IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

FAO (MV) No. 71 of 2017
Decided on : 18.11.2026

Julfi Ram (since deceased) & Others ...Appellants

Versus

Pankaj Kumar & Others ...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1]

For the appellant: **Mr. Vishwas Kaushal, Advocate.**

For the respondents: **Mr. Aryansh Thakur, Advocate, for respondents No. 1 and 2.**

Ms. Raksha Thakur Advocate, vice Mr. Jagdish Thakur, Advocate, for respondent No. 3.

Virender Singh, Judge *(Oral)*

Appellants have filed the present appeal, under Section 173 of the Motor Vehicles Act (hereinafter referred to as 'the M.V. Act'), with a prayer to enhance the amount of compensation, awarded to them, vide award dated 07.11.2016, passed by learned Motor Accident Claims

[1] Whether the reporters of Local Papers may be allowed to see the judgment?

Tribunal, Hamirpur, H.P. (hereinafter referred to as 'the learned Tribunal'), in MAC Petition No. 106 of 2014, titled as 'Julfi Ram (deceased) & Others Vs Pankaj Kumar & Others".

2. By way of the award, dated 07.11.2016, the learned Tribunal has allowed the claim petition, by awarding a sum of Rs. 10,61,000/-, along with interest at the rate of 6% per annum, from the date of filing of the petition, till the realization of the whole amount, by fastening the ultimate liability to pay the amount of compensation along with up to date interest, upon respondent No. 3 i.e. Oriental Insurance Company.

3. For the sake of convenience, parties to the present *lis,* are, hereinafter referred to, in the same manner, as were, referred to, by the learned Tribunal.

4. The award has not been assailed by the respondents, as such, this Court would consider the amount of compensation, as awarded by the learned Tribunal, to ascertain that whether the same falls within the definition of 'just compensation'.

5. The above titled claim petition has been filed by the petitioners, seeking compensation on account of death of Sh. Ved Prakash, son of petitioners No. 1 & 2, and father of petitioners No. 3 to 5, in a road side accident, which according to the petition, had taken place on 03.04.2014, at about 3:00 pm, near Bumbloo-Barsar-Salauni Road, Tehsil Barsar, District Hamirpur, H.P., involving vehicle bearing No. PB12G-5037 (hereinafter referred to as 'the offending vehicle'), driven by Pramod Kumar respondent No. 2, owned by respondent No. 1 and insured with respondent No. 3.

6. The petitioners have pleaded the age of deceased Ved Prakash, at the time of accident, as 45 years. The learned Tribunal has taken the age of deceased Ved Prakash, as 46 years, as his date of birth has been mentioned as 05.08.1968, as per documents Ext. PW3/C & Ext. PW3/D and the accident, in question, had taken place on 03.04.2014. The said findings being based upon the documentary evidence, does not require any interference, by this Court.

7. So far as the earnings of deceased Ved Prakash, during his life time, are concerned, the learned Tribunal has taken the same as Rs. 8,000/-. In the absence of any challenge to the said findings, the same does not require any interference. However, in view of the decision of the Hon'ble Supreme Court in "**National Insurance Company Ltd. Versus Pranay Sethi & Others, (2017) 16 Supreme Court Cases 680**", 25% amount is liable to be added, on account of future prospects. Relevant paragraphs 59 to 59.8 are reproduced, 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."*

8. Thus, 25% amount is liable to be added, on account of future prospects, as deceased Ved Prakash was working in unorganized sector and his age at the relevant time, was 46 years. Thus, his monthly income comes to Rs. 8000 + 25% (2000) = Rs. 10,000/- per month.

9. Keeping in view the number of dependents, 1/4th amount is liable to be deducted, from his income, towards his personal expenses, had he been alive. Thus, deducting 1/4th out of the income of the deceased, on account of his personal

expenses, his contribution towards his family, comes to Rs. 10,000/- - Rs. 2,500/- = Rs. 7,500/- per month.

10. The learned Tribunal has applied the multiplier of '13', which is appropriate multiplier to be applied in the present case, in view of the law laid down in "**Sarla Verma *Vs* *Delhi Transport Corportation, 2009 (6) SCC 121***". Thus, the loss of dependency comes to Rs. 7,500/- x 12 x 13 = Rs. 11,70,000/-.

11. The learned Tribunal has fallen into error by awarding a sum of Rs. 1,00,000/- on account of loss of love & affection and Rs. 25,000/- on account of funeral expenses. The said findings are not sustainable in the eyes of law, in view of the decision of the Constitution Bench of the Hon'ble Supreme Court in **Pranay Sethi's** case (supra).

12. Under the conventional heads, as per the dictate of **Pranay Sethi's** case (supra), the petitioners are held entitled for compensation to the tune of Rs. 15,000/-; Rs. 15,000/-; and Rs. 40,000/-, under the heads: 'loss of estate', 'funeral expenses', and 'loss of consortium' respectively.

13. In view of the decision of Hon'ble Supreme Court, in **Magma General Insurance Company Limited versus Nanu Ram alias Chuhru Ram and others,** reported in **(2018) 18 Supreme Court Cases 130**, all the petitioners are held entitled to compensation under the head 'loss of consortium'. The relevant paras 21 to 24 of the judgment, are reproduced, 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 (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."

14. Petitioner No. 1 Julfi Ram had expired on 11.08.2016, during the pendency of the claim petition before the learned Tribunal. As such, only petitioners No. 2 to 5 are entitled for the amount, under the head 'loss of consortium'.

15. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	*Rs. 11,70,000/-*
2. Loss of consortium	=	*Rs.1,60,000/- (Rs. 40,000/- each)*
3. Loss of estate	=	*Rs. 15,000/-*
4. Funeral Expenses	=	*Rs. 15,000 /-*
Total	**=**	***Rs. 13,60,000/-.***

16. The entitlement of the petitioners with a view to grant just compensation, thus, comes to Rs. 13,60,000/-.

17. The learned Tribunal has rightly awarded the rate of interest to the petitioners at the rate of 6% per annum, which needs no interference by this Court.

18. No other point has been urged or argued.

19. Having glance of the above discussion, the appeal of the appellants-petitioners is allowed and the amount of compensation is enhanced from Rs. 10,61,000/- to Rs. 13,60,000/-, with interest at the rate of 6% per annum, from the date of filing of the petition, till the deposit of award amount. The amount of compensation shall be apportioned equally amongst the petitioners.

20. Parties are left to bear their own costs.

21. Memo of costs be prepared accordingly.

22. Record be sent back.

(Virender Singh)
Judge

18th November, 2026
(Pramod Kumar)