the victim was a student thus the Learned Trial Court erroneously came to the conclusion and granted the awarded sum to the claimants. Learned Advocate also submits that the Learned Trial Court erred in granting Fillial Consortium to the claimants amounting to Rs. 40,000/- each when the decision of the Hon'ble Supreme Court in the case of Pronoy Sethi does not provide for Fillal Consortium.

Learned Advocate relies upon the following Judicial decisions:

National Insurance Company Limited. VS Pronoy Sethi and Ors.

Reported in AIR-2017 SC-5157

Prem Lal Anand. And ors. VS Narendra Kumar and ors.

Reported in MANU-S.C./0845/2024

Unreported Judgment in the case of Magma HDI General Insurance Company Limited VS Mandira Ash and others.

Being FMAT-332 of 2019.

With CAN. 4898 of 2019.

Banasri Banerjee VS New India Assurance Company Limited and Anr.

Being FMA-3200 of 2016.

National Insurance Co. Ltd. VS Sohna Singh and Others.

FMA – 464 of 2017

With

Sohna Singh and others VS National Insurance Co. Ltd.

COT No – 7 of 2017

Kishan Gopal and anr. VS Lala and others.

Reported in (2014) 1 SCC-P 244.

Meena Devi VS Nunu Chand Mahto.

Reported in (2023) 1 SCC. P-204.

Manawara Bibi. VS National Insurance Co. Ltd.

FMA No – 444 of 2025

Learned Advocate for the respondent no- 1 and 2 claimants submits that the Learned Trial Court upon considering the relevant factors arrived at a right decision and the compensation awarded is not excessive. Learned Advocate submits that the respondent no. 1 and 2 are entitled to Fillial Consortium. Learned Advocate relies upon the following Judicial decisions:

Thangavel and others VS Managing Directors Tamil Nadu.

State Transport Corporation and another.

Reported in (2025) (3) TAC-723 (S.C).

Kishan Gopal VS Lala and others.

Reported in (2013) ACC-878 (SC)

Kumari Laxmisree VS Managing Director KSR Corporative.

Reported in (2025) (2) TAC-475.

4. Meena Devi VS. Manu Chand Mahato.

2022(4) TAC-371 (S.C).

5. Magma General Insurance Co Ltd vs Nanu Ram

Reported in AIR Online 2018 SC 189

With regard to the first contention of the appellant that notional income fixed by the Learned Trial Court is wrong this Court finds that the Learned Trial Court upon considering the facts of the case and considering the decision of Susamma Thomas and National Insurance Company Ltd. VS Pronoy Shethy arrived at the view that Rs. 5,000/- per month should be reckoned as the notional monthly income. Thus the said view should be accepted.

Secondly, with regard to the submission of Learned Advocate for the Appellant that there is no proof that the victim was a student this Court is of the view that although documents were not filed by the claimants it appears from the depositions of P.W.1 that not only did P.W. 1 claimant stated that her victim daughter was a student but also specified that her daughter was returning from private tuition, which will go to show that the victim was a student. There is no cross examination in this regard by the Appellant Insurance Company. Thus this issue is proved. Moreover at present when there is vast opportunity of Education in rural areas and children are being sent to school it is difficult to believe that a child of twelve years was not sent to school.

Now the question which comes for consideration is whether the Learned Trial Court was justified in awarding Filial Consortium of Rs. 40,000/- each to both the claimants being parents of the victim.

Before proceeding to decide the issue it is necessary to consider the decision of the Hon'ble Supreme Court in the case of National Insurance Company Limited. VS Pronoy Sethi (supra).

The Hon'ble Supreme Court in the case Pronoy Sethi observed as follows:

'48. Another aspect which has created confusion pertains to grant of loss of estate, loss of consortium and funeral expenses. In Santosh Devi (supra), the two-Judge Bench followed the traditional method and granted Rs. 5,000/- for transportation of the body, Rs. 10,000/- as funeral expenses and Rs. 10,000/- as regards the loss of consortium. In Sarla Verma, the Court granted Rs. 5,000/- under the head of loss of estate, Rs. 5,000/- towards funeral expenses and Rs. 10,000/- towards loss of Consortium. In Rajesh, the Court granted Rs. 1,00,000/- towards loss of consortium and Rs. 25,000/- towards funeral expenses. It also granted Rs. 1,00,000/- towards loss of care and guidance for minor children. The Court enhanced the same on the principle that a formula framed to achieve uniformity and consistency on a socio-economic issue has to be contrasted from a legal principle and ought to be periodically revisited as has been held in Santosh Devi (supra). On the principle of revisit, it fixed different amount on conventional heads. What weighed with the Court is factum of inflation and the price index. It has also been moved by the concept of loss of consortium. We are inclined to think so, for what it states in that regard. We quote:-

"17. … In legal parlance, "consortium" is the right of the spouse to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. That non-pecuniary head of damages has not been properly understood by our courts. 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 of award of compensation in other parts of the world more particularly in the United States of America, Australia, etc. English courts have also recognized the right of a spouse to get compensation even during the period of temporary disablement. By loss of consortium, the courts have made an attempt to compensate the loss of spouse's affection, comfort, solace, companionship, society, assistance, protection, care and sexual relations during the future years. Unlike the compensation awarded in other countries and other jurisdictions, since the legal heirs are otherwise adequately compensated for the pecuniary loss, it would not be proper to award a major amount under this head. Hence, we are of the view that it would only be just and reasonable that the courts award at least rupees one lakh for loss of consortium."

The Hon'ble Court further observed as follows:

'54 'As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in *Rajesh*. It has granted Rs. 25,000/- towards funeral expenses, Rs. 1,00,000/- loss of consortium and Rs. 1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though ***Rajesh*** refers to ***Santosh Devi***, it does not seem to follow the same.

The conventional and traditional heads, needless to say, 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. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb Rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb Rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided.

Therefore, we think it seemly to fix reasonable sums. It seems to us 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 principle of revisting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years.

We are disposed to hold so because that will bring in consistency in respect of those heads.'

Although the Hon'ble Supreme Court in the case of Pronoy Sethi has laid down the heads on which non pecuniary loss can be assessed and compensation awarded but consortium is confined only to Spouce and not any other dependants or relations. Moreover the Hon'ble Court was pleased to reject the grant of compensation on account of loss of care and minor children. Pursuant to the decision of the Hon'ble Supreme Court in the case of Pronoy Sethi an issue which came up before the Hon'ble Supreme Court in the case of Magma General Insurance Co. Ltd. VS Nanu Ram Alias Charu Ram reported in AIR. Online 2018 S.C. 189/The Hon'ble Court was pleased to observe as follows:

'The judgment of this Court in Pranay Sethi (supra) has set out the various amounts to be awarded as compensation under the conventional heads in case of death. The relevant extract of the judgment is reproduced herein below:

"Therefore, we think it seemly to fix reasonable sums. It seems to us 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 principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact centric or quantum centric. We think that it would be condign that the amount that we have quantified should be enhanced on percent age basis in every three years and the enhancement should be at the rate of 10% in a span of three years." (Emphasis supplied)As per the aforesaid judg ment, the compensationof Rs. 25,000 towards funeral expenses is decreased to Rs 15,000/-.

The amount awarded by the High Court towards loss of love and affection is, however, maintained.

8.6 The MACT as well as the High Court have not awarded any compensation with respect to Loss of Consortium and Loss of Estate which are the other conventional heads under which compensation is awarded in the event of death as recognized by the Constitution Bench in Pranay Sethi (supra).

The Motor Vehicles Act is a beneficial and welfare legislation. The Court is duty bound and entitled to award "just compensation", irrespective of whether any plea in that behalf was raised by the Claimant.

In exercise of our power under Article 142, and in the interests of justice, we deem it appropriate to award an amount of Rs. 15,000 towards Loss of Estate to Respondent Nos. 1 and 2.

8.7 A Constitution Bench of this Court in Pranay Sethi (supra) 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. 3 Spousal consortium is generally defined as right 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.” 4 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 3 Rajesh and Ors. VS. Rajbir Singh and Ors. (2013) 9 SCC 54 4 BLACK’S LAW DICTIONARY (5th ed. 1979) family of the deceased. The greatest agony for a parent to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

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 the love, affection, care and companionship of the deceased child.

The Motor Vehicles Act is a beneficial legislation aimed at 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 children who lose their parents in motor vehicle accidents under the Act.

A few High Courts have awarded compensation on this court 5 Rajasthan High Court in Jagmala Ram @ Jagmal Singh & Ors. V. Sohi Ram & Ors. 2017 (4) RLW 3368 (Raj);

Uttarakhand High Court in Smt. Rita Rana & Anr. V. Pradeep Kumar & 6 Ors. respect to the principle sum which compensation could be awarded on loss of Filial Consortium.

The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down in Pranay Sethi (supra).

In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs. 40,000 each for loss of Filial Consortium.

9. In light of the above mentioned discussion, Respondent Nos. 1 and 2 are entitled to the following amounts: Head Compensation awarded i. Income: Rs. 6,000 ii. Future Prospects: Rs. 2,400 (i.e. 40% of the income) iii. Deduction towards Rs. 2,800 [i.e. 1/3rd of personal expenditure: (Rs. 6,000 +RS. 2,400] vi. Loss of future income: Rs. 12,09,600 (Rs. 5,600 x 12 x

18) vii. Loss of love and Rs. 1,00,000 (Rs. 50,000 each) affection:

viii. Funeral expenses: Rs. 15,000 ix. Loss of estate: Rs. 15,000 x. Loss of Filial Rs. 80,000 (Rs. 40,000 payable 2014 (3) UC 1687;

Karnataka High Court in Lakshman and Ors. v. Susheela Chand Choudhary & Ors (1996) 3 Kant LJ 570 (DB) Consortium: to each of Respondent Nos. 1 and 2) Total compensation awarded: Rs. 14,25,600 along with Interest @ 12% p.a. from the date of filing of the Claim petition till payment.

Out of the amount awarded, Respondent No. 1 is entitled to 60% while Respondent No. 2 shall be granted 40% along with Interest as specified above.'

As the Learned Advocate for the Respondents have relied upon 2 decisions of Hon'ble Division Bench of this High Court where the case of Nanu Ram was considered it is necessary to deal with those decisions.

In the case of Magma HDI General Insurance Company Limited VS Mandira Ash and others being FMAT 332 of 2019, the Hon'ble Division Bench of this High Court observed as follows:

'What is evident from the above is that the law relating to loss of consortium has been left untouched and Pranay Sethi has been said to rule the field.

However, filial consortium in that case was awarded under Article 142 of the Constitution and such part of the order in Nanu Ram cannot be regarded as the law laid down by the Supreme Court under Article 141 of the Constitution. There is good reason for taking this view.

In a judgment report at 2013 (9) SCC 54 (Rajesh vRajbir Singh), loss of consortium was awarded to the extent of Rs. 1 lakh and loss of care and guidance of minor children was also taken as a head and a further sum of Rs. 1 lakh awarded thereunder. Paragraph 52 of the judgment in Pranay Sethi rendered by a Constitution Bench of five judges referred to the three-judge Bench judgment in Rajesh and observed that there was no head relating to loss of care for minor children. Earlier, at paragraph 46 of the report in Pranay Sethi, it quoted with approval of the meaning of consortium from paragraph 17 of the judgment in Rajesh. After accepting that the concept of consortium was confined to a spouse or consort, the allowance for loss of care and guidance of minor children as provided in Rajesh was found to be unacceptable at paragraph 52 of the judgment in Pranay Sethi.

‘52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh. It has granted Rs.25,000/- towards funeral expenses, Rs.1,00,000/- loss of consortium and Rs.1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, 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. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The Court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the Tribunals and Courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us 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 principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years.

We are disposed to hold so because that will bring in consistency in respect of those heads.'

On a conjoint reading of paragraph 46 and paragraph 52 of the report in Pranay Sethi, it is evident that the head loss of consortium is confined only to the spouse. In Nanu Ram, the two-judge Bench referred to other forms of consortium, including parental and filial consortium, in addition to spousal consortium, but accepted that the amount of compensation to be awarded as consortium will be governed by the principles as laid down in Pranay Sethi. The additional quantum on account of filial consortium and love and affection as awarded in Nanu Ram has, per force, to be seen to have been allowed in exercise of the authority under Article 142 of the Constitution or such award would otherwise clearly fall foul of the dictum in the Constitution Bench judgment of Pranay Sethi.'

In the case of National Insurance Co. Ltd VS Sohna Singh and Others being FMA 464 of 2017 along with COT-No.7 of 2017 Sohna Singh and others VS National Insurance Co.Ltd. the Hon'ble Division Bench of this High Court observed as follows:

'30. It is therefore clear that the amount towards loss of estate, loss of consortium and funeral expenses has already been quantified by the Hon'ble Supreme Court at Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively.

Therefore, no further amount shall be granted towards loss of consortium beyond the figure provided above. Once the Constitution Bench judgment of the apex court is cited before us, which we must respectfully apply, we do not have the luxury of subscribing to a different view as it is a law laid down within the meaning of Article 141 of the Constitution of India, even if we thought differently, which we do not.

31. The Learned Counsel for the claimants/cross objectors brought to our notice a judgment passed by a Division Bench of the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd.-v-Nanu Ram and Others** reported in **2018 ACJ 2782** equivalent to MANU/SC/1012/2018 whereby an amount of Rs. 40,000 each for loss of filial consortium was awarded to the father and the sister of the deceased in that case. Our difficulty in relying upon the aforesaid judgment is that even though a reference of the decision of a larger bench in **Pranay Sethi (supra)** was made, the law regarding payment of consortium as laid down therein was departed from in **Nanu Ram (supra).** In view of the position of law and the provisions of Article 141 of the Constitution of India, however, **Nanu Ram (supra)** is at best a decision under Article 142 of the Constitution of India, to do complete justice to the parties in the facts and circumstances of the case, which power we do not have as a court of appeal under Section 173 of the 1988 Act. We continue to be bound by **Pranay Sethi (supra).**

32. Even otherwise, the decision in **Nanu Ram (supra)** does not apply to the present case on facts. In **Nanu Ram (supra)**, the victim was a 25-year old bachelor whose dependents included his unmarried sister and his father

while the victim in this case is married and survived by his mother, a wife and two daughters. In this backdrop, no other amount towards loss of consortium could be awarded as filial consortium to the mother of the victim. In fact, the Hon'ble Supreme Court in **Nanu Ram (supra)** clarified the applicability of its decision in the following words:

"The Motor Vehicles Act is a beneficial legislation aimed at 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 children who lose their parents in motor vehicle accidents under the Act.

A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of Filial Consortium."

Therefore, the Hon'ble Supreme Court has clearly held in **Nanu Ram (supra)** that the peculiar facts of that case, where a parent or parents lost their minor child or unmarried son or daughter, they were allowed to be awarded loss of consortium. In the present case, the parent claiming amounts for loss of consortium admittedly was not the parent of an unmarried son or minor son for whose death due to the accident the compensation is payable. In such view of the matter, talking aid of the structured formula for the calculation of the amount of compensation as laid down in **Pranay Sethi (supra)** is binding on us.'

Upon perusal of the decision of the Hon'ble Division Bench in the case of (Magma General Insurance Company Ltd. VS Mandira Ash) (supra) it appears that facts of the case were not reflected in the Judgment. Thus it cannot be ascertained as to whether the facts in the said case are similar in this case, or the case of Nanu Ram.

Upon perusal of the decision of the Hon'ble Division Bench of this High Court in the case of Sohna Singh Supra, it appears that the Hon'ble Bench clarified that the case of Nanu Ram cannot be applied not merely because the said decision was under Article 142 of the Constitution but the facts of the case in Nanu Ram differs from the case of Sohna Singh. In the case of Nanu Ram Filial Consortium was granted to both father and sister of the victim who was unmarried, and in the case of Sohna Singh, the victim was married and survived by his mother wife and two daughters. Upon considering the decision of the Hon'ble Division Bench of this Court in the case of Sohna Singh it will appear that the Hon'ble Bench was pleased to clarify the applicability of Nanu Ram's Case where a parent has lost his minor child; Thus the observation of the Hon'ble Division Bench is quoted once again at the cost of repetition.

'In fact the Hon'ble Supreme Court in Nanu Ram (supra) clarified the applicability of its decision in the following words:

“The Motor Vehicles Act is a beneficial legislation aimed at 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 children who lose their parents in motor vehicle accident under the Act.

A few High Courts have awarded compensation on this Court.

However there was no clarity with respect to the principles on which compensation could be awarded on loss of Filial Consortium.”

Therefore, the Hon’ble Supreme Court has clearly held in Nanu Ram (supra) that the peculiar facts of the case where a parent or parents Lost their minor child or unmarried son or daughter, they were allowed to be awarded loss of consortium. In the present case, the parent claiming amounts for loss of consortium admittedly was not the parent of an unmarried son or minor son for whose death due to the accident the compensation is payable. In such view of the matter, taking aid of the structured formula for the calculation of the amount of compensation as laid down in Pronoy Sethi (supra) is binding upon us:’

Thus upon considering the decision of the Hon’ble Supreme Court in the case of Nanu Ram and the decision of the Hon’ble Division Bench of this Court in the case of Sohna Singh it is clear that Filial Consortium may be granted to Parents who have lost their minor child or unmarried son or daughter in accident. The present case is similar to that of Nanu Ram as the claimants have lost their minor daughter in accident.

Although the case of Pronoy Sethi did not observe with regard to Filial Consortium to parents and clarified the position of Law held in the Case of Rajesh VS Rajbir and observed there is no head of loss of care of minor children, the case of Rajesh was related to granting consortium to minor children and not Filial Consortium as the said case was claim by wife and minor children and not by parents of minor child. Thus the issue of Filial Consortium was not before the Hon'ble Supreme Court in the case of Pronoy Sethi, clarifying the case of Rajesh V Rajber.

Hence when a new issue with regard to grant of Filial Consortium came up before the Hon'ble Supreme Court in the case of Nanu Ram, and the Hon'ble Supreme Court upon considering the facts of the case as well as the decision of Pronoy Sethi was pleased to come to a finding and observe that Filial Consortium should be granted in case Parents who loose their minor child or unmarried son or daughter in street accident with due respect this Court should accept the said decision and award Filial Consortium to parents who have lost their minor child or minor son or daughter in street accident. Thus this Court does not find any error in awarding Filial consortium by the Learned Trial Court.

It is to be remembered that compensation awarded in favour of parents who have lost their child in street accident is not a bonanza but simply monetary consolation. Parents who have lost their child in accident come to court with heavy hearts and deep sorrow for compensation. Thus when a Motor Accident claim Tribunal upon considering the facts and Judicial decisions comes to a finding and awards compensation to parents which in the opinion of the Tribunal is just and reasonable Appeal Courts should be slow in interfering with such compensation awarded to parents even if it appears slightly excessive, unless the total procedure is absolutely perverse.

With due respect to the decisions of this Court relied upon and the decisions of the Hon'ble Apex Court this Court is of the view that in the instant case Filial consortium should be paid.

In the facts and circumstances as discussed above this Court does not find any ground to interfere with the Judgment and Award Passed. Thus this Appeal is dismissed. Judgment Dated 19/08/2024 passed by Learned Additional District Judge 3rd Court Paschim Medinipur in MAC Case No. 68 of 2022 is affirmed.

Respondent No. 1, and 2 are permitted to withdraw the awarded sum deposited upon compliance of required formalities.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)