 2026:HHC:47870

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO (MV) No.192 of 2016 with FAO (MV) Nos.244 of 2016, 55, 56, 123 & 374 of 2018

Reserved on : 24.09.2026

Decided on : 31.10.2026

Uploaded on : 31.10.2026

---

1. FAO (MV) No.192 of 2016

Reliance General Insurance Company Ltd. .....Appellant

Versus

Jitender Kumar & Others ...Respondents

2. FAO (MV) No.244 of 2016

Reliance General Insurance Company Ltd. .....Appellant

Versus

Beli Ram & Others ...Respondents

3. FAO (MV) No.55 of 2018

Reliance General Insurance Company Ltd. .....Appellant

Versus

Master Subhash & Others ...Respondents

4. FAO (MV) No.56 of 2018

Reliance General Insurance Company Ltd. .....Appellant

Versus

Master Subhash & Others ...Respondents

5. FAO (MV) No.123 of 2018

Reliance General Insurance Company Ltd. .....Appellant

Versus

Master Subhash & Others ...Respondents

6. FAO (MV) No.374 of 2018

Reliance General Insurance Company Ltd. .....Appellant

Versus

Master Subhash & Others ...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.
Whether approved for reporting? Yes.

---

1. FAO (MV) No.192 of 2016

For the appellant	:	Mr. Jagdish Thakur, Advocate.
For the respondents	:	Mr. Anil Chauhan, Advocate for respondents No.1 to 3.

Mr. Rajesh Verma, Advocate for respondents No. 4 to 7.

2. FAO (MV) No.244 of 2016

For the appellant : Mr. Jagdish Thakur, Advocate.

For the respondents : Mr. Anil Chauhan, Advocate, for respondent No.1.

Mr. Rajesh Verma, Advocate, for respondents No. 2 to 5.

3. FAO (MV) No.55 of 2018

For the appellant : Mr. Jagdish Thakur, Advocate.

For the respondents : Mr. Rajesh Verma & Mr. Vinod Chauhan, Advocates.

4. FAO (MV) No.56 of 2018

For the appellant : Mr. Jagdish Thakur, Advocate.

For the respondents : Mr. Rajesh Verma & Mr. Vinod Chauhan, Advocates.

5. FAO (MV) No.123 of 2018

For the appellant : Mr. Jagdish Thakur, Advocate.

For the respondents : Mr. Rajesh Verma & Mr. Vinod Chauhan, Advocates.

6. FAO (MV) No.374 of 2018

For the appellant : Mr. Jagdish Thakur, Advocate.

For the respondents : Mr. Rajesh Verma & Mr. Vinod Chauhan, Advocates.

Virender Singh, Judge

The above-titled appeals are being disposed of by the common judgment, as all these appeals have arisen out of the accident, which, according to the admitted case of the parties, had taken place on 05.09.2011, involving vehicle number HP16-3382 (hereinafter referred as 'the offending vehicle').

2. The Insurance Company has filed the aforesaid appeals, under Section 173 of Motor Vehicles Act (hereinafter referred to as the M.V. Act) against the awards, passed by the Court of learned Motor Accident Claims Tribunal-I, Sirmaur District at Nahan (hereinafter referred to as 'the Tribunal'), whereby, while allowing the claim petitions, the liability to pay the compensation has been fastened upon the Insurance Company.

3. In order to decide the aforesaid appeals, this Court would first decide **FAO (MV) No.192 of 2016,** being taken as lead case.

FAO (MV) No. 192 of 2016

4. This appeal has arisen out of the award dated 05.06.2015 passed by the learned Tribunal in MACT Petition No. 140-MAC/2 of 2013/12, titled as Shukri Devi and others versus Kamlesh and others.

5. By way of the award dated 05.06.2015, the learned Tribunal, while allowing the claim petition filed by the petitioners-claimants, has awarded a sum of Rs.2,90,000/-, along with interest, at the rate of 7.5% from the date of filing of the petition, till realization of the whole amount, along with interest, by fastening the ultimate liability to pay the amount upon the present appellant/ Insurance Company.

6. For the sake of convenience, the parties to the *lis*, are hereinafter referred to, in the same manner, in which, they were referred to, by the learned Tribunal.

7. Brief facts, leading to the filing of the present appeal, before this Court, as borne out, from the record, may be summed up, as under: -

7.1. Petitioners Shukri Devi and others, have filed the claim petition, under Section 166 of Motor Vehicles Act, seeking the amount of compensation on death of Paniya Ram husband of Smt. Shukri Devi, who, during the pendency of the appeal, before this Court, expired and her name was ordered to be deleted. Petitioners No.2 to 4 are the grandsons of the deceased.

7.2. The claim petition has been filed by them on the ground that Shri Paniya Ram, on 05.09.2011, hired vehicle No.HP16-3382 (hereinafter referred to offending vehicle) to transport the goods, i.e., bed, bed clothes, utensils, TV from his village to his out house (Dogri) in village Dhalyog.

7.3. It is the further case of the petitioners that when, the offending vehicle reached just ahead of village Dhaali at place Daleha towards village Shilla-baag, then, grand daughter-in-law of Paniya Ram, her newborn baby, along with Smt. Gurdei and her children, namely Preeti, Master Hans Raj, Master Subhash, were moving on foot from village Dhaali to Ayurvedic Dispensary Shilla-bag.

7.4. The driver of the offending vehicle was driving the same in a rash and negligent manner, as such, he could not control the speed of the offending vehicle and crushed them except Master Subhash. Thereafter, the vehicle rolled down in the rivulet, due to which, the occupants, including driver of the offending vehicle, also expired.

7.5. Since, the accident, in question, has solely been attributed to the rash and negligent driving of the driver of the offending vehicle, as such, the matter was reported to the police of Police Station Rajgarh, where FIR No.81 dated 5.9.2011, under Sections 279, 304-A IPC was registered.

7.6. According the petitioners, Shri Paniya Ram was 66 year of age, at the time of his death. According to them, he was agriculturist, by profession and was earning Rs.5,000/-, per month.

7.7. The petitioners have pleaded about their bright past and bleak future. Since, the accident, in question, has solely been attributed to the rash and negligent driving of the driver of the offending vehicle, as such, the claimants have sought the amount of compensation from the respondents.

8. When put to notice, the legal representatives of the driver-cum-owner i.e., respondents No.1 to 4, have filed their reply, by admitting the accident. However, according to them, the same had taken place due to the sudden mechanical failure of the offending vehicle. They have also termed the FIR, registered against the driver, as false.

8.1. Other contents have also been denied, but, it has been admitted that Paniya Ram hired the offending vehicle, for carrying the goods from village Bagger Panoti to Dhaliog.

One Om Prakash was working, as labourer in the offending vehicle. According to them, the cause of death of the pedestrians is the sudden mechanical failure, in the offending vehicle.

9. Insurance Company of the offending vehicle, i.e., respondent No.5 has filed the separate reply, by taking the preliminary objections that the offending vehicle was goods vehicle, in which, the deceased was travelling, as unauthorized passenger, as such, his risk has not been covered, under the insurance policy. Nine unauthorized passengers were travelling, in the offending vehicle, which is stated to be the violation of the terms and conditions of the Insurance Policy. The insurer has also taken the other preliminary objections that the driver of the offending vehicle was not having a valid and effective driving licence and that the claim petition has been filed by the petitioner, in collusion with respondent No.1 to 4.

10. On merit, the contents of the claim petition have mainly been denied for want of knowledge.

11. From the pleadings of the parties, the following issues were framed by the learned Tribunal, vide order dated 17.12.2013:-

1. *Whether the deceased suffered fatal injuries on account of rash and negligent driving of the Mahindra Pick-up bearing No.HP-16-3382 on the part of driver of the vehicle 5.9.2011, near village Dhalli, Tehsil Rajgarh, as alleged? OPP*
2. *If issue No.1 above is proved, whether the petitioners are entitled for compensation, if so, to what amount and from whom? OPP*
3. *Whether the deceased was travelling in the offending vehicle as an unauthorized passenger, as alleged? OPR-5*
4. *Whether the driver of the offending vehicle did not possess a valid and effective driving licence at the time of accident, as alleged? OPR-5*
5. *Whether the vehicle in question was being plied in contravention of the terms and conditions of the insurance policy, as alleged? OPR-5*
6. *Whether this petition has been filed by the petitioners in collusion with respondents No.1 to 4, as alleged? OPR-5*
7. *Relief.*

12. Thereafter, the parties were directed to adduce evidence.

13. After the closure of the evidence and after hearing the learned counsel appearing for the parties, the learned Tribunal has allowed the claim petition, as referred to above, by fastening the ultimate liability to pay the amount of compensation upon the Insurance Company.

14. Aggrieved from the said award, Insurance Company has filed the present appeal, under Section 173 of M.V. Act, assailing the award, mainly, on the ground that the learned Tribunal has wrongly decided issue No.3, against the Insurance Company, as, according to the Insurance Company, deceased, along with the other persons, was travelling as gratuitous passenger, in the offending vehicle, and it has not been proved that the offending vehicle was hired by him, in the presence of someone and on the basis of the bald statement of PW-3, it cannot be said that the offending vehicle was hired by deceased.

15. According to the Insurance Company, evidence of respondent No.1 is not liable to be taken into consideration, as, she was not present at the spot.

16. It is the further case of the Insurance Company that the petitioners could not probabilize the fact that the offending vehicle was ever hired by Shri Paniya Ram. Highly relying upon the contents of the FIR, it has been contended that the contents of the same prove the fact that all the persons were travelling in the offending vehicle, which, admittedly, was a goods carrying vehicle. The driver of the offending vehicle was not having a valid and effective driving licence. Although, efforts were made by the Insurance Company to get the same verified, but, due to the short time, granted by the learned Tribunal, the genuineness of the same could not be verified. The seating capacity of the offending vehicle is stated to be '3' including the driver, whereas, seven persons had expired and two were injured. Highlighting the fact that the violation of the fundamental condition of the Insurance Policy has duly been proved, in this case, as the driver of the offending vehicle, was having two driving licences, according to the appellant-Insurance Company, there is violation of Section 6 of the M.V. Act.

17. The quantum of compensation has also been assailed on the ground that the learned Tribunal has wrongly taken the income of Shri Paniya Ram as Rs.4,000/- per month, during his lifetime, as there is nothing, on the record to prove the same. Highlighting the fact that in the year 2011, minimum wages were not more than Rs.3,000/- per month, as such, according to the appellant-Insurance Company, the learned Tribunal ought to have taken the income of Paniya Ram as Rs.3,000/- per month.

18. The award has further been assailed on the ground that the learned Tribunal has wrongly deducted 1/4th amount, on account of personal expenses, whereas, the same should be 1/ 3rd.

19. On the basis of the above facts, Mr. Jagdish Thakur, Advocate, appearing for the Insurance Company has prayed that the appeal may kindly be accepted, by exonerating the Insurance Company from paying the amount of compensation, by reducing the quantum of compensation.

20. Per contra Mr. Rajesh Verma, Advocate, appearing for the legal representatives of the driver, has argued that the appeal sans merit and the same may kindly be dismissed.

21. Mr. Anil Chauhan, Advocate appearing for the petitioners has also supported the award passed by the learned Tribunal, but, prayed that the amount of compensation, may kindly be enhanced, so that the same could fall with the definition of 'just compensation'.

22. In order to decide the questions, as raised, in the present appeal, it would be just and appropriate for this Court to discuss the oral, as well as, documentary evidence, adduced by the parties, before the learned Tribunal.

23. Factum of accident has not been disputed in the present case.

24. The petitioners have examined PW-1, Shri Vikram Singh, Junior Assistant, who has brought the record relating to the postmortem of Shri Paniya Ram.

25. Petitioner No.4, Beli Ram, who is grandson of Paniya Ram, appeared in the witness-box, as witness PW-2 and filed his affidavit Ex.PW-2/A. According to him, on 05.09.2011, Paniya Ram had hired the offending vehicle, which was being owned and driven, by Davinder Singh, to transport the domestic articles, from his house i.e., bed, utensils to Dogari at Baggar Panoti, in village Dhalyog, which is situated at a distance of about 30 km. Om Prakash was employed, in the said vehicle, for loading and unloading the articles.

26. This witness has further deposed that when the said vehicle, along with the articles, reached just ahead of village Dhaali, then the pedestrians, including the wife of this witness, his small daughter, Smt. Gurdei and her two children, namely; Preeti and Hans Raj, were hit by the offending vehicle, and thereafter, the vehicle rolled down in the Gorge. In the said accident, Subhash had survived and Hansraj was injured, but, later on, he expired in PGI, Chandigarh.

27. This witness has deposed that the accident, in question, had taken place due to the rash and negligent driving of the driver. Paniya Ram was about 66 years of age, and he was earning Rs.5,000/- per month. He has proved the Legal Heirs Certificate EX.PW-2/B. Petitioner No.2 Jitender, is stated to be 22 years and he is unemployed. Age of petitioner No.3 is stated to be 27 years. He is stated to be agriculturist by profession. This witness was not present on the spot, as such, he could not spell out, as to how the accident, in question, had taken place. He has denied that Paniya Ram was more than 75 years of age, at the time of his death.

28. This witness has denied that he was not earning anything. This witness is working in CRPF. At the time of accident, he was posted at Bhopal, and he received the information telephonically regarding the accident, in question. In the accident, his grandfather Paniya Ram, his wife Premlata, and daughter Samriti had expired. Apart from their domestic help, Gurdei and her husband Om Prakash also expired. Both the sons of Om Prakash had also expired.

Total seven persons expired in the accident, in question and two sustained injuries.

29. PW-3 Sohan Singh, filed his affidavit Ex.PW-3/A, in which, he has supported the case of PW-2. According to him, on 05.09.2011, he was on his way to village Dhaali Dibbar from Shilla-bag on foot, and at about 2:00 p.m., when, he reached near Daleha curve, then, he noticed that the offending vehicle came there, being driven by its driver, at a very high speed, in a rash and negligent manner. He has crushed two women and children, thereafter, the said vehicle had rolled down in the gorge. Only one child had survived who sustained minor injuries. According to him, the accident, in question had taken place due to the rash and negligent driving of the driver of the offending vehicle.

30. According to this witness, the offending vehicle was driven by Devinder Singh, at the time of accident, who has also expired. His vehicle had rolled down 700-800 meter deep gorge. Rest, he has denied all the suggestions.

31. In the cross-examination, by the learned counsel appearing for the Insurance Company, he has voluntarily, stated that the police have inquired from him regarding the accident. He has deposed that two ladies and children were walking on the road.

32. PW-4, Sarita Kashyap, Pradhan of Gram Panchayat Dibber Dhali, deposed that on 05.09.2011, one Sohan Singh, son of Shiv Ram, telephonically informed him about the accident, in question, which had taken place at Dhaleha, upon which, she has informed the police. This witness has proved the FIR Ex. PW-4/A. She was not present, at the spot, as such, she could not spell out, how the accident, in question, had taken place. After the accident, she had gone to the spot, and a number of persons had gathered there.

33. To rebut this evidence, respondent No.1, Kamlesh, appeared as RW-1. According to her, on 05.09.2011, her husband, while transporting the goods, in the offending vehicle, when, reached near Dhaleha, then, due to some technical defect, which had occurred, in the

offending vehicle, the accident had taken place, and vehicle rolled down in the gorge. In the said accident, her husband, along with the person, sitting with him, and some pedestrian and children had died.

34. In the cross examination, this witness has stated that she, apart from her affidavit in examination-in-chief Ex.RW-1/A, has produced the copy of the driving license of her husband Devinder Singh Ex.RW-1/B, photocopy of the Insurance Policy Ex.RW-1/C, photocopy of RC Ex. RW-1/D, Tax payment receipt Ex.RW-1/E.

35. In the cross-examination, by the learned Counsel appearing for the Insurance Company, she has denied that nine persons were traveling in the vehicle. Voluntarily stated that only two were there, and other persons were on the road. Total seven persons lost their lives. But she has admitted that the vehicle was registered, as light goods vehicle. Her husband had purchased the vehicle, in the year 2010. She has denied that the original license, copy of which is Ex.RW-1/B, has been procured in order to avoid the

liability to pay the amount of compensation, is not with this witness.

36. RW-2, Surender Mehta deposed that he has seen Devinder, driving the vehicle. He was an expert driver. Devinder was also working with him, and he had hired the services of Devinder, after satisfying himself, about the fact that he knows, how to drive the vehicle.

37. This witness is not a summoned witness, and he is deposing, at the instance of respondents No.1 to 4. He has admitted that a person could obtain driving licence from where he is residing.

38. Respondent No.1, in the present case, has examined Sumit Kumar, Retainer in Legal Department, as RW-3. According to him, the offending vehicle was insured as goods carrying vehicle, with the Insurance Company, which was valid w.e.f. 27.07.2011 to 26.07.2012. He has proved the insurance policy as Ex.RW-3/A. The seating capacity of the offending vehicle was '3', whereas the

Insurance Company is not liable to indemnify the owner, qua payment of the compensation, more than three persons.

39. This witness has submitted the O.D. claim for the vehicle in question was submitted and the driving license, which was provided, by the claimants, is Ex.RW-3/B. The driving license Ex.RW-3/B was got verified from District Transport Officer, S.A.S. Nagar, Mohali, from where, the same was found to be forged. He has produced the verification report Ex.RW-3/C. According to this witness, it has been also found, in the investigation, that, at the time of accident, nine persons were travelling in the vehicle, out of which, seven had expired and two sustained injuries. Claim was repudiated, as it has been found that, at the time of accident, owner was himself driving the vehicle, who was not having a valid driving license. Paniya Ram was travelling, in the offending vehicle, as unauthorized passenger.

40. According to this witness, Own Damages Claim was submitted, which was repudiated. This witness has admitted that he was not present, at the time of accident.

41. This is the entire oral evidence.

42. So far as the documentary evidence is concerned, copy of the postmortem report is Ex.PW1/A, legal heirs certificate is Ex.PW2/B, copy of the FIR is Ex.PW4/A, driving license of Devinder is Ex. RW-1/B, insurance policy is Ex.RW-1/C, copy of RC, Ex.RW-1/D, Road Tax Certificate Ex.PW-1/E, copy of insurance policy RW3/A, driving license of Devinder Ex.RW3/B, verification report regarding driving licenses No.1087/NDL/2011, dated 6.7.2011 is Ex. RW-3/C.

43. Mr. Jagdish Thakur Advocate, appearing for the Insurance Company, has vehemently argued that the learned Tribunal has wrongly fastened the liability, to pay the amount of compensation, upon the Insurance Company, whereas, it has been proved that the deceased/injured persons were travelling in the offending vehicle, as gratuitous passengers, as, the offending vehicle is a goods carrier vehicle, which was being used as passengers carrying vehicle, in violation of the fundamental breach of the terms and conditions of the insurance policy.

44. It has also been argued that driver-owner of the offending vehicle was not having the effective driving license, as two driving licenses have been produced on the record, which is in violation of Section 6 of the M.V. Act.

45. On the basis of the above facts, a prayer has been made to allow the petition.

46. First of all, coming to the stand as taken by the Insurance Company, qua the fact that the deceased persons, in the present case, were travelling in the offending vehicle as a gratuitous passengers, and as such, the company is not liable to indemnify the owner.

47. It is the stand of the petitioners that only Shri Paniya Ram was travelling in the offending vehicle, being the owner of the goods, as, he had hired the offending vehicle for transporting the household goods from his village to his outhouse (Dogri) and one Om Prakash was working as a labourer, for loading and unloading the goods, in the offending vehicle.

48. It is also the case of the petitioners that the granddaughter-in-law of Paniya Ram, her newborn baby, along with Smt. Gurdei and her children, namely Kumari Preeti, Master Hansraj, and Master Subhash, were moving, on foot, from their house to Ayurvedic Dispensary Sheela Bagh. They were crushed/hit by the offending vehicle due to the rash and negligent driving of its driver, and thereafter, the offending vehicle fell into a gorge, resulting in the death of the occupants, including the driver. Out of the pedestrians, only Master Subhash could survive.

49. In view of the rival contentions, now, this Court would proceed further to ascertain whether the petitioners have proved/parabolized the fact that Shri Paniya Ram was travelling in the offending vehicle, as the owner of the goods, whereas, Shri Om Prakash was working as a labourer, and the other persons, namely Premlata, her minor daughter, Gurdei, and her children were pedestrians, who were crushed underneath the offending vehicle.

50. The FIR, in question, in this case, has been proved as Ex.PW-4/A. The FIR was lodged, on the statement

of one Smt. Sarita Kashyap, wife of Naresh Kumar, the then Pradhan, Gram Panchayat Dibber. Said witness has been examined as PW-4. However, the evidence of this witness is not liable to be taken into consideration, as, she was not present, at the spot, at the time of accident; as such, her statement is hit by Section 60 of the Evidence Act (Section of 55 of the Bharatiya Sakshya Adhiniyam). Section 60 of the Evidence Act, is reproduced, as under:-

> ***60. Oral evidence must be direct.*** *Oral evidence must, in all cases, whatever, be direct; that is to say, -If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it; If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it; If it refers to a fact which could be perceived by any sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds :*
>
> *Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable.*

> *Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.*

51. Similarly, Kamlesh (Respondent No.1), wife of the driver, was also not present at the spot. RW-3 Sumit Kumar was also not present, at the spot. As such, their statements, qua the manner, in which, the accident, in question, had taken place, are not liable to be considered.

52. In such a situation, the only evidence, which can be taken into consideration, is the statement of PW-3 Sohan Singh. This witness, in his affidavit, filed in the examination-in-chief, had categorically stated that on 05.09.2011, he was moving from Sheela Bag to his home at Dhali Dibber, on foot. At about 2:00 PM, when, he reached near Daleha curve, he noticed the offending vehicle, being driven by its driver, at a very high speed and in a rash and negligent manner, which, came there and hit/crushed two ladies and their children, and thereafter, the vehicle rolled down into the gorge. In the accident, only one child could

survive. Thereafter, this witness gave information about the accident to the Pradhan, Gram Panchayat, over the phone.

53. Even in the cross-examination by the Insurance Company, this witness again voluntarily deposed that two ladies and the children were moving on foot.

54. In such a situation, when, there is no evidence, adduced by the respondents, to prove the fact that Premlata, Gurdei, and their children were not moving on foot, and were crushed to death by the offending vehicle, which thereafter rolled down into the gorge, resulting in the death of Paniya Ram, who, as per the stand of the petitioners, was travelling in the offending vehicle, as the owner of the goods, the statement on oath made by PW-3 Sohan Singh can be said to be determinative in nature. It probabilizes the fact that the accident, in question, took place due to the rash and negligent driving of the driver of the offending vehicle; Shri Paniya Ram was travelling in the offending vehicle, as the owner of the goods; and the other deceased persons were pedestrians.

55. Merely, because PW-3 was not associated by the police during the investigation, does not make him to be disqualified as a competent witness to depose about the accident. If the evidence of PW-3 is evaluated on the touchstone of preponderance of probabilities, then, the Insurance Company has miserably failed to prove that Shri Paniya Ram was a gratuitous/unauthorized passenger, in the offending vehicle, and has also failed to prove that the other deceased persons were travelling inside the vehicle. Rather, it stands proved that the deceased, namely; Premlata, Gurdei, and their children, were pedestrians, who unfortunately were hit/crushed, by the offending vehicle.

56. Moreover, the seating capacity of the offending vehicle, as per the RC, Ex.PW-1/D, is '3'. In such situation, both Paniya Ram and Om Prakash stand proved to be travelling, in the offending vehicle, as the owner of the goods and the person engaged to load/unload the articles, respectively. Hence, neither of them can be said to be an unauthorized passenger.

57. In view of the discussion made above, the submissions of the learned counsel appearing for the Insurance Company that the liability has wrongly been fastened upon the Insurance Company, cannot be accepted and are liable to be rejected. Ordered accordingly.

58. Another point raised by the Insurance Company is that the driver of the offending vehicle, Davinder Singh (owner-cum-driver), was not holding a valid and effective driving license. During the proceedings, two driving licenses were produced on the record; one produced by respondent No.1 (widow of Davinder Singh) as Ex.RW-1/B, and another allegedly produced by respondents No.1 to 4, while lodging their own damages claim, which was proved by RW-3 as Ex.RW-3/B.

59. When, this document was exhibited, the learned counsel for respondents No.1 to 4 raised objection. From this fact, it has been argued by learned counsel appearing for the Insurance Company that the deceased was having two driving licenses, which are in violation of the provisions

of Sections 3, 4 and 6 of the M.V. Act. Sections 3, 4 and 6 of the M.V. Act, are reproduced as under:-

> ***3. Necessity for driving licence****.—(1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle; and no person shall so drive a transport vehicle [other than 3 [a motor cab or motor cycle] hired for his own use or rented under any scheme made under sub-section (2) of section 75] unless his driving licence specifically entitles him so to do.*
>
> *(2) The conditions subject to which sub-section (1) shall not apply to a person receiving instructions in driving a motor vehicle shall be such as may be prescribed by the Central Government.*
>
> ***4. Age limit in connection with driving of motor vehicles****.—(1) No person under the age of eighteen years shall drive a motor vehicle in any public place: Provided that 1 [a motor cycle with engine capacity not exceeding 50cc] out gear may be driven in a public place by a person after attaining the age of sixteen years. (2) Subject to the provisions of section 18, no person under the age of twenty years shall drive a transport vehicle in any public place. (3) No learner's licence or driving licence shall be issued to any person to drive a vehicle of the class to which he has made an application unless he is eligible to drive that class of vehicle under this section.*
>
> ***6. Restrictions on the holding of driving licences****.—(1) No person shall, while he holds any driving licence for the time being in force, hold any other driving licence except a learner's licence or a driving licence issued in accordance with the provisions of section 18 or a document authorising, in accordance with the rules made*

> *under section 139, the person specified therein to drive a motor vehicle.*
>
> *(2) No holder of a driving licence or a learner's licence shall permit it to be used by any other person.*
>
> *(3) Nothing in this section shall prevent a licensing authority having the jurisdiction referred to in sub-section (1) of section 9 from 13 adding to the classes of vehicles which the driving licence authorises the holder to drive.*

60. Bare perusal of the above provisions of the law reveals that the legislature has not provided any penalty or disqualification for possessing two driving licenses.

61. Furthermore, the verification report Ex.RW-3/C, regarding the driving license Ex.RW-3/B has not been proved in accordance with law, as it was merely exhibited by an official of the Insurance Company, during examination-in-chief without examining the officer, who issued the report, i.e., the District Transport Officer, SAS Nagar, Mohali.

62. Perusal of the record shows that after the petitioners' evidence was closed on 18.07.2014, the respondents were granted as many as 11 effective opportunities to lead evidence. Thereafter, on 10.04.2015, an

application under Order 26 Rule 9 CPC to record evidence from the D.T.O., Motor Vehicle Department, Wokha (Nagaland) was moved, which was allowed on 10.04.2015. The fee of the Local Commissioner has not been deposited by the Insurance Company, as such, evidence of the Insurance Company was closed on 18.05.2015. In such situation, it does not lie in the mouth of the Insurance Company to say that opportunity to lead the evidence has not been provided to them to prove the driving licence.

63. So far as the driving licence Ex.RW-3/B is concerned, this is a document, which was produced by PW-1, in her examination-in-chief, on 04.06.2014. Thereafter, no efforts have been made to summon the District Transport Officer, SAS Nagar Mohali, to prove the fact that the said licence is not a valid licence, issued by the said authority.

64. Onus to prove the violation of the terms and conditions of the Insurance Policy is upon the Insurance Company and the Insurance Company cannot take the benefit of its own wrong, as number of effective opportunities have been given to the Insurance Company by the learned

Tribunal and thereafter, application for appointment of Local Commissioner was also allowed. But, the said order has not been complied with and the learned Tribunal has rightly closed the evidence of the Insurance Company.

65. Therefore, this Court is of the view that the Insurance Company has miserably failed to prove that the driver of the offending vehicle was not having a valid and effective driving license, and the Insurance Company cannot take advantage of its own failure.

66. Now, this Court would proceed further to ascertain the fact as to whether the amount of compensation awarded by the learned Tribunal falls within the definition of 'just compensation', as it is the legislative intent that the endeavor of the Court/Tribunal is to grant the '*just compensation*'.

67. The Tribunal has taken the age of the deceased, Shri Paniya Ram, as 66 years, which is based on the postmortem report Ex.PW-1/A. The said findings being

based upon the documentary evidence, require no interference by this Court.

68. So far as the earnings of Shri Paniya Ram are concerned, the learned Tribunal has taken his monthly income as Rs.4,000/-, which requires no interference, by this Court. Since, the deceased, at the time of his death was 66 years of age, as such, no addition is required to be given towards future prospects. The said findings of the learned Tribunal also require no interference by this Court.

69. The Hon'ble Supreme Court in ***Sarla Verma (Smt) and others*** *versus* ***Delhi Transport Corporation and another, (2009) 6 Supreme Court Cases 121***, has mandated that out of the total amount of the earnings of the deceased, some amount is required to be deducted, had the person, whose LRs have approached the Court for compensation, been alive. Relevant paragraphs 30 and 31 of the judgment, are reproduced, as under:-

> *30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply*

> *standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceed six.*
>
> *31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependant on the father.*

70. As such, keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.3,000/- (Rs.4,000/-

minus Rs.1,000/-). The said findings of the learned Tribunal require no interference by this Court.

71. Learned Tribunal has applied the multiplier of '5', which is the appropriate multiplier. Thus, the loss of contribution comes to Rs.3,000/-x12 x 5 = Rs.1,80,000/-.

72. The learned Tribunal has awarded a sum of Rs.50,000/- on account of loss of consortium to petitioner No.1, a sum of Rs.50,000/-, on account of love and affection and Rs.10,000/- towards 'funeral expenses'.

73. The said findings are not sustainable in the eyes of law, as the Hon'ble Supreme Court, in ***National Insurance Co. Ltd. versus Pranay Sethi, (2017) 16 SCC 680***, has held as under:-

> *59. In view of the aforesaid analysis, we proceed to record our conclusions:-*
>
> *(i) 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.*
>
> *(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.

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

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) 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.*

74. As such, in view of the mandate of the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, the petitioners are held entitled to Rs.15,000/-, under the head 'loss of estate', Rs.40,000/-, under the head 'loss of consortium' and Rs.15,000/-, under the head 'funeral expenses'.

75. However, Hon'ble Supreme Court in ***Magma General Insurance Company Limited versus Nanu Ram @ Chuhru Ram and others, (2018) 18 SCC 130***, has mandated that each claimant is entitled to the amount of compensation under the head 'loss of consortium'. Relevant paragraphs 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-peration, 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.*

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

1. Loss of income	=	Rs.1,80,000/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000 x 3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.3,30,000/-.

77. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

78. Consequently, the present appeal is dismissed. The awarded amount is enhanced from Rs.2,90,000/- to Rs.3,30,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

Since, original petitioner No. 1-Shukri Devi, wife of deceased-Paniya Ram, has expired, during the pendency of the lis, the amount of compensation is apportioned equally among all the three petitioners.

FAO No. 244 of 2016

79. This appeal has been preferred by the Insurance Company against the award dated 05.06.2015, passed by the learned Tribunal, in Claim Petition No.138-MAC/2 of 2013/12, titled as 'Beli Ram versus Kamlesh & Others', whereby, a sum of Rs.7,58,000/-, along with interest, at the rate of 7.5% per annum, has been awarded to the petitioner-claimant, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

80. The said claim petition has been filed by the petitioner, being husband of Prem Lata, who, as per the claim petition, expired on 05.09.2011, in the accident, in question.

81. According to the petitioner, Prem Lata was a homemaker, as well as, tailor by profession. As such, she was earning /contributing Rs.7,000/- per month.

82. Learned Tribunal has taken the age of Ms. Prem Lata, as 23 years, on the basis of postmortem report Ex.PW-1/A. The said findings, being based upon the documentary evidence, require no interference by this Court.

83. As regards, the contribution towards her family by Ms. Prem Lata, the learned Tribunal, has taken her contribution/earnings as Rs.3,000/- per month. The said amount, by no stretch of imagination, can be said to be the value of the multifarious activities done by a homemaker, that too, round the clock, towards her family. The Hon'ble Supreme Court, while considering its decision in ***Kirti & Others versus Oriental Insurance Company Ltd, 2021 (1)***

ACJ 1, has held in ***Shishu Pal @ Shish Ram & Others versus Surjeet & Others,*** reported in **2026 INSC 634,** that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month. Relevant paragraphs 15 to 20, of the judgment, are reproduced, as under :-

> *Quantifying The Contribution-of a Nation Builder*
> *15. In usual circumstances this Court would not have ventured further than taking note of the fact that the incident and judgment in Lata Wadhwa (supra) was contemporaneous to the unfortunate accident in this case and as such compensation could be calculated using the Rs.3000/- per month metric applied therein however, in our considered view that would not be justified. It has to be observed that to measure the contributions of a homemaker and mother as in this case in strictly monetary terms is a task of considerable difficulty for each and every aspect of the day, month and year of such a homemaker's family members is informed, shaped by her sometimes acknowledged, but most often unacknowledged or taken for granted, efforts. If compensation is to be calculated in the present day while accounting for the egregious delay, to do so in terms that were frozen on the day of the death of the deceased would be grossly undervaluing the silent strength of homemakers.*
>
> *16. That being said, even when it comes to computation for damages under non-pecuniary heads, the loss still does require the recognition of such heads before compensation can be awarded. The first of them being the loss of the homemaker's dexterous ability to manage all the*

chores of the household. Granted, that in the increasingly modern urban centres of the country it may not be the case that a homemaker stands in front of the gas stove bright and early in the morning or late at night or even that she walks around, slouched, running the broom throughout the house, but, the fact of the matter is that in smaller cities, towns and villages, even today, such tasks assumedly and invariably fall on the homemaker, without as much as a second thought. The second head pertain to the children of the house. They have lost their mother, the source of never-ending love, comfort and affection, the person who they could run to with all their problems, questions and concerns and heartbreaks. She is also their first point of contact with the ways of the world, silently and subtly teaching them skills of survival, perseverance and excellence shaping them into well rounded human beings capable of being functioning contributors to the economy of the nation. This, in our view, is somewhat different from emotional support or dependence for primary skills necessary for everyday functioning that are imbibed by the children from their mother. This has a distinctly economic angle while also being partly an emotional aspect perfectly fitting into the non-categorizable roles played by homemaker. How does one calculate this? The third is equally troubling. A husband has, no longer, the support of his life partner, someone he depends on entirely to run smoothly, an entire part of his life, his home, family, children, relatives. Even in conservative settings where patriarchy looms large, the sense of dependency that obtains, if taken away, greatly challenges the man for he is now directionless and suddenly responsible for a lot more than he is used to. When the efforts of the homemaker towards the husband and children are taken on the whole it cannot be disputed that although her

labour be at emotional or physical is within the four walls of the home, its impact is much wider. In enabling the direct contribution today of their husbands and tomorrow of their children, they are the building blocks for the nation's road to holistic progress.[See: Kalukutty v. P.M. John12, Bhuvaneswari v. Mani13] We may also 2023 SCC OnLine Ker 964 2020 SCC OnLine Mad 2163 observe that in a recent order of this Court in Arvind Kumar Pandey v. Girish Pandey, also made similar observations to the following effect:

"7. It goes without saying that the role of a homemaker is as important as that of a family member whose income is tangible as a source of livelihood for the family. The activities performed by a homemaker, if counted one by one, there will hardly be any doubt that the contribution of a homemaker is of a high order and invaluable. In fact, it is difficult to assess such a contribution in monetary terms."

Any computation made as a result of injury suffered or death, should be aware of this larger role and not be myopic in its view.

The loss of a homemaker however is not limited to husband and children. It also directly impacts the women's own parents who have been deprived of the love and company of their child, who have lost the support and comfort of this person and are left alone with this boundless grief. Still further, the loss is acutely felt by her in-laws who are more often than not members of the same household and therefore are dependent on the love, labour and dedication of this person, for food for medicines and doctor's visit or for even the regular company over a morning tea. Strict arithmetic calculation does not lend its services to any of these scenarios.

17. It is settled law by virtue of National Insurance Co. Ltd. v. Pranay Sethi, that in all cases that have resulted in death, loss of consortium is to be paid to the claimants at the rate of Rs.40,000/- per dependant along with 10% increase on the said amount every three years, so in 2026 the compensation awarded under this head is Rs.48,400/-. This we may note is irrespective of whether the deceased is a male/female/child/retired/working or whatever else. We are of the considered view, in such situations the computation of compensation upon the death of a homemaker suffers from an inherent (2025) 2 SCC 145 (2017) 16 SCC 680 disadvantage. The amount awarded under the same is over and above what is calculated on the basis of the earnings/salaries/pension/notional income for certain categories of claimants. In view of the fact that there is no standard income on the basis of which compensation can be calculated and a figure is taken for the purposes of calculation on guesswork, the true worth of the homemaker is missed out, in as much as it is amenable to calculation in monetary terms.

18. Future prospects when calculated on the basis of the above judgment in Lata Wadhwa (supra) would also be calculated on the comparative lower notional income (Rs.3000/-per month) given that, both the fire incident and the accident forming the basis of this appeal are from the year 2001.

19. When such conservative figures are used to build up compensation, the amount arrived at is paltry, and not even close, as much as monetary terms can be, to the loss endured by the claimants. Notional income is intended to approximate the economic value of in the case of homemaker, services rendered by them. However, for whatever reason, judicial notice of this issue is usually overly conservative, without

due acknowledgment of the fact that the role of the homemaker is neither entirely economic nor entirely non-economic and blends the factors of economy with emotional and managerial contributions and as such fixed compensation in terms of loss of consortium does not cover the entire gamut of their contribution.

Loss Of Domestic Care: An Additional Head

20. It is in these circumstances, that we deem it appropriate to direct that when a Motor Accidents Claim Tribunal or the High Court or this Court is concerned with or a case involving the death of a homemaker, in order to overcome the inherent disadvantage accrued against the homemaker on a calculation of compensation on the basis of conservatively computed notional income and while being acutely aware of the dictum in Pranay Sethi (supra) regarding loss of consortium as also the disposition towards uniformity, that for the three major heads (the homemaker's contribution towards smooth functioning of the household, the loss of maternal support for children and loss of spousal support/the support and care of their child who is an adult, for the parents of the deceased) discussed in the foregoing paragraphs, a composite sum of Rs.30,000/- shall be added under the head of 'loss of domestic care', provided that all three of these heads are met in the given case. This determination shall be revised by 10%, cumulatively, every three years. It may be clearly stated that this amount of Rs.30,000/- i.e., loss of domestic care is to be taken as a 'stand- in' (basic minimum monthly income) for monthly income in those cases where the homemaker does not have an input into the house, in strictly conventional, monetary terms. In those cases where the homemaker is part of the workforce, the component of loss of domestic care shall be in

addition to the monthly income as may be proved before the Tribunal/Courts."

84. Since, the accident, in question, had taken place in the year 2011, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in ***Shishu Pal***'s case (supra), ends of justice would be met, if the contribution of Ms. Prem Lata, during her life time is taken, as Rs.9,000/-, per month.

85. The learned Tribunal has fallen into error by giving 50% increase, towards future prospects. The said findings require interference by this Court.

86. Admittedly, Ms. Prem Lata was working in unorganized sector and her age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, 40% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 40% of her monthly income, the same comes to Rs.12,600/- (Rs.9,000/- + Rs.3,600/-).

87. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in ***Sarla Verma's*** case

supra, and keeping in view the number of dependent, 1/3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.8,400/- (Rs.12,600/- minus Rs.4,200/-).

88. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier to be applied, in the present case. Thus, the loss of contribution comes to Rs.8,400/-x12 x 18 = Rs.18,14,400/-.

89. The learned Tribunal has awarded a sum of Rs.50,000/-, on account of loss of consortium, Rs.50,000/-, on account of love and affection, and Rs.10,000/-, on account of funeral expenses. The said findings, as per the mandate of the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

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

1. Loss of income	=	Rs.18,14,400/-
2. Loss of consortium	=	Rs.40,000/-
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.18,84,400/-.

91. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

92. Consequently, the present appeal is dismissed, and the awarded amount is enhanced from Rs.7,58,000/- to Rs.18,84,400/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO (MV) No.55 of 2018

93. The instant appeal has been preferred by the Insurance Company against the award dated 03.10.2017, passed by the learned Tribunal, in MAC Petition No. 60-N/2 of 2012, titled as 'Master Subhash & Another versus Kamlesh & Others', whereby, a sum of Rs.4,80,000/-, along with interest, at the rate of 7.5% per annum, has been awarded to the petitioners-claimants, from the date of filing of the petition, till the final realization of the amount. The

ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

94. The petitioners-claimants, being brother and grandmother of Master Hans Raj, who expired, in the accident, in question, involving the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation to the tune of Rs.5,00,000/-.

95. As per the claimants, Master Hans Raj had sustained fatal injuries, in the accident, in question, and at the time of death, his age has been pleaded to be 7 years. He was a student.

96. So far as the income of Master Hans Raj, during his lifetime is concerned, the learned Tribunal has taken the notional income of Master Hans Raj as Rs.36,000/- per annum. The said findings do not require any interference by this Court.

97. The learned Tribunal has calculated the pecuniary loss and not applied the multiplier, in the present case. The said findings are required to be interfered with.

98. Keeping in view the age of Master Hans Raj, at the time of his death, multiplier of '18', is the appropriate multiplier to be applied, in the present case. Hence, the loss of contribution comes to Rs.36,000/- x 18 = Rs.6,48,000/-.

99. The learned Tribunal has not awarded any amount under the conventional heads. As such, as per the mandate of the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, the petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

100. In view of the law laid down by the Hon'ble Supreme Court in ***Nanu Ram***'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

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

1. Loss of income	=	Rs.6,48,000/-
2. Loss of consortium	=	Rs.80,000/- (Rs.40,000/- x 2)
3. Loss of estate	=	Rs.15,000/-

4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.7,58,000/-.

102. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

103. Consequently, the present appeal is dismissed, and the awarded amount is enhanced from Rs.4,80,000/- to Rs.7,58,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO (MV) No. 56 of 2018

104. This appeal has been preferred by the Insurance Company against the award dated 04.10.2017, passed by the learned Tribunal, in MAC Petition No.56-N/2 of 2012, titled as 'Master Subhash versus Smt. Kamlesh & Others', whereby, a sum of Rs. 9,41,000/-, along with interest, at the rate of 7.5% per annum, has been awarded to the petitioners-claimants, from the date of filing of the petition, till the realization of the amount. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

105. The said claim petition has been filed by the petitioner being, son and mother-in-law of deceased Gurdei, who, as per the claim petition, expired on 05.09.2011, in the accident, in question, involving the offending vehicle, being driven by its driver in a rash and negligent manner.

106. According to the petitioners, Smt. Gurdei was a homemaker, as well as, labourer by profession. As such, her income has been pleaded to be Rs.4,000/- per month.

107. Learned Tribunal has taken the age of Smt. Gurdei, as 28 years. The same age has been mentioned in the postmortem report Ex.PW-1/B. The said findings, being based upon the documentary evidence, require no interference by this Court.

108. As regards, the contribution towards her family by Smt. Gurdei, the learned Tribunal, has taken her contribution/earnings as Rs. 4,000/- per month. The said amount, by no stretch of imagination, can be said to be the value of the multifarious activities done by a homemaker, that too, round the clock, towards her family. The Hon'ble

Supreme Court, in ***Shishu Pal*** 's case supra has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month. Since, the accident, in question, had taken place in the year 2011, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in ***Shishu Pal***'s case (supra), ends of justice would be met, if the contribution of Smt. Gurdei, during her life time is taken, as Rs.9,000/-, per month.

109. The learned Tribunal has fallen into error by giving 50% increase, towards future prospects. The said findings require interference by this Court.

110. Admittedly, Smt. Gurdei was working in unorganized sector and her age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, 40% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 40% of her monthly income, the same comes to Rs.12,600/- (Rs.9,000/- + Rs.3,600/-).

111. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in ***Sarla Verma's*** case supra, and keeping in view the number of dependent, 1/3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.8,400/- (Rs.12,600/- minus Rs.4,200/-).

112. Learned Tribunal has applied the multiplier of '17', which is the appropriate multiplier to be applied, in the present case. Thus, the loss of contribution comes to Rs.8,400/-x12 x 17 = Rs.17,13,600/-.

113. The learned Tribunal has awarded a sum of Rs.25,000/-, on account of funeral expenses, and Rs.1,00,000/-, on account of love and affection to petitioner No.1. The said findings, as per the mandate of the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

114. In view of the law laid down by the Hon'ble Supreme Court in ***Nanu Ram***'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

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

1. Loss of income	=	Rs.17,13,600/-
2. Loss of consortium	=	Rs.80,000/- (Rs.40,000/- x 2)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.18,23,600/-.

116. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

117. Consequently, the present appeal is dismissed, and the awarded amount is enhanced from Rs.9,41,000/- to Rs.18,23,600/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO (MV) No.123 of 2018

118. The instant appeal has been preferred by the Insurance Company against the award dated 05.10.2017,

passed by the learned Tribunal, in MAC Petition No. 58-N/2 of 2012, titled as 'Master Subhash & Another versus Smt. Kamlesh & Others', whereby, a sum of Rs.4,80,000/-, along with interest, at the rate of 7.5% per annum, has been awarded to the petitioners-claimants, from the date of filing of the petition, till the final realization of the amount. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

119. The petitioners-claimants, being brother and grandmother of Kumari Priti, who expired, in the accident, in question, involving the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.5,00,000/-.

120. As per the claimants, Kumari Priti had sustained fatal injuries, in the accident, in question, and at the time of death, her age has been pleaded to be 4 years. The learned Tribunal has also taken the age of Kumari Priti, at the time of the accident, as 4 years.

121. So far as the income of Kumari Priti, during his lifetime is concerned, the learned Tribunal has taken the notional income of Kumari Priti as Rs.36,000/- per annum. The said findings do not require any interference by this Court. The learned Tribunal has calculated the pecuniary loss and not applied the multiplier, in the present case. The said findings are required to be interfered with.

122. Keeping in view the age of Kumari Priti, at the time of her death, multiplier of '18', is the appropriate multiplier to be applied, in the present case. Hence, the loss of contribution comes to Rs.36,000/- x 18 = Rs.6,48,000/-.

123. The learned Tribunal has not awarded any amount under the conventional heads. As such, as per the mandate of the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, the petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

124. In view of the law laid down by the Hon'ble Supreme Court in ***Nanu Ram***'s case supra, each claimant is

entitled to the amount of compensation under the head 'loss of consortium'.

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

1. Loss of income	=	Rs.6,48,000/-
2. Loss of consortium	=	Rs.80,000/- (Rs.40,000/- x 2)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.7,58,000/-.

126. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

127. Consequently, the present appeal is dismissed, and the awarded amount is enhanced from Rs.4,80,000/- to Rs.7,58,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO (MV) No.374 of 2018

128. The instant appeal has been preferred by the Insurance Company against the award dated 30.08.2017, passed by the learned Tribunal, in MAC Petition No. 54-N/2 of 2012, titled as 'Master Subhash & Another versus Smt.

Kamlesh & Others', whereby, a sum of Rs.10,93,000/-, along with interest, at the rate of 7.5% per annum, has been awarded to the petitioners-claimants, from the date of filing of the petition, till the date of deposit of the amount. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

129. The petitioners-claimants, being son and mother of Om Prakash, who expired, in the accident, in question, involving the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.10,00,000/-.

130. As per the claimants, Shri Om Prakash had sustained fatal injuries, in the accident, in question, and at the time of death, his age has been pleaded to be 30 years. According to the claimants, he was a labourer. His income has been pleaded Rs.9,000/- per month, from all sources.

131. Learned Tribunal has taken the age of Shri Om Prakash, as 31 years, on the basis of postmortem report

Ex.PW-1/B. The said findings, being based upon the documentary evidence, require no interference by this Court.

132. The learned Tribunal has taken the earnings of Shri Om Prakash, as Rs.4,500/- per month. The said findings do not require any interference by this Court.

133. The learned Tribunal has given 50% increase, towards future prospects. The said findings require interference by this Court, as per the mandate of Hon'ble Supreme Court, in ***Pranay Sethi***'s case supra.

134. Admittedly, Om Prakash was working in unorganized sector and his age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40% of his monthly income, the same comes to Rs.6,300/- (Rs.4,500/- + Rs.1,800/-).

135. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in ***Sarla Verma's*** case supra, and keeping in view the number of dependents, 1/3rd

amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.4,200/- (Rs.6,300/- minus Rs.2,100/-).

136. Learned Tribunal has applied the multiplier of '17', which is the appropriate multiplier to be applied, in the present case. Thus, the loss of contribution comes to Rs.4,200/-x12 x 17 = Rs.8,56,800/-.

137. The learned Tribunal has awarded a sum of Rs.25,000/- on account of funeral expenses and Rs.1,00,000/-, to petitioner No.1, on account of love and affection. The said findings, as per the mandate of the Hon'ble Supreme Court in ***Pranay Sethi***'s case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

138. In view of the law laid down by the Hon'ble Supreme Court in ***Nanu Ram'***s case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

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

1. Loss of income	=	Rs.8,56,800/-
2. Loss of consortium	=	Rs.80,000/- (Rs.40,000 x 2)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.9,66,800/-.

140. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

141. Consequently, the present appeal is partly allowed, and the awarded amount is reduced from Rs.10,93,000/- to Rs.9,66,800/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

142. Parties are left to bear their own costs.

143. Memo of costs be prepared accordingly.

144. Record be sent back.

(Virender Singh)
Judge

31st October, 2026 *(ps)*