



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO. 315 OF 2020

1. Kiran wd/o Bhaskar Shinganjud
Aged 41 years, Occ. Household
2. Rutika Bhaskar Shingajude
Aged 17 years, Occ. Student
3. Ravija Bhaskar Shinganjud
Aged 13 years, Occ. Student,
- (Appellant Nos.2 & 3 being minor through
Natural Guardian Appellant No.1)
4. Kaushalya w/o Anandrao Shinganjud
Aged 72 years, Occ. Nil
- R/o. Marodi, Tq. Mouda, Dist. Nagpur

... Appellants

Versus

1. Saleem Khan s/o Chhajua Khan
Aged Major, Occ. Business,
R/o. B284, Nand Gram, Gaziabad (U.P.)
2. New India Assurance Co. Ltd.,
Through Regional Manager
Gajiabad through Nagpur Bench
Dr. Ambedkar Bhawan, Seminary Hill,
Nagpur.

...Respondents

Mr. Vijay A. Patait, Advocate for appellants.

Mr. Ashish W. Paunekar, Advocate for respondent No.2.

CORAM : ROHIT W. JOSHI, J.

RESERVED ON : 03.02.2025.

PRONOUNCED ON : 12.02.2025.

ORAL JUDGMENT: (PER: Rohit W. Joshi, J)

Heard. **Admit.** Heard finally by consent of both the
learned counsel for the parties.

(2) The petitioners in Motor Accident Claim Petition No.236 of 2011, have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement in the amount of compensation, granted by the learned President, Motor Accident Claims Tribunal, vide judgment and award dated 07.08.2018 in the said claim petition. The appellant No.1 is widow, appellant Nos.2 & 3 are daughters and appellant No.4 is mother of deceased Bhaskar Anandrao Shinganjude, who died in a road accident on 01.09.2009.

(3) The respondent No.1 is owner of the offending vehicle which was insured with the respondent No.2 on the date of the accident. The learned Tribunal has awarded compensation to the tune of Rs.52,23,520/- along with interest @ 7.5% per annum from 04.03.2011 i.e. date of presentation of the claim petition, till the date of realization of the amount. As stated above, the claimants seek enhanced compensation in the present appeal, since they are dissatisfied with the quantum of compensation awarded. The respondents have not challenged the judgment and award.

(4) The learned counsel for the appellant contends that the deceased was working as Assistant Manager (Civil) with Larsen

and Turbo Co. Limited at Delhi. He was drawing the salary of Rs.4,28,825/- per annum. In addition to this, he has received a sum of Rs.68,000/- towards Performance Linked Reward in the year 2009. He draws attention to the document at Exh.60 which is the Salary Slip issued by the employer and the Income Tax Return submitted in Form No.60 for the financial year 2009-10, which is at Exh.61. He states that while computing the loss of financial dependence the learned Tribunal has made deductions in the gross salary with respect to the amount paid on heads other than Income Tax and Professional Tax, which is not permissible. He states that the net salary is erroneously taken into consideration by the learned Tribunal. He also contends that the Performance Linked Bonus of Rs.68,000/- is also erroneously excluded while computing the amount. According to him, the total compensation payable towards loss of financial dependence would be Rs.69,08,085/- and Rs.7,65,000/- for the component of salary and Performance Linked Bonus respectively. As regards the amount of consortium, he contends that there are four dependents, the widow, two children and mother, who are entitled to an amount of Rs.40,000/- each towards consortium, however, the learned Tribunal has awarded Rs.40,000/- only and therefore, according to him, an

additional amount of Rs.1,20,000/- needs to be paid to the appellants towards loss of consortium. He, therefore, seeks enhancement in the amount of compensation to the extent of Rs.26,39,565/- over and above the compensation awarded by the learned Tribunal.

(5) Per contra, the learned counsel for the respondent No.2-Insurance Company contends that the loss of dependence is rightly computed by the learned Tribunal. The learned counsel also states that the learned Tribunal has erred in awarding interest on the component of future prospects. The learned counsel, therefore, contends that the appeal deserves to be dismissed.

(6) The respondent No.1-owner, though served has not entered appearance in the appeal.

(7) After hearing the parties, the following points arise for my consideration in the present appeal :

- i) Whether the learned Tribunal has rightly computed the quantum of loss of financial dependence ?
- ii) Whether the component of Performance Linked Bonus benefit can be taken into consideration while computing the loss of financial dependence ?

iii) Whether interest can be awarded on the component of future prospects ?

iv) Whether all the four dependents are individually entitled to receive the amount of consortium ?

(8) Point Nos. (i) & (ii) - It is now well settled that while computing the loss of financial dependence, entire income of the deceased is required to be taken into consideration except the income tax and professional tax. Perusal of the judgment delivered by the learned Tribunal will indicate that while computing the loss of financial dependence the learned Tribunal has made deductions against several heads like insurance premium etc. other than the Income tax. It is well settled by the catena of decisions by this Court as well as by the Hon'ble Supreme Court of India that except deduction on account of income tax and professional tax deduction on other heads are not permissible from the salary of the deceased while computing loss of financial dependence. In that view of the matter, I find substance in the contention of the learned counsel for the appellant that the learned Tribunal has erred in making the deductions and wrongly computed the annual income of the deceased taking net salary i.e. take home salary into consideration.

(9) The Salary Slip issued by the employer of the deceased at Exh.60 is not in dispute. According to the said salary slip, the gross annual salary of the deceased was Rs.4,28,825/-. After deducting Rs.19,467/- towards income tax, his annual income works out to Rs.4,09,358/-. This annual salary is required to be deducted by $\frac{1}{4}$ component since the deceased is survived by the four dependents. The annual loss of dependence, after making $\frac{1}{4}$ deduction works out to Rs.3,07,018/-. Since the deceased was 39 years old and was in employment of L & T, a further addition of 50% of his actual salary is required to be made towards the future prospects. The quantum of future prospects for one year works out to Rs.1,53,509/-. Thus, loss of annual dependence with future prospect component is Rs.4,60,527/-. The above amount is arrived at taking into consideration the salary of the deceased.

(10) Apart from the salary the deceased has also received a sum of Rs.68,000/- towards Performance Linked Bonus. This amount of bonus is also earning and income of the deceased. The learned counsel for the respondent No.2 has placed reliance on a judgment of the Hon'ble Supreme Court in the matter of ***Regional Provident Fund Commissioner (II) West Bengal ..vs..Vivekananda***

Vidyamandir and Ors., reported in (2020) 17 SCC 643 to contend that such incentives cannot be treated to be part and parcel of the salary. The said judgment of the Hon'ble Supreme Court is delivered in a dispute arising out of Employees Provident Fund and Miscellaneous Provisions Act, 1952. The question which fell for consideration before the Hon'ble Apex Court was as to whether special allowances paid by the employer would fall within the expression 'basic wages' under Section 2(b)(ii) read with Section 6 of the said Act. This question that fell for consideration was as to whether contribution towards provident fund should be made taking into consideration, the allowances other than the basic wages as well. The Hon'ble Supreme Court has held that Performance Linked Allowances will not form part of the basic wages within the meaning of Section 2(b)(ii) of the Provident Fund Act. The ratio of the said judgment of the Hon'ble Supreme Court is not of any assistance to the respondent No.2 in the present case, which arises out of a motor accident claim. In the motor accident claims, loss of financial dependence of the dependents of the deceased is required to be computed on the basis of the income of the deceased. There cannot be any quarrel with the proposition that the special allowance earned by the deceased was his income and that his

dependents were entitled to the benefits of the same. Therefore, in my considered opinion, the Performance Linked Bonus will have to be taken into consideration while computing loss of financial dependence. The annual bonus received by the deceased was Rs.68,000/-. Here again, the deduction of Rs.17,000/- is required to be made towards the personal expenses of the deceased. The annual loss of financial dependence with respect to Performance Linked Bonus thus works out to Rs.51,000/-. Further 50% addition is requested to be made towards future prospects. As such loss of annual dependence against bonus work out to Rs.76,500/-.

(11) The annual loss of annual financial dependence is thus, works out to Rs.4,60,527/- + Rs.76,500/- = (Rs.5,37,027/-). The annual financial dependence component is Rs.5,11,539/-. The deceased was 39 years old on the date of his demise. Therefore, as per the judgment in the matter of *Sarla Verma*, as confirmed by *Pranay Sethi*, multiplier of 15 will have to be applied. Applying the said multiplier, the total loss of financial dependence comes to Rs.80,55,405/-.

(12) Point No.(iii) - The learned counsel for respondent

No.2 has raised a contention that the learned Tribunal has erred in awarding interest on the component of future prospectus. He contends that future prospects are relatable to income to be received in future and therefore, there cannot be any loss to the claimants with respect to future prospects at the time of death of deceased in a road accident. He, therefore, contends that interest is not payable on the quantum of future prospectus. He places reliance on the judgment of learned Single Judge of the Jammu and Kashmir High Court and Ladakh High Court in the matter of ***National Insurance Company Ltd., Vs... Aisha Bano and Ors.***, reported in ***2023 SCC OnLine J & K 350***, wherein it is held as under :

“12. The third and last contention raised by the learned Counsel for the Appellant is that the portion of compensation granted under the head of loss of future prospects should not have been subjected to payment of any interest thereon. This argument of the learned Counsel carries force due to the fact that future prospects are relatable to an income to be received in the future and, as such, there could not be any loss to the claimants for the payment of future prospects at the time the deceased met with the accident. The reason for awarding interest on the compensation amount, minus the future prospects, is due to the fact that, though the loss of dependency starts from the date of the accident, the compensation amount is computed on the date of the award of the Tribunal, interest is awarded to compensate the loss of money value on

account of lapse of time, such as the time taken for the legal proceedings and for the denial of right to utilize the money when due. However, future prospects are with regard to probable income to be received in the future and, as such, there is no requirement to compensate the claimant by way of future interest for the loss that is to occur in the future, as the future is yet to happen. Further, future prospects are given for the entire future and, as such, the claimant is getting compensation in a lumpsum under future prospects prior to the occurrence of future event(s). Thus, with regard to future prospects, this Court is of the view that there cannot be any interest on future prospects, as the same relates to an income to be given in the future. The same view has been taken by the Gauhati High Court in cases reported as '2018 Supreme (Gau) 966' and '2019 Supreme (Gau) 507', therefore, the contention of the learned Counsel for the Appellant is accepted that the component of compensation under the head of loss of future prospects is not to be subjected to interest.”

(13) The learned Single Judge has also referred to two judgments delivered by the learned Single Judges of Gauhati High Court in the matters of ***Khusboo Chirania @ Kanta Chirania and ors. Vs. Kamal Kumar Sovasaria and anr.*** reported in ***2018 SCC OnLine Gau. 1103*** and ***Nasima Begum Vs. Keramat Ali and Ors.,*** reported in ***AIR Online 2019 Gau. 164.*** A perusal of the judgments of the learned Single Judges of Gauhati High Court demonstrates that in both these cases a single sentence is incorporated that interest shall not be

payable for future prospects. These two judgments of the Gauhati High Court do not lay down any proposition of law in my humble submission. It can only be said that the learned Single Judges did not deem it appropriate to award interest for future prospects.

(14) The judgment of the learned Single Judge of Jammu and Kashmir High Court is followed by the learned Single Judge of this Court in the matter of *Kalpana Madhu Gavali and Ors., Vs. Maharashtra State Road Transport Corporation* reported in *2023 SCC OnLine Bom 2040*. The learned Single Judge has quoted para 12 from the judgment of the learned Single Judge of Jammu and Kashmir High Court and has accorded his approval to the same.

(15) The said judgment of the learned Single Judge of this Court was cited before another learned Single Judge of this Court in First Appeal No.401/2014 at Aurangabad Bench in the matter of *M/s. IFFCO-TOKIO General Insurance Co. Ltd., Vs. Smt. Suvarna w/o Rajabhau Ghodke and Ors.* Having noticed the judgment in the matter of *Kalpana Madhu Gavali* (supra), the learned Single Judge dealing with First Appeal No.401/2014 has expressed inability to agree with

the said judgment. The reasons recorded for disagreement are as under :

“11. This Court has held in the case of Kalpana Madhu Gavali (supra) that interest on future prospects should not be paid. However, I have not applied the said judgment for the following reasons:

(i) The Hon’ble Supreme Court in the various judgments, noted in para no.10 above, has granted interest on the future prospects and the same is not granted in exercise of powers under Article 142 of the Constitution of India.

(ii) The entire compensation is computed based on loss of future income which includes future prospect.

(iii) The compensation becomes payable from the date of filing of the claim petition and the interest is awarded by the tribunal from the date of filing of claim petition. The claim petition may be adjudicated within one year or may take 20 years up till the appellate stage. But, the amount becomes payable from the date of filing of the claim petition, as such, the interest is granted from the date of claim petition till it’s realization.

12. The Hon’ble Supreme Court has consistently granted interest on future prospects from the date of filing of the claim petition. As such, the argument of the Insurance Company on that interest should not be granted on future prospect is rejected.”

(16) The learned Single Judge has referred to several judgments of the Hon’ble Supreme Court wherein interest has been

awarded on the component of future prospects as well. The reference to these judgments the learned Judge has expressed inability to agree with the law laid down in the matter of *Kalpana Madhu Gavali (supra)*.

(17) In this backdrop, two options are available, either to refer the matter to a larger Bench for resolving the conflict or to choose which judgment lays down the correct legal position in the light of relevant provisions of the Motor Vehicles Act or other judgments on the subject. It is obvious that the two judgments cannot be reconciled in any manner.

(18) I am of the considered opinion that in view of judgments delivered by the Hon'ble Supreme Court in relation to future prospects as also having regard to Sections 168 and 171 of the Motor Vehicles Act, that the view expressed in the matter of M/s. IFFCO-TOKIO *supra* (First Appeal No.401/2014) needs to be accepted. However, I deem it appropriate to record separate reasons for the same.

(19) The Hon'ble Supreme Court has in the matter of *National Insurance Company Ltd. Vs. Pranay Sethi and Ors.*, reported in *(2017) 16 SCC 680* held that an earlier decision of a co-equal bench binds the bench of the same strength. It is also held that when two judgments of Benches of co-equal strength are so self-contradictory that they cannot be reconciled, the dicta laid down by the judgment earlier in time would be binding and will have to be followed. Therefore, normally, the law laid down in the earlier decision in the matter of *Kalpana Madhu Gavali (supra)* will have to be followed. However, I am of considered opinion that the ratio of the said judgment runs counter to judgments of the Hon'ble Supreme Court which have not been considered in the said judgment. As such, the said judgment is *per incuriam* of judgments of the Hon'ble Supreme Court. The said judgment also does not deal with Sections 168 & 171 of the Motor Vehicles Act. It is for this reason that I am not inclined to follow the law laid down by the learned Single Judge in the matter of *Kalpana Madhu Gavali (supra)*.

(20) I now propose to deal with the judgments of the Hon'ble Supreme Court on the point of future prospects and the

concept of multiplier and multiplicand, based on which, compensation is held to be payable in cases of motor accident by the Hon'ble Supreme Court. I also propose to deal with the manner in which the Hon'ble Supreme Court has repeatedly emphasized on standardization of the method of awarding compensation in motor accident cases.

(21) The Hon'ble Supreme Court has emphasized on need for uniformity and consistency in the matter of computation of compensation in motor accident cases. It has observed in para 14 of the judgment in the matter of ***Sarla Verma Vs. Delhi Transport Corporation and anr.*** reported in ***(2009) 6 SCC 121***, as under :

“14. The lack of uniformity and consistency in awarding compensation has been a matter of grave concern. Every district has one or more Motor Accidents Claims Tribunal(s). If different Tribunals calculate compensation differently on the same facts, the claimant, the litigant, the common man will be confused, perplexed and bewildered. If there is significant divergence among the Tribunals in determining the quantum of compensation on similar facts, it will lead to dissatisfaction and distrust in the system.”

(22) The Hon'ble Supreme Court has held in the matter of ***Reshma Kumari Vs. Madan Mohan*** reported in ***(2013) 9 SCC 65*** are

as under :

“37.... It is high time that we move to a standard method of selection of multiplier, income for future prospects and deduction for personal and living expenses. The courts in some of the overseas jurisdictions have made this advance.”

“39.... The standardisation of addition to income for future prospects shall help in achieving certainty in arriving at appropriate compensation.”

(23) The need for standardization has been reaffirmed by the Constitution Bench of the Hon’ble Supreme Court in the matter of ***National Insurance Company Ltd. Vs. Pranay Sethi and ors.*** reported in ***(2017) 16 SCC 680***. The Hon’ble Supreme Court, while referring to the judgment of *Resham Kumari (supra)* has observed in para 12 as under :

“12. The aforesaid analysis vividly exposit that standardisation of addition to income for future prospects is helpful in achieving certainty in arriving at appropriate compensation.”

(24) While referring to the judgment in the matter of *Sarla Verma (supra)* the Hon’ble Supreme Court has stated in the matter of *Pranay Sethi (supra)* as under :

“29.....Various paragraphs from Susamma Thomas and Trilok Chandra have been reproduced and thereafter it has been

observed that lack of uniformity and consistency in awarding the compensation has been a matter of grave concern. It has stated that when different tribunals calculate compensation differently on the same facts, the claimant, the litigant and the common man are bound to be confused, perplexed and bewildered.”

(25) In the matter of *Sarla Verma (supra)* the Hon’ble Supreme Court has attempted to standardise the yardsticks for awarding compensation in motor accident cases. The Hon’ble Supreme Court has expressed that the appropriate method for arriving at compensation under the head of loss of financial dependency will be to apply the multiplier method under which annual loss of dependency should be determined which should be multiplied with an appropriate multiplier of years to determine the loss of dependency. In order to arrive at a multiplier annual income of the deceased is required to be considered by subtracting the quantum of taxes payable and expenditure towards self-consumption, having regard to the number of dependents. Likewise, an addition is required to be made on account of the future prospects of the deceased. The consistent view is that the future prospects must be included in order to compute the multiplicand.

(26) In this regard, we may initially refer to the judgment of the Hon'ble Supreme Court in the matter of *Sarla Dixit Vs. Balwant Yadav* reported in *1996 (3) SCC 179*. In this case, the deceased was drawing a monthly salary of Rs.1543/-. For the purposes of computing multiplicand, this figure was rounded up to Rs.1500/-. Having regard to his future prospects, it was deemed that his monthly income may extend to Rs.3,000/- in future. The Hon'ble Supreme Court has taken the average of the prevailing income and future projected income and computed, compensation payable on the basis of average of the prevailing income and projected income. Thus, the Hon'ble Supreme Court had taken into consideration future prospects of the deceased in order to compute the multiplicand. This multiplicand, was then, multiplied by the appropriate multiplier for computation for monetary compensation payable under the head of loss of financial dependency.

(27) The question of awarding compensation under the head of future prospects is considered by the Hon'ble Supreme Court in the matter of *Sarla Varma (supra)*. While considering the said aspect, the Hon'ble Supreme Court has observed in para 20 and 21 of the judgment as under :

“20. Generally the actual income of the deceased less income tax should be the starting point for calculating the compensation. The question is whether actual income at the time of death should be taken as the income or whether any addition should be made by taking note of future prospects.

21. In Susamma Thomas this Court held that the future prospects of advancement in life and career should also be sounded in terms of money to augment the multiplicand (annual contribution to the dependants)”.

(28) Thus, the Hon’ble Supreme Court has taken into consideration the head of future prospects to arrive at the figure of appropriate multiplicand. It is clearly laid down that future prospects should be taken into consideration while determining the multiplicand. Likewise, it is again observed in para 18 of the judgment as under:

“18.The issues to be determined by the Tribunal to arrive at the loss of dependency are :

- (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”.*

(29) Clause (i) refers to additions and deductions. It is obvious that the Hon'ble Supreme Court is referring to future prospects while referring to additions. Apart from future prospects, there is no other head under which there can be an addition to the income of the deceased. The said inference that future prospects have to be included in order to arrive at multiplicand is also clear from the overall reading of the judgment. The said principle has been emphasized and approved by the Constitution Bench of the Hon'ble Supreme Court in the matter of *Pranay Sethi (supra)*. The Hon'ble Supreme Court has held in paragraph Nos. 44, 45, 55 & 57 as under :

“44.....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 which has been approved in Reshma Kumari with which we concur.

45. In our considered opinion, if the same is followed, it shall subserve the cause of justice and the unnecessary contest before the tribunals and the courts would be avoided.

55.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

standardisation 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 standardisation keeping in view the principle of certainty, stability and consistency. We approve the principle of 'standardisation' so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age.

57..... 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.....”

(30) It will also be pertinent to mention that the Hon’ble Supreme Court has made these observations in the context of the need to award ‘just compensation’. It is, therefore, clear that in the opinion of the Hon’ble Supreme Court ‘just compensation’ can be awarded only by including future prospects while arriving at the multiplicand.

(31) In the light of above, it can be certainly said that without any iota of doubt that the future prospects is an essential ingredient to arrive at the correct multiplicand. This multiplicand is required to be multiplied with an appropriate multiplier, to arrive at just compensation to be paid under the head of loss of financial dependency. Thus, quantum of future prospects is an essential element of the multiplicand. In this context, we may again refer to the judgment in the matter of *Susamma Thomas* which is referred to and approved in the matter of *Sarla Varma* (supra) as also the constitution bench judgment of the Hon'ble Court in the case of *Pranay Sethi* (supra) in paragraphs 13 and 16 of the said judgment. It is held that the multiplier method is the most sound and suitable method for determining compensation payable under the head of financial dependency. The Hon'ble Supreme Court has stated in the matter of *Sarla Verma (supra)* that multiplier method is the most suitable method to work out 'just compensation' payable under the head of financial dependency. The Hon'ble Supreme Court while stating that future prospects is an essential element to be considered while computing multiplicand has held as under :

Deleted as per
Court's order
Dated 21.02.2025

“16.....‘Just compensation’ is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit.”

(32) Similarly, in the matter of *Pranay Sethi (supra)* also the Hon’ble Supreme Court has said that ‘just compensation’ does not mean a windfall or bonanza for the dependents. It is also held that while ‘just compensation’ cannot be exorbitant it also cannot merely be a pittance.

(33) In the light of the aforesaid, it is clear that the Hon’ble Supreme Court has repeatedly emphasized on grant of fair, just and reasonable compensation and while stating so it has repeatedly said that future prospects must be taken into consideration while computing compensation payable under the head of financial dependency.

(34) In the backdrop of aforesaid legal principles laid down by the Hon’ble Supreme Court, it is necessary to refer to Section

168 of the Motor Vehicles Act which statutorily imposes a duty on the Tribunal to determine the amount of compensation that appears to it to be 'just'. Thus, the compensation to be awarded by the Tribunal under Section 168 has to be 'just compensation'. It is reiterated that the Hon'ble Supreme Court has laid down that compensation awarded cannot be a 'just compensation' if does not take into consideration the aspect of future prospects. We may now refer to Section 171 of the Act. The said provision confers discretion upon the Tribunal to award interest on the amount of compensation. The provisions state that the Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate as the Tribunal deems fit. Thus, the interest is payable on the amount of compensation as determined by the Tribunal. Thus, future prospects cannot be excluded from the amount on which compensation is payable to dependents of a deceased.

(35) For the reasons aforesaid, I am of the considered opinion that the judgment delivered in the matter of *Kalpana Madhu Gavali (supra)* runs counter to the law laid down by the Hon'ble Supreme Court in the judgments referred to above and therefore,

cannot be followed as a precedent. The said judgment is *per incuriam* of the provisions of Sections 168 & 171 of the Motor Vehicles Act, 1988 and the aforesaid judgments of the Hon'ble Supreme Court. It is, therefore, also not necessary to make a reference to a larger Bench to resolve the conflict between the judgments in the matter of *Kalpana Madhu Gavali (supra)* and *M/s. IFFCO-TOKIO General Insurance Co. Ltd., (supra)*.

(36) In the light of the above discussion, I hold that the appellants/original claimants will also be entitled to receive interest on the component of future prospects from the date of filing of the claim petition before the learned Tribunal.

(37) As regards the consortium, the learned Tribunal has erred in awarding Rs.40,000/- towards consortium to the appellant. The Hon'ble Supreme Court in the matter of *Magma General Insurance Co. Ltd. ..vs.. Nanu Ram alias Chuhru Ram and Ors.*, reported in (2018) 18 SCC 130 has held that the term consortium has different aspects. For wife it is spousal consortium, for parents it is filial consortium and for children it is parental consortium. It is held that

apart from the wife, the children and parents are also entitled to amount of consortium individually. In the present case, apart from the widow, two children and mother have also survived the deceased. All the dependents are individually entitled to receive the amount of Rs.40,000/- towards loss of consortium. The compensation awarded is required to be enhanced to by a sum of Rs.1,20,000/- against the head of consortium.

(38) In view of the above, the appellants are entitled to receive compensation of Rs.82,45,405/-, the breakup whereof is as under :

- (a) Rs. 80,55,405/- Loss of financial dependence;
- (b) Rs. 1,60,000/- Loss of consortium ;
- (c) Rs. 15,000/- Funeral expenses ;
- (d) Rs. 15,000/- Loss of estate.

The appellants are entitled to receive the said amount with interest @7.5% per annum from 04.03.2011 i.e. the date of filing of claim petition till the date of realization of entire amount.

(39) Thus, the appeal is partly **allowed** in the following terms : -

ORDER

1. The appellants are entitled to receive and the respondent Nos.1 & 2 are jointly and severally liable to pay amount of Rs.82,45,405/- (Rs. Eighty Two Lakhs Forty Five Thousand Four Hundred and Five Only) along with accrued interest @7.5% p.a. from 04.03.2011 i.e. date of filing of the claim petition till the date of realisation of the said amount.

2. The respondent Nos.1 and 2 are directed to jointly and severally pay enhanced amount of compensation of Rs.30,21,885/- (Rs. Thirty Lakhs Twenty One Thousand Eight Hundred Eighty Five Only) to the appellants along with accrued interest @ 7.5% p.a. from 04.03.2011 i.e. date of filing of the claim petition till the date of realisation of entire amount of compensation.

3. Compensation amount be apportioned amongst appellants as under:

Appellant No.1	-	35%
Appellant Nos.2 & 3-		25% each
Appellant No.4	-	15%

4. Amount payable to the appellant Nos.2 & 3 be invested in their name in fixed deposit in any Nationalised Bank till they attain majority.

5. The appellants are directed to pay deficit court fee, if any.

6. The respondent No.2 shall first pay the compensation amount and then recover the same from respondent No.1 without filing separate proceeding, as if dispute between them has been decided.

Clause (6) is added as per
Court's order
Dated 21.02.2025

[ROHIT W. JOSHI, J.]

Prity