



FAO No.1364 of 2009 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1364 of 2009 (O&M)

Reserved on:25.02.2025

Pronounced on:10.03.2025

Balwinder Kaur and others

.... Appellants

Versus

Gurthakur Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. Amit Mehta, Advocate, for the appellants.

Mr. S. S. Virk, Advocate, for respondents No.1 and 2.

Mr. Vinod Gupta, Advocate;
Mr. Mayank Gupta, Advocate and
Mr. Didar Singh, Advocate,
for respondent No.3-Insurance Company.

DEEPINDER SINGH NALWA, J. (Oral)

1. The present appeal has been preferred against the award dated 06.02.2028 passed in the claim petition filed under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Faidkot (for short, 'the Tribunal') on the ground that Balwinder Kaur (appellant No.1) widow of deceased Harjinder Singh has not been held entitled to get any share in the compensation being against the law and also for enhancement of compensation.

2. The brief facts of the case are as under:

Harjinder Singh (since deceased) was going on 14.11.2006 on his motorcycle bearing No.PB-03-K-4228 from village Jhakharwala towards

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Bathinda and Swaran Singh was the pillion rider. When they reached near the bus stand of village Amargarh, a Maruti car bearing No. DL-8CD-1684 being driven by its driver Gurthakur Singh (respondent No.1) in a rash and negligent manner hit the motorcycle which was driven by Harjinder Singh (since deceased), as a result of which, Harjinder Singh (since deceased) suffered multiple injuries and ultimately on 17.11.2006 Harjinder Singh succumbed to his injuries. The matter was reported to the police and FIR No.145 dated 15.11.2006, under Sections 279/337/338/427 IPC was registered at Police Station Nahian Wala, District Bathinda. At the time of alleged accident, the offending vehicle was driven by respondent No.1 and owned by respondent No.2. At the time of death of Harjinder Singh (since deceased), he was of the age of 28 years and was serving in Indian Army as a Sepoy. As per Harjinder Singh (since deceased), he was drawing a salary of Rs.10,000/- per month. The appellants (claimants before learned Tribunal) filed the claim petition for grant of compensation to the tune of Rs.20,00,000/- on account of death of Harjinder Singh (since deceased) and the same was decided by learned Tribunal vide Award dated 06.02.2008. As per the Award passed by the learned Tribunal, the compensation was assessed to the tune of Rs.2,68,000/- taking into consideration the salary of the deceased Harjinder Singh as Rs.8462/- per month. Out of the total amount of compensation of Rs.2,68,000/-, appellant No.2 Jasbir Kaur, mother of the deceased Harjinder Singh (since deceased) was held entitled to get compensation of Rs.1,68,000/- and the remaining amount of Rs.1,00,000/- was to be paid to appellant No.3 Sukhmander Singh, father of deceased Harjinder Singh. As per the Award passed by learned Tribunal, appellant No.1 Balwinder Kaur widow of deceased Harjinder Singh was not held entitled for compensation on account of her remarriage with

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the younger brother of her first husband after the death of Harjinder Singh. However, she was held entitled to reimbursement of medical bills/cash memos amounting to Rs.24,580/-. The appellant No.1 was also found entitled to interest @ 6% per annum with effect from the date of filing of the claim petition till its realization. The amount of compensation was to be paid by respondent No.3- Oriental Insurance Company.

3. Upon notice of the claim petition, respondents appeared and contested the claim petition and denied the factum of accident/compensation.

4. Learned counsel for respondents No.1 and 2 admitted the factum of the accident however learned counsel for respondent No.3-Insurance Company denied the factum of accident and contended that at the time of accident, the driver of the car was not holding a valid driving licence therefore the insurance company was not liable to compensate the appellants-claimants.

5. From the pleadings of the parties, the Tribunal framed the following issues:-

- 1) Whether on 14.11.2006 near village Amargarh on the road leading from Goniana Bye pass to Bathinda, respondent No.1 Gurthakur Singh while driving his Maruti Car No. DL-8CD-1684 in a rash and negligent manner, hit the motorcycle bearing temporary No. PB-03-K-4228 and caused the accident, which resulted the death of Harjinder Singh son of Sukhmander Singh? OPP
- 2) Whether the claimants are the legal heirs and were dependent upon deceased Harjinder Singh? OPP
- 3) Whether the claimants are entitled to compensation if so, to what amount and against whom? OPP
- 4) Whether the driver of the offending vehicle, car No. DL-8CD-1684 was not holding a valid and effective driving licence at the time of alleged accident? OPP
- 5) Relief.”

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6. Learned counsel for the appellants submits that learned Tribunal has erred in giving the finding that appellant No.1 on account of her remarriage after the death of her first husband was not entitled for grant of compensation.

He submits that appellant No.1, who had remarried, is also entitled for grant of compensation as remarriage of appellant No.1 would not dis-entitle her for grant of compensation. In regard to the above said contention raised by learned counsel for the appellants is concerned, similar issue came up for consideration before a co-ordinate Bench of this Court in FAO-2917 of 2014, titled **Reliance General Insurance Co. Ltd. Versus Rajni and others**, decided on 17.11.2023. In the abovesaid judgment, co-ordinate Bench has held that a widow on account of her remarriage is entitled for grant of compensation. Relevant paras of the aforesaid judgment are reproduced hereinbelow:-

“In view of the submissions so made, it is to be noticed that simply because Rajni, widow of the deceased, got re-married, it could not be a reason to deprive of her rightly claim. Re-marriage of widow has nothing to do with her right, which accrued to her to seek compensation, on account of loss, which has accrued to her, as a result of unnatural demise of her husband. Her decision to re-marry is entirely her personal choice and nobody can have say in the same. In this regard, it is essential to make reference to decision rendered in Dincy’s case (supra), wherein, it was concluded that right of the widow to claim compensation crystallized upon her husband’s life, being tragically snatched away in the motor accident. Therefore, simply because she has now re-married, her claim does not abate or lessen. Considering the same, the Hon’ble Delhi High Court had removed the disparity between the apportionment of the compensation, so worked upon, granted to the widow as well as the parents of the deceased and held that each of the claimant shall be entitled to receive equal share in the awarded amount. The aforesaid decision was further challenged by way of filing of Special Leave



Petition titled as ‘Bridget Irene and another vs. Dincy Devassy and another’, in the Hon’ble Supreme Court. However, it was observed by Hon’ble Apex Court that in the peculiar facts and circumstances of the case, they were not inclined to interfere in this matter and the Special Leave Petition was dismissed.

In The Iffco Tokio’s case (supra), though, much resistance was shown to the compensation to be granted to the widow of the deceased, on account of her re-marriage, but however, said contention was discarded, while observing that after the death of her husband, re-marriage in itself cannot be a taboo to get a compensation. Solely, on account of her being wife of the deceased, is sufficient ground for her entitlement to the compensation.

In Gianis W/o. Late Anil Abraham vs. Lazar Manjila S/o. Joy Manjila, 2020(3) ILR (Kerala) 457, while considering the question of entitlement of the widow of the deceased, in pursuance of her re-marriage, it was observed, as herein given:-

“22. It is to be noted that the 1st appellant would not have thought of a remarriage, but for the untimely death of her husband. It was not a remarriage on account of divorce. The Court has to consider the psychological hurdles that the MACA No. 1936/2008 widow will face on account of remarriage. The society is changing. The age old concept of a remarried widow cutting off all relations with the family of her ex-husband, is becoming a story of the past. Fact remains that the 1st respondent was dependent on the deceased and would have remained so, but for the demise of her husband consequent to the accident. The death has indeed resulted in loss of dependency. After the death of husband, a widow may go for employment and become self-dependent or may opt for remarriage. Either way, the loss of dependency consequent to the death of the husband does not cease merely because she has remarried or became self-reliant. The word dependency and legal representative, therefore, should receive a pragmatic



interpretation. While computing compensation for dependency of a widow on the death of her husband under Section 166 of the Motor Vehicles Act, 1988, her remarriage shall not be a decisive factor.”

Thus, in the light of the aforesaid case law, even though, widow Rajni had re-married, after a period of three years, but still, she is entitled to compensation. Though, the fact of her re-marriage, may as such, taken into consideration for working upon the extent of compensation, but however, the compensation, in toto, as such, cannot be denied.”

In view of the abovesaid judgment passed by the co-ordinate Bench of this Court, it is held that appellant No.1 would also be entitled for grant of compensation.

7. The learned counsel for the claimants-appellants further contends that the amount assessed by the learned Tribunal is on the lower side, Harjinder Singh (since deceased) was only 28 years of age at the time of alleged accident and as such learned Tribunal has wrongly applied the multiplier of 8 instead of 17. It is also the case of the appellants that future prospects has not been taken into consideration towards income while determining the compensation. He further contends that no amount was awarded for loss of consortium; loss of estate and funeral expenses. Therefore, he prays that the present appeal be allowed and compensation should be enhanced as per law.

8. *Per contra*, learned counsel for the respondents No. 1 and 2 vehemently argues that the award has rightly been passed and the amount of compensation as assessed by the learned Tribunal has rightly been granted. He thus prays for dismissal of the appeal. Learned counsel for respondent No.3 contends that the consortium amount should not exceed more than Rs.40,000/- in toto. In other words, contention of learned counsel for respondent No.3 is that the



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appellants-claimants each cannot be granted Rs.40,000/- separately, in this regard reliance has been made on the judgment passed by the Hon'ble Supreme Court in case titled as **Shri Ram General Insurance Co. Ltd. Versus Bhagat Singh Rawat and others**, Civil Appeal Nos.2410/2023 [@ SLP (C) Nos.11669-11671/2020], decided on 27.03.2023.

9. I have heard learned counsel for the parties and perused the record of the case.

10. In regard to while determining the addition to the income towards “future prospects” is concerned, the above said issue has duly been considered by the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] and the relevant paras of the same are as under:-

“59. In view of the aforesaid analysis, we proceed to record our conclusion: -

59.1 The Two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

59.2 As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.

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 additional 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.

59.5 For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

59.6 The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

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

59.8 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 aforesaid amounts should be enhanced at the rate of 10% in every three years.”

Principle regarding consortium:-

11. So far as the issue of “consortium is concerned, it would be appropriate to refer various pronouncements where Hon'ble Supreme Court has considered the issue of “consortium”.

12. Hon'ble Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and Others, AIR 2017 SC 5157 (Five Judge Constitution Bench)**, has held as under:

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.....

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.....

13. In **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and Others, (2018) 18 SCC 130**, Hon'ble Supreme Court has held as under:

21. A Constitution Bench of this Court in **Pranay Sethi** dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium. **In legal parlance, "consortium" is a compendious term which encompasses 'spousal consortium', 'parental consortium', and 'filial consortium'.** The right to consortium would include the company care help comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

21.1.Spousal consortium is generally defined as rights pertaining to the relationship of a husband wife which allows compensation to the surviving spouse for loss of "company, society, co-operation, affection, and aid of the



other in every conjugal relation.”

21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of “parental aid, protection, affection, society, discipline, guidance and training.”

21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

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

23. 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.

24. 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**. 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.

14. Hon'ble Supreme Court of India in **United India Insurance Company Limited vs. Satinder Kaur Alias Satwinder Kaur and Others, (2021) 11 SCC 780 (Three Judge Bench)** has held as under:

(e) Three conventional heads

28. In **Pranay Sethi**, 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 recognized 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*, 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 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 permit parents to be awarded compensation under 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 Pranay Sethi.**

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 High Courts have been awarding compensation for both loss of consortium and loss of love and affection. The **Constitution Bench in Pranay Sethi**, has recognized only three conventional heads under which compensation can be awarded viz. loss of estate, loss of consortium and funeral expenses. In **Magma General (supra)**, 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 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.

15. Hon'ble Supreme Court in **New India Assurance Company Limited vs. Somwati and Others, 2020 9 SCC 644**, has held as under:

“26. This court also awarded an amount under the head “loss of consortium” to the wife.

27. We need to notice the Constitution Bench judgment in **Pranay Sethi** which case notices the earlier judgments of



this Court where compensation was awarded towards loss of consortium. In paragraph 46, the following was laid down: (SCC p. 709)

"46. Another aspect which has created confusion pertains to grant of "loss of estate", loss of consortium and funeral expenses. In **Santosh Devi**, the two-Judge Bench followed the traditional method and granted Rs.5000/- 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.5000/- under the head of loss of estate, Rs.5000/- 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**. 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: (**Rajesh case**):-

"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.”

28. In para 52, the **Constitution Bench** opined that reasonable figures on conventional head namely “loss of estate”, “loss of consortium” and “funeral expenses” should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. In para 52, following has been laid down: (Pranay Sethi case, SCC pp. 710-11)

“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 seems 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.”

29. In para 59.8, the Court further held that the amount of conventional head should be enhanced @10% every three year. In para 59.8, following was held: (Pranay Sethi case, SCC p. 714, para 59)

"59.8. 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 aforesaid amounts should be enhanced at the rate of 10% in every three years.”

30. The next judgment which needs to be noted is **Magma General Insurance Co.Ltd. versus Nanu Ram**, the concept of consortium was explained in para 21,22 and 23 which are as follows: (SCC pp. 136-37)

"21. A Constitution Bench of this Court in **Pranay Sethi** dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium. In legal parlance, “consortium” is a compendious term which encompasses “spousal consortium”, “parental consortium”, and “filial consortium”. The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual



relations with the deceased spouse.

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

21.2. Parental consortium is granted to the child upon the premature death of a parent, for loss of “parental aid, protection, affection, society, discipline, guidance and training.”

21.3. Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

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

23. [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.”

31. A two-Judge Bench in Magma General Insurance Co. Ltd. awarded the amount of Rs.40,000/- to father and sister of the deceased. Para 24 is as follows: (SCC p. 137)

“24. 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**. 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.”

32. A three-Judge Bench in United India Insurance Co. Ltd. v. Satinder Kaur, had reaffirmed the view of two-Judge Bench in Magma General insurance Co. Ltd.. The Three-Judge Bench from para 53 to 65, dealt with three conventional heads. The entire discussion on three conventional heads of three-Judge Bench is as follows:

"53. In **Pranay Sethi**, 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.

54. 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

55. 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 recognized the right of a spouse to get compensation even during the period of temporary disablement.

56. In Magma General Insurance Co. Ltd. v. Nanu Ram,



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.

57. 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.

58. 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.

59. 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 permit parents to be awarded compensation under 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.

60. [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.

61. Parental Consortium is awarded to the children who lose the care and protection of their parents in motor vehicle accidents.

62. The amount to be awarded for loss consortium will be as per the amount fixed in **Pranay Sethi**.

63. 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 High Courts have been awarding compensation for both loss of consortium and loss of love and affection. The Constitution Bench in **Pranay Sethi**, has recognized only three conventional heads under which compensation can be awarded viz. loss of estate, loss of consortium and funeral expenses.

64. In *Magma General*, 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.

65. The Tribunals and 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.....

33. The Three-Judge Bench in the above case approved the comprehensive interpretation given to the expression “consortium” to include spousal consortium, parental consortium as well as filial consortium. Three-Judge Bench however further laid down that “loss of love and affection” is comprehended in “loss of consortium”, hence, there is no justification to award compensation towards “loss of love and affection” as a separate head.

34. The **Constitution Bench in Pranay Sethi** has also not under conventional head, included any compensation towards “loss of love and affection” which have been now further reiterated by **three-Judge Bench in United India Insurance Co. Ltd.** It is thus now authoritatively well settled that no compensation can be awarded under the head “loss of love and affection”.

35. The word “**consortium**” has been defined in **Black’s law Dictionary, 10th edition**. The Black’s law dictionary also simultaneously notices the filial consortium, parental consortium



and spousal consortium in the following manner:

"Consortium 1. The benefits that one person, esp. A spouse, is entitled to receive from another, including companionship, cooperation, affection, aid, financial support, and (between spouses) sexual relations a claim for loss of consortium.

Filial consortium A child's society, affection, and companionship given to a parent.

Parental consortium A parent's society, affection and companionship given to a child.

Spousal consortium A spouse's society, affection and companionship given to the other spouse."

36. In Magma General Insurance Co. Ltd. as well as United India Insurance Co. Ltd., the Three-Judge Bench laid down that the consortium is not limited to spousal consortium and it also includes parental consortium as well as filial consortium. In para 87 of United India Insurance Co. Ltd., "consortium" to all the three claimants was thus awarded. Para 87 is quoted below:-

"87. Insofar as the conventional heads are concerned, the deceased Satpal Singh left behind a widow and three children as his dependents. On the basis of the judgments in **Pranay Sethi** and **Magma General**, the following amounts are awarded under the conventional heads:-

- i) Loss of Estate: Rs. 15,000
- ii) Loss of Consortium:
 - a) Spousal Consortium: Rs. 40,000
 - b) Parental Consortium: $40,000 \times 3 = \text{Rs. } 1,20,000$
- iii) Funeral Expenses: Rs. 15,000"

37. Learned counsel for the appellant has submitted that Pranay Sethi has only referred to spousal consortium and no other consortium was referred to in the judgment of Pranay Sethi, hence, there is no justification for allowing the parental consortium and filial consortium. The Constitution Bench in



Pranay Sethi has referred to amount of Rs.40,000/- to the “loss of consortium” but the Constitution Bench had not addressed the issue as to whether consortium of Rs.40,000/- is only payable as spousal consortium. The judgment of Pranay Sethi cannot be read to mean that it lays down the proposition that the consortium is payable only to the wife.

38. The Three-Judge Bench in *United India Insurance Co. Ltd.* has categorically laid down that apart from spousal consortium, parental and filial consortium is payable. We feel ourselves bound by the above judgment of Three Judge Bench. We, thus, cannot accept the submission of the learned counsel for the appellant that the amount of consortium awarded to each of the claimants is not sustainable.

39. We, thus, found the impugned judgments of the High Court awarding consortium to each of the claimants in accordance with law which does not warrant any interference in this appeal. We, however, accept the submissions of learned counsel for the appellant that there is no justification for award of compensation under separate head “loss of love and affection”. The appeal filed by the appellant deserves to be allowed insofar as the award of compensation under the head “loss of love and affection”.

40. We may also notice the Three-Judge Bench judgment of this Court relied upon by learned counsel for the appellant i.e. *Sangita Arya versus Oriental Insurance Co. Ltd. and others*, (2020) 5 SCC 327. The counsel for the appellant submits that this Court has granted only Rs.40,000/- towards “loss of consortium” which is an indication that “consortium” cannot be granted to children. In the above case, Motor Accident Claims Tribunal has awarded Rs.20,000/- to the widow towards loss of consortium and Rs.10,000/- to the minor daughter towards “loss of love and affection”. The High Court has reduced the amount of consortium from Rs.20,000/- to Rs.10,000/-. Para 16 of the judgment is to the following effect:



(Sangita Arya case, SCC p. 330, para 10)

"10. The consortium payable to the widow was reduced by the High Court from Rs. 20,000 (as awarded by the MACT) to Rs.10,000; the amount awarded towards loss of love and affection to the minor daughters was reduced from Rs.10,000 to Rs. 5,000. However, the amount of Rs. 5,000 awarded by the MACT towards funeral expenses was maintained."

41. This Court in the above case confined its consideration towards the income of the deceased and there was neither any claim nor any consideration that the consortium should have been paid to other legal heirs also. There being no claim for payment of consortium to other legal heirs, this Court awarded Rs.40,000/- towards consortium. No such ratio can be deciphered from the above judgment that this Court held that consortium is only payable as a spousal consortium and consortium is not payable to children and parents.

42. It is relevant to notice the judgment of this Court in United India Insurance Co. Ltd which was delivered shortly after the above Three-Judge Bench judgment of Sangeeta Arya specifically laid down that both spousal and parental consortium are payable which judgment we have already noticed above.

43. We may also notice one more Three-Judge Bench judgment of this Court in M.H. Uma Maheshwari versus United India Insurance Co. Ltd. Decided on 12.06.2020. In the above case, the Tribunal had granted the amount of Rs. One Lakh towards loss of consortium to the wife and Rs. Three Lakhs for all the appellants towards loss of love and affection. The High Court in the above case had reduced the amount of compensation in the appeal filed by the Insurance Company. The High Court held that by awarding the amount of Rs. One Lakh towards loss of consortium to the wife, Tribunal had committed error while awarding Rs.One Lakh to the first appellant towards the head of "loss of love and affection". Allowing the appeal filed by the claimant, this Court maintained the order of MACT.

44. In the above judgment although rendered by Three-Judge Bench, there was no challenge to award of compensation of Rs. One Lakh towards the consortium and Rs. Three Lakhs towards the loss of love and affection. The appeal was filed only by the claimants and not by the Insurance Company. The Court did not pronounce on the correctness of the amount awarded under the head "loss of love and affection".

16. Hon'ble Supreme Court in **Janabai wd/o Dinkarrao Ghorpade**

and Others vs. ICICI Lombard Insurance Company Limited, (2022) 10



SCC 512, has held as under:

14. The appellant has claimed compensation on account of love and affection as well on account of spousal consortium for wife and for the parental consortium for the children in the calculation given to this Court but in view of **three Judge Bench judgment** reported as [United India Insurance Company Limited v. Satinder Kaur](#), the compensation under the head on account of loss of love and affection is not permissible but compensation on account of spousal consortium for wife and for the parental consortium for children is admissible. This Court held as under: (SCC pp. 797-98, paras 30-35)

“30. [In Magma General Insurance Co. Ltd. v. Nanu Ram](#), 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 [Pranay Sethi](#).

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 [Pranay Sethi](#) 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](#), 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.”

17. In **Rajbala and Others vs. Rakeja Begam and Others**, AIR 2022 SC 5145, Hon'ble Supreme Court has held as under:

19. While considering the question of interference with the compensation granted by the High Court under the head of “love and affection” it is only appropriate to refer to a two Judge-Bench decision of this Court in **Jana Bhai and Ors.**



v. **ICICI Lombard General Ins. Co. Ltd.** Evidently, the two Judge Bench took note of the fact that the **Constitution Bench in Pranay Sethi's case (supra)**, has recognized only three conventional heads where compensation are awardable viz., “loss of estate”, “loss of consortium” and the “funeral expenses”. Then, the two Judge-Bench referred to the decision of this Court in **Magma General Ins. Co. Ltd. v. Nanu Ram**, which, in turn, had virtually followed by three Judge Bench of this Court in **United Ins. Co. Ltd. v. Satinder Kaur**. It was held therein that as held in **Magma's case (supra)** though compensation under the head of “love and affection” is impermissible compensation for “loss of spousal consortium to wife and “loss of parental consortium to children” are admissible.

20. After having held thus, it was further held in **Jana Bhai's case (supra)** that the amount to be awarded for “loss of parental consortium” should be in uniformity with the amount fixed by the Constitution Bench in **Pranay Sethi's case (supra)**. In other words, the amount payable under the said head „parental consortium“ shall not exceed Rs. 40,000/- qua a single child. In the said circumstances, the amount of Rupees One lakh each granted by the High Court to Appellants 2 & 3 under the head “love and affection” require to be deducted and at the same time, Rs.40,000/- each, out of it can be granted, rather, adjusted against “parental consortium” grantable to the minor children. Thus, an amount of Rs. 80,000/- has to be adjusted and can be granted to the minor children viz., Appellants No. 2 & 3 and the balance amount of Rs.1,20,000/- has to be deducted.

18. In **Smt. Anjali and Others vs. Lokendra Rathod and Others**, **AIR 2023 SC 44**, Hon'ble Supreme Court has held as under:

17. A three-Judge Bench of this Court in **United India Insurance Co. Ltd. vs. Satinder Kaur alias Satwinder Kaur and Ors.** after considering **Pranay Sethi (Supra)**, has awarded spousal consortium at the rate of Rs.40,000/ (Rupees forty thousand only) and towards loss of parental consortium to each child at the rate of Rs.40,000/ (Rupees forty thousand only). The compensation under these heads also needs to be increased by 10%. Thus, the spousal consortium is awarded at Rs.44,000/-(Forty-four thousand only), and towards parental



consortium at the rate of Rs.44,000/ each (Total Rs.1,32,000/)
is awarded to the three children.

19. In **Harpreet Kaur and Others vs. Mohinder Yadav and Others**, AIR 2023 SC 111, Hon'ble Supreme Court has held as under:

12. The judgment in [Rajesh v. Rajbir](#) was followed in other decisions. However, the approach in these decisions, was disapproved by a five-judge bench decision in [National Insurance Co. v. Pranay Sethi](#), where this court indicated what should be the correct approach in awarding amounts towards consortium: “52. [...] 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....”

Applying this principle, in [Magma General Insurance Co. v. Nanu Ram](#) this court held as follows:

“20. 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 recognised by the Constitution Bench in Pranay Sethi. [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 Respondents 1 and 2.

21. A Constitution Bench of this Court in [Pranay Sethi \[National Insurance Co. Ltd. v. Pranay Sethi\]](#), (2017) 16 SCC 680 dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, “consortium” is a compendious term which encompasses



“spousal consortium”, “parental consortium”, and “filial consortium”. The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse : [[Rajesh v. Rajbir Singh](#), (2013) 9 SCC 54].

21.1. Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of “company, society, cooperation, affection, and aid of the other in every conjugal relation”. [Black's Law Dictionary (5th Edn., 1979).]

21.2. Parental consortium is granted to the child upon the premature death of a parent, for loss of “parental aid, protection, affection, society, discipline, guidance and training”.

21.3. Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. 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 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.

23. [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.⁷ However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.”

13. On an application of the principles indicated in **Magma General Insurance Co.**, this court is of the opinion that the filial and parental consortium have to be increased. Each of the children, and the mother of the deceased, is entitled to Rs.40,000/-. Thus, the total amount payable towards filial and parental consortium is Rs.1,20,000/-.”

20. From the perusal of the above said various pronouncements by the

Hon’ble Supreme Court on the principle of “consortium”, “consortium” can be claimed under the head of “spousal consortium”, “parental consortium” and “filial consortium” by each claimant.

21. So far as the decision of Hon’ble Supreme Court in **Shri Ram General Insurance Co. Ltd. (supra)** is concerned, a perusal of the above said judgment would show that Hon'ble Supreme Court has not discussed or distinguished the earlier judgments in **Magma General Insurance Company Limited, Satinder Kaur alias Satwinder Kaur (3 judge bench), Somwati, Janabai, Raj Bala, Smt. Anjali and Harpreet Kaur (supra)**.

22. A perusal of the Award passed by the learned Tribunal would show that the Tribunal has reimbursed the medical bills to appellant No.1 to the tune of Rs.24,580/- alongwith 6% interest per annum. In view of the above said pronouncements by Hon'ble Supreme Court in regard to award of compensation in the case of death, appellant No.1 would not be entitled for reimbursement of medical bills and as such the above said amount is to be adjusted in the enhanced amount of compensation.

CONCLUSION

23. In view of the law laid down by the Hon’ble Supreme Court in the above referred judgments, the award dated 06.02.2028 is set aside. The appellants-claimants are entitled to enhanced compensation as per the calculations made here-under:-

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	8462
2	Future prospects @50%	4231 (50% of 8462)
3	Deduction towards personal expenditure 1/3	4231(12693 X 1/3rd)
4	Total Annual Dependency	1,01,544

		(12693-4231X12)
5	Multiplier	17
6	Loss of Dependency	17,26,248 1,01,544 X17
7	Loss of Estate	18,000
8	Funeral Expenses	18,000
9	Loss of Consortium Spousal: 48000 Filial: 48000X2	Rs.1,44,000/-
	Total Compensation	Rs.19,06,248/-
	Amount Awarded by the Tribunal	Rs.2,68,000/-
	Enhanced amount	Rs.16,38,248/-

24. A perusal of the award passed by the learned Tribunal would show that interest @ 6% per annum from the date of filing of claim petition till the date of its realization was granted. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176** and **R.Valli and Others VS. Tamil Nandu State Transport Corporation (2022) 5 Supreme Court Cases 107**, the appellants-claimants are held entitled for interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

25. The Insurance Company-respondent No. 3 is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from today. Appellant No.1 would be entitled to 50% and appellants No. 2 and 3 would be entitled to 25% each of the enhanced amount of compensation.

26. The Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the accounts of the claimants/appellants. The claimants/appellants are directed to furnish the bank account details to the

