

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO-768-2014
Date of decision : 22.04.2025

Sis Ram and others

... Appellants

Versus

Jasbir Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Anmol Partap Singh Mann, Advocate and
Mr.Navjot Singh Sidhu, Advocate for the appellants.

Mr.Arun Takhi, Advocate for the respondent.

VIKAS BAHL, J.(ORAL)

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Challenge in the present FAO

1. Challenge in the present appeal is to the award dated 17.08.2013 vide which the claim petition filed by the present appellants, who are the father, mother, widow and minor son of the deceased Parvinder Singh alias Parminder Singh, had been dismissed.

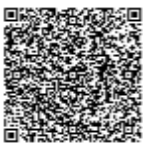
**Arguments on behalf of the claimants-appellants**

2. Learned counsel for the appellants has submitted that in the present case, the finding of the Tribunal on issue no.1 with respect to the fact that “whether the death of Parvinder Singh alias Parminder Singh had taken place in a road accident on 04.04.2012 on account of rash and negligent driving of Tata 407 bearing registration no.PB-08K-9825 by the respondent-Jasbir Singh” is incorrect and against law. It is submitted that it is apparent from the evidence and the documents on record that the accident had taken place on account of rash and negligent driving of the respondent, who was driving the said Tata 407 and it is the said Tata 407, which was involved in the accident. In support of his arguments, learned counsel for the appellants has referred to the evidence of eye witness AW-1 Manohar Lal as well as that of AW-2 and AW-3. Learned counsel for the appellants has further highlighted that the respondent Jasbir Singh had examined himself as RW-1 and had taken a specific plea to the effect that he had been falsely implicated in the FIR no.31 dated 05.04.2012 filed under Sections 279, 304-A, 337 and 427 IPC which was got registered by the eye witness AW-1, as the respondent had a heated conversation with a passerby and thereafter the police caught him and took him to the police station along with his vehicle. It is submitted that as per the examination-in-chief of the said RW-1, the incident at the tea stall had taken place at about 12 noon and in the cross-examination it had been stated that he was taken to the police station by the police at 4:30 pm and thereafter he was implicated in the present case.



3. It is submitted that the said version given by the respondent is on the face of it false, inasmuch as, the FIR no.31 dated 05.04.2012 against the respondent had been duly exhibited as Ex.A-5 and a perusal of the said FIR would show that the statement of the eye witness specifically mentioning the number of the vehicle of the respondent and also his name was recorded at 10:45 am and even the FIR was registered at 11:50 am, which was prior to the time of the alleged altercation. It is submitted that from the evidence of both the parties, it is proved beyond doubt that it was the respondent who was driving the vehicle in question and had caused the accident on account of his rash and negligent driving.

4. It is further submitted that no plea had been taken by the respondent in his written statement to the effect that the deceased was negligent in his driving and thus, the observations made by the Tribunal to the said effect are beyond pleadings and preverse. It is also submitted that a perusal of the post-mortem report Ex.A-2 would show that no reference with respect to the deceased having taken alcohol had been mentioned. It is further submitted that even the observations of the Tribunal to the effect that the averments made in the claim petition were contrary to the evidence and the allegations in the FIR, are also on account of misreading of the evidence and thus, the said observations also deserve to be set aside. In support of his arguments, learned counsel for the appellants has referred to the judgment of the Hon'ble Supreme Court of India in ***Bimla Devi & Ors. vs. Himachal Road Transport Corpn. & Ors.*** reported as **2009 (13) SCC 530**.



5. Learned counsel for the appellants has further submitted that no specific finding on issue no.2, which was on the aspect of the amount of compensation to which the appellants were entitled, was given by the Tribunal on account of the finding on issue no.1. Learned counsel for the appellants has provided a detailed chart giving the details under which they are entitled to be given compensation. The said chart is reproduced hereinbelow:-

“Sis Ram and others

v.

Jasbir Singh

...Appellants

...Respondent

APPELLANT HEREIN

:

CLAIMANTS

DATE OF ACCIDENT

:

04.04.2012

NATURE OF CASE

:

DEATH

AGE OF DECEASED

:

35 years

INSURANCE:

NO INSURANCE

DETAILS OF RELIEF CLAIMED

DETAILS	Compensation claimed as per judgments of Sarla Verma, Pranay Sethi & Magma General Insurance
Income	Monthly : Rs.4,500 Annual : Rs.54,000
Deduction	1/4th : Rs.13,500/-
Future Prospects	40% of (54,000 – 13,500) = Rs. 16,200
Multiplier	16
Loss of Estate	Rs.15,000 (accident in 2012)
Funeral Expenses	Rs.15,000 (accident in 2012)
Loss of Consortium	Rs.40,000 (accident in 2012) x 4 dependents = Rs.1,60,000
Total Compensation	[(54,000 + 16,200) x ¾ x 16] +15,000 + 15,000 + 1,60,000 = Rs.10,97,200
Interest	9%



Sd/-

Anmol Partap Singh Mann (P/1679/2009)

*Dated: 23.04.2025 Name & Signatures of Advocate with
P.No.98150-10265”*

6. Learned counsel for the appellants has submitted that an amount of Rs.10,97,200/- be paid to the appellants along with interest at the rate of 9% per annum from the date of filing of the claim petition till the date of actual payment. In support of his arguments, learned counsel for the appellants has relied upon the law laid down by the Hon'ble Supreme Court in case titled as ***Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another*** reported as ***(2009) 6 SCC 121***, ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported as ***(2017) 16 SCC 680***, and ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others*** reported as ***(2018) 18 SCC 130***.

Arguments on behalf of the owner/driver-respondent

7. Learned counsel for the respondent, on the other hand, has opposed the present appeal and has submitted that the finding of the Tribunal on issue no.1 is in accordance with law and deserves to be upheld. It is submitted that the Tribunal had rightly observed that AW-1 was not able to ascertain the name of the driver of the offending vehicle at the time of the accident nor even was able to ascertain the number of the vehicle and thus, it was unknown as to how he had named the vehicle which was owned by the respondent as the vehicle involved in the accident. It is further submitted that the Tribunal had rightly taken into consideration the fact that AW-1 in his cross-examination had admitted that Parminder Singh had taken alcohol at the time of accident and thus, it was the deceased who was



negligent and rash in his driving. It is submitted that there is discrepancy in the pleadings and evidence with respect to the manner in which the accident was caused and the said aspect also goes against the claimants-appellants. It is argued that the evidence when seen in its totality shows that neither the respondent nor his vehicle was involved in the accident and the decision of the Tribunal on the said aspect was in accordance with law and does not call for any interference. It is argued that as far as the aspect of the compensation is concerned, the interest at the rate of 9% per annum which is sought to be claimed by the appellants is highly excessive.

Analysis and findings

8. This Court has heard learned counsel for the parties and has perused the paper book and the record of the Tribunal.

9. It is not in dispute that the vehicle in question i.e., Tata 407 bearing registration no.PB-08-K-9825 was owned by the respondent Jasbir Singh, who is also stated to be the driver of the same and that the said vehicle was not insured. The primary question which arises for consideration in the present case is as to whether issue no.1 had been rightly decided by the Tribunal or not. Issue no.1 as framed vide order dated 04.03.2013 is reproduced hereinbelow:-

“1. Whether death of Parvinder alias Parminder took place in road accident on 4.4.2012 in the area of adda Mehtiana and whether said accident caused due to rash and negligent driving of Tata-407 bearing registration No.PB-08-K-9825 by respondent No.1? If so its effect? OPP”

10. It is the case of the claimants-appellants in the claim petition



that on 04.04.2012 the deceased was going from Mehtiana to his village Mona Khurd and was driving the motor cycle bearing registration no.PB-32-G-5469 marked platina and when they reached the area of Adda Mehtiana at about 8:30 PM then, a Tata 407 bearing registration no.PB-08-K-9825 coming at a very high speed, without blowing the horn struck on the back side of the motor cycle of the deceased and the said deceased fell and received head injuries and other multiple injuries and was shifted to the hospital and on account of his injuries, died. It was further their case that the accident had taken place on account of rash and negligent driving of the respondent Jasbir Singh and that he was driving the vehicle in a zig zag manner and that the whole occurrence was witnessed by Manohar Lal son of Chand Lal who was the pillion rider of the motor cycle driven by the deceased and who had also received injuries on his right arm.

11. In the written statement, the only plea taken by the respondent Jasbir Singh was to the effect that no accident had occurred with the vehicle of the answering respondent and no plea was taken to the effect that it was the deceased who was driving the vehicle rashly and negligently. The claimants in support of their case had examined three witnesses. AW-1 Manohar Lal was the eye witness, who had specifically stated in his examination-in-chief that on 04.04.2012 the said witness along with Parminder Singh-deceased was going on the motor cycle in question which was being driven by the deceased, from Mehtiana to Mona Khurd when Tata 407 which was being driven at a high speed struck the motor cycle and on account of which the deceased suffered several injuries and even the eye



witness suffered injuries on his right arm. It was the specific case of the said witness that the accident had taken place on account of rash and negligent driving of the said Jasbir Singh and that the said witness had seen the accident. In the cross-examination the said AW-1 had specifically mentioned that the offending vehicle had hit the motor cycle from the back. The said evidence substantially supported the case of the claimant as set up in the claim petition. Additionally AW-2 and AW-3 were also examined by the claimants, who although were not eye witnesses but had stated in their evidence that it was the vehicle Tata 407 which was owned and driven by the respondent, which was the offending vehicle and that it was the said Jasbir Singh on account of whose rash and negligent driving the accident had taken place.

12. The sole witness examined on behalf of the respondent Jasbir Singh, was Jasbir Singh himself who had appeared as RW-1. The said Jasbir Singh RW-1 had tried to plead a specific defence so as to rebut the evidence of the claimants. The examination-in-chief of said RW-1 as well as his cross-examination are reproduced hereinbelow:-

“RW1. Statement of Jasbir Singh aged 45 Yrs. son of Tarlochan Singh, r/o VPO Jamsher PS Sadar, District Jalandhar in the form of affidavit.

AFFIDAVIT

I, Jasbir Singh the above named deponent do hereby solemnly declare and affirm as under:-

1. That the deponent purchased the second hand Tata 407 bearing registration No. PB-8K-9825 about $\frac{3}{4}$ years back and is the owner of the said vehicle. On 5-4-2012 the deponent was going to Ludhiana from Hoshiarpur and at about 12 noon



when he reached near police station Mehtiana he stopped the vehicle and started taking tea near by police station.

In the meantime a hot talk took place between the deponent and the passer-bye who was also taking tea on the same stall.

In the meantime one Havaladar and constable known to that person came at the spot and caught hold the deponent and took the deponent to the police station along with the vehicle of the deponent. The deponent was kept in the police station for two hours illegally and thereafter he was released on surety which was arranged by the deponent from Hoshiarpur.

2. That later on the deponent came to know that the police of police station Mehtiana has wrong and illegally involved the vehicle of the deponent in a FIR No. 31 dated 5-4-2012 under section 279, 304A, 337, 427 IPC. The vehicle of the deponent never met with an accident with Parwinder as alleged in the FIR. The deponent was falsely implicated in this case.

Deponent

I, the above named deponent do hereby solemnly affirm that my above declaration is true, that it conceals nothing and that no part of it is false.

Deponent

xxx xxx xxx

RW1 Jasbir Singh, aged 36 years (mentioned 45 years in affidavit), son of Tarlochan Singh son of Gurdass Ram, Resident of VPO Jamsher Khas, Police Station Sadar, District Jalandhar (Respondent No. I as his own witness)

On SA

I tender into evidence my duly sworn affidavit Ex.R1 which may be read as part of my examination in chief.

[xxx.n.Sh.](#) Kuldeep Singh, counsel for claimants.



I purchased the vehicle bearing No.PB08-K-9825 about four years back from today. I do not know remember the name of the person from whom I have purchased the abovesaid vehicle. I got the said vehicle transferred in my name at the time of its purchase four years ago. I stayed at 3.00/4.00 PM for taking tea at Tea Stall of Palli, situated ahead from Mehtiana Adda. I do not know the names of the passers by who were sitting at the Tea stall. I do not know the name of Constables who came present at the spot. I was taken to Police Station Mehtiana by police at 4.30 PM where I remained for two hours. I was let off by the police to bring surety. Daljit of Hoshiarpur stood surety for me. I do not know father's name and address of Daljit. It is correct that case under Section 304-A IPC is pending against me and I have been released on bail in that case. The same is pending in court of Ms. Ekta Uppal, Learned Judicial Magistrate Ist Class, Hoshiarpur. However, I do not remember the next date fixed in that case. It is correct that I have got released my abovesaid vehicle on Sapurdari from the trial court. The said vehicle is in my possession at present. It is correct that I have sold the said vehicle during the pendency of the case. It is correct that the abovesaid vehicle was not insured. Volt. I did not sell the abovesaid vehicle. It is correct that summons of this case was served upon me when I came to appear before the trial court in criminal case. It is correct that summons of this petition goes to me on my above mentioned address. It is wrong to suggest that I used to send back the summons with report of wrong address falsely. I did not move any application before any higher police officer or before any court regarding registration of false case against me. Volt. I came to know about the criminal case when I received the summons from court. It is wrong to suggest that accident took place due to



rash and negligent driving of my vehicle. Volt. no accident took place with my vehicle. It is wrong to suggest that I have sworn a false affidavit just to avoid giving compensation to claimants. It is wrong to suggest that I have deposed falsely.”

A perusal of the above evidence would show that the said RW-1 had tried to set up a case of false implication by stating in his examination-in-chief that on 05.04.2012 at 12 noon when he had reached near Police Station Mehtiana, he had stopped his vehicle and was having tea when he had an altercation with a passerby and then, one Havaladar and Constable, who were known to the said person came to the spot and caught hold of the respondent along with his vehicle and took him to the police station where he was released on surety and that he later came to know that he had been falsely implicated in FIR no.31 dated 05.04.2012. In the cross-examination, the said RW-1 had specifically stated that till 3:00/4:00 pm, he had stayed at the tea stall and that he did not know the name of the passerby nor the name of the police officers who had come to the spot and had taken him to the police station at 4:30 pm, after which he was let off, after surety was given by one Daljit. It is relevant to note that the said Daljit was not examined by the respondent. It was further admitted by said RW-1 that he got released his vehicle on Sapurdari from the trial Court and that he did not move any application before any high ranking police officer or before any Court regarding registration of false case against him. Thus, the plea set up by RW-1 was to the effect that he was implicated in the case after an altercation had taken place with a passerby, which event happened after 12 noon and for which he was taken to the police station by the police at 4:30



pm. The said plea stands completely falsified from the perusal of the FIR Ex.A5.

13. A perusal of the FIR Ex.A5 would show that the FIR with respect to the accident in question was registered on 05.04.2012 at 11:50 AM and in the said FIR the respondent Jasbir Singh and the number of his vehicle had been specifically mentioned. A closer perusal of the FIR would further show that the same was registered by the eye witness Manohar Lal who had given his statement at 10:45 AM. Thus much prior to 04:30 PM and even 12 noon, the respondent was named in the FIR and thus, the question of the respondent being falsely implicated at the instance of police on account of his fight with the passerby, which as per his version took place after 12 noon, is apparently a false defence set up by the said Jasbir Singh. Additionally, it would be relevant to mention that neither the name of the passerby nor the names of the police officers who had taken the respondent to the police station have been mentioned. The story put forth by the said Jasbir Singh in order to overcome the evidence of the claimants is highly unconvincing. It is not believable that the respondent Jasbir Singh would have a fight with some third person and he would be implicated in a completely different case involving a different person and a different incident. Moreover, as per the evidence of RW-1, the said Jasbir Singh did not move any application, immediately after the registration of the FIR, before any high ranking police official or any Court with respect to his alleged false implication. It is apparent that the said Jasbir Singh had tried to set up the said defence in order to overcome the fact that the vehicle of



the respondent, which was involved in the present case, was taken by the police. Moreover, even the said Daljit who was stated to have stood surety was not examined. Thus the said RW-1 instead of rebutting the evidence produced by the claimants had further fortified the claim set up by the claimants, as the fact that he and his vehicle was taken by the police had been admitted by him in his evidence.

14. The Hon'ble Supreme Court in the case of ***Bimla Devi & Ors.*** (*supra*) had observed that strict proof of an accident caused by a particular vehicle in a particular manner may not be possible to be proved by the claimants and in case the claimants on the touchstone of preponderance of probability are able to establish their case, then the Court after taking into consideration the stories set forth by both the parties was required to decide the same on the touchstone of preponderance of probability and the standard of proof beyond reasonable doubt is not to be applied. It was further observed that discrepancies in the evidences of the claimant's witnesses may be there but the core question has to be decided after considering the pleas set up by both the parties. In the said case, the High Court had allowed the appeal of the driver and owner therein whose case was that the deceased therein had died and his dead body was lying in a blanket at some distance from the bus and the driver therein therein was falsely implicated although the driver of the bus therein had not done any act so as to cause any injuries to the deceased therein. The Hon'ble Supreme Court had observed that in the circumstances of the said case it was difficult to believe the story of the driver of the bus therein, which was to the effect that he was sleeping in the



bus and in the morning he found the deceased therein the blanket. Thus, the version put by the driver in the said case was taken into consideration and after taking into consideration the entire evidence, the judgment of the High Court exonerating the driver and owner therein was set aside. The relevant portion of the said judgment is reproduced hereinbelow:-

“12.It is, therefore, difficult to believe the story of the driver of the bus that he slept in the bus and in the morning found a dead body wrapped in a blanket. If the death of a constable has taken place earlier, it is wholly unlikely that his dead body in a small town like Dharampur would remain undetected throughout the night particularly when it was lying at a bus stand and near a police station. In such an event, the court can presume that the police officers themselves should have taken possession of the dead body.

Xxx xxx xxx

14. Some discrepancies in the evidences of the claimant's witnesses might have occurred but the core question before the Tribunal and consequently before the High Court was as to whether the bus in question was involved in the accident or not. For the purpose of determining the said issue, the Court was required to apply the principle underlying burden of proof in terms of the provisions of [Section 106](#) of the Indian Evidence Act as to whether a dead body wrapped in a blanket had been found at the spot at such an early hour, which was required to be proved by the respondent Nos.2 and 3.

15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of



probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.”

15. In the present case on the basis of evidence and documents on record, this Court is of the opinion that the finding of the Tribunal on issue no.1 is perverse and illegal and deserves to be set aside and the said issue no.1 deserves to be decided in favour of the claimants-present appellants and against the respondent.

16. The observations made by the Tribunal to the effect that since AW-1 had admitted in his cross-examination that Parminder Singh had taken alcohol and thus his rashness and negligence contributed to the accident are observations which are beyond pleadings and uncalled for. It would be relevant to note that it is not the case of the respondent either in his written statement or in his evidence that it was the deceased who was negligent in driving the vehicle, rather the case set up by the respondent Jasbir Singh in the written statement was that no accident had taken place with the vehicle which was owned by him. Moreover, a perusal of the post-mortem report would show that there is nothing in the post-mortem report Ex.A2 to even remotely suggest that the deceased had taken alcohol. There are no facts pleaded, much less, evidence led by the respondent to show that even assuming some alcohol was consumed by the deceased, then also the deceased had driven the vehicle in a manner so as to contribute to causing the accident. The question of contributory negligence would arise only in case a specific plea was set up by the respondent and there was evidence to



support the said plea, which is not there in the present case. It is not even the case of the respondent Jasbir Singh in the examination-in-chief that the said Parminder Singh was under the influence of the liquor and on account of the said fact, the accident had taken place. Thus, the observation of the Tribunal on the said aspect so as to decide issue no.1 against the present appellants is erroneous.

17. Even the observations of the Tribunal to the effect that there is disparity between the pleadings and evidence of AW-1 shows that the Tribunal had not read the evidence and the pleadings of the parties in totality. It is not in dispute that in paragraph 22 of the claim petition, it was the specific case of the claimants that Tata 407 being driven by the respondent struck the motor cycle from the back side. Similarly in the FIR Ex.A5 the fact that the said truck had struck from the back side had been stated. Importantly, AW-1 even in his cross-examination had specifically stated that the offending vehicle had hit their motor cycle from the back side. Merely because there was one line in the examination-in-chief of AW-1 to the effect that the said truck was coming from the opposite side cannot be read in isolation so as to doubt the entire case of the claimants-appellants. Even in the examination-in-chief, it was specifically stated by AW-1 that truck had struck the motor cycle without blowing the horn. It is a matter of settled law that the evidence is required to be seen in totality and minor discrepancy in the evidence cannot be made the primary basis for rejecting the case of the claimants, when in totality the evidence and documents supports the case of the claimants. It is reiterated that there is no



counter version of the respondent with respect to the manner in which the accident had taken place.

18. With respect to the aspect of the amount of compensation to which the claimants are entitled to, it would be relevant to refer to the judgments of the Hon'ble Supreme Court as highlighted by the learned counsel for the appellants. The Hon'ble Supreme Court in para 42 of **Sarla Verma's case** (Supra) had observed as under:-

*“42. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, **M-16 for 31 to 35 years**, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”*

A perusal of the above would show that for the age of 35 years, multiplier of 16 is to be applied.

19. The Hon'ble Supreme Court in **Pranay Sethi's case** (Supra), has held as under:-

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

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 addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

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.

60. The reference is answered accordingly. Matters be placed before the appropriate Bench.”

A perusal of the above judgment would show that it was observed by the Hon’ble Supreme Court that addition of some percentage of the actual salary to the income of the deceased towards future prospects was also required to be taken into consideration and the said percentage was specifically defined with respect to persons who were having a permanent job or/were self-employed or on a fixed salary.

20. The Hon’ble Supreme Court in ***Magma General Insurance Company Limited’s case (Supra)*** had further observed that in death case, under the head of loss of consortium, the parents of the deceased are entitled to be awarded loss of consortium under the head of filial consortium and children are entitled to parental consortium. To the widow, spousal consortium is to be given. Relevant portion of the said judgment is reproduced hereinbelow:-

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

In the abovesaid judgment, an amount of Rs.40,000/- each was awarded to the father and sister of the deceased and thus, the amount of consortium awarded was made dependent upon the number of claimants/legal representatives.

21. In view of the abovesaid judgements and the facts and circumstances of this case, this Court is of the opinion that the chart as presented by the learned counsel for the appellants and reproduced hereinbefore is in accordance with law and compensation as claimed by the appellants deserves to be allowed.

22. It was the case of the claimants in the claim petition that the deceased, who was 35 years of age, was earning Rs.30,000/- per month as he was running a shop under the name of Pari Cold Corner Shop at Dhakowal and he was also a member of a musical group and a prominent guitarist. In support of said plea, the claimants had examined AW-2 and AW-3 who had reiterated the said fact. Importantly in the cross-examination of AW-2 and AW-3 it was suggested by the learned counsel for the respondent that the deceased was earning Rs.4000/- / Rs.5000/- per month



only, which suggestion was denied by the said witnesses. Learned counsel for the appellants has also highlighted the fact that at the relevant time even the minimum wages was Rs.4500/- per month, which aspect has not been disputed on behalf of the respondent before this Court and thus, in the said circumstances, the amount of Rs.4500/- being income of the deceased per month, as claimed on behalf of the appellants is reasonable. The multiplier of 16 has also been rightly applied as the age of the deceased was 35 years. Even the amounts claimed on accounts of dependency, future prospects, funeral expenses, loss of estate as well as loss of consortium are in accordance with law laid down by the Hon'ble Supreme Court of India and could not be disputed before this Court. Thus, the claimants-appellants are entitled to a total compensation of Rs.10,97,200/-. With respect to the rate of interest, this Court is consistently awarding the rate of interest at the rate of 7.5% per annum, which rate of interest is also reasonable in the present case.

23. Keeping in view the above said facts and circumstances, the present appeal is allowed and the impugned award of the Tribunal is set aside and the claimants-appellants are held entitled to an amount of Rs.10,97,200/- along with interest at the rate of 7.5% from the date of filing of the claim petition till the date of payment. The widow of the deceased, who is appellant no.3, would be entitled to 50% of the compensation awarded alongwith accrued interest thereupon, the son (appellant no.4) would be entitled to 20% of the compensation awarded along with accrued interest thereupon and the appellants no.1 and 2, who are the parents of the



deceased, would be jointly entitled to 30% (15% each) of compensation awarded alongwith accrued interest thereupon. Since the vehicle in question was not insured, thus, the respondent would be liable to pay the said amount to the appellants in the proportions which have been detailed in the present order.

(VIKAS BAHL)
JUDGE

April 22, 2025.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No