



FAO-2427 and 2847-2012 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

1. FAO-2427-2022 (O&M)

New India Assurance Co. Ltd.Appellant(s)
vs.

Palwinder Kaur and othersRespondents

2. FAO-2847-2022 (O&M)

Palwinder Kaur and othersAppellants
vs.

Satpal Singhal and anr.Respondents

Date of Reserve: 06.02.2026

Date of Pronouncement: 19.03.2026

Uploaded on:- 24.03.2026

Whether only the operative part of the judgment is pronounced? ***No***
Whether full judgment is pronounced? ***Yes***

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vinod Chaudhri, Advocate
for the appellant in FAO No. 2427-2022
and for respondent No. 2 in FAO No. 2847-2022.

Mr Ashit Malik, Advocate
for respondent Nos. 1 to 4 in FAO No. 2427-2022
and for appellant Nos. 1 to 4 in FAO No. 2847-2022.

Mr. Munish Mittal, Advocate
for respondent No. 5 in FAO No. 2427-2022
and for respondent No. 1 in FAO No. 2847-2022.

SUDEEPTI SHARMA J.

1. Both the appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned award dated 08.03.2022 passed by the learned Motor Accident Claims Tribunal, Kurukshetra in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the



Rs.15,36,673/- along with interest @9% per annum and the Insurance company was held liable to pay the compensation to the claimants.

2. The appeal, i.e. FAO-2427-2022, has been preferred by the appellant-Insurance Company against the award dated 08.03.2022 passed by the learned Motor Accident Claims Tribunal, Kurukshetra, whereby the claim petition filed by the respondent Nos. 1 to 4/claimants was allowed and the appellant-Insurance company was held liable to pay the compensation to them to the tune of Rs.15,36,673/- along with interest @ 9% per annum.

3. The appeal, i.e. FAO-2847-2022, has been preferred by the appellants/claimants against the award dated 08.03.2022 passed by the learned Motor Accident Claims Tribunal, Kurukshetra under Section 166 of the Motor Vehicles Act, 1988, for enhancement of compensation, granted to them to the tune of Rs.15,36,673/- along with interest @ 9% per annum, on account of death of Joga Singh, in the accident occurred on 22.12.2018.

FACTS NOT IN DISPUTE

4. Brief facts of the case as per claim petition are that on 22.12.2018, Joga Singh (since deceased) was coming from village Thari to the side of his Dera (residential house), while driving his motor-cycle bearing registration No. HR40-A-9457, at a moderate speed and in his correct left hand side of the road while observing all traffic rules. At about 5.00 P.M., when he reached near his house and in front of the house of Gurbaj Singh, in the mean time offending Car bearing registration No.HR41-H-2933, which was being driven by respondent No.1 at a very fast speed and in a rash and negligent manner, came from the side of Sugar Mills, Fafdana. On seeing the offending Car, Joga Singh lowered down the speed of his motor-cycle and came on the left hand side of the road, but despite that, the



road, as a result of which, Joga Singh fell down on the road along with motorcycle and sustained multiple serious and grievous injuries on various vital parts of his body including head. After the accident, injured Joga Singh was shifted to Cygnus Hospital, Karnal, where, he was medico-legally examined by the doctors, but due to serious condition, he was referred to PGI, Chandigarh, where, he was treated and operated, but later on, he succumbed to his injuries on 15.04.2019. The matter was reported to the police and a criminal case vide FIR No.255 dated 05.04.2019, under Sections 279 & 304-A IPC, was registered against respondent No.1, Police Station, Assandh, District Karnal.

5. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

6. From the pleadings of the parties, the following issues were framed by the learned Tribunal:-

“1) Whether the accident causing death of Joga Singh took place on 22.12.2018 due to rash and negligent driving of respondent No.1, while driving Car bearing registration No. HR41-H-2933?OPP.

2) If issue No.1 is proved to what amount of compensation and from whom, the petitioners are entitled? OPP.

3) Whether there was violation of the terms and conditions of the insurance policy and respondent No.2 (wrongly mentioned as respondent No.2 is not liable to pay any compensation? OPR-3.

4) Relief”

7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the appellant-Insurance Company was held liable to pay the compensation. Hence, the Insurance Company preferred appeal bearing FAO No. 2427-2022 challenging the



have also preferred FAO No. 2847-2022 seeking enhancement of the compensation amount awarded by the learned Tribunal. Hence, the present appeals.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

8. Learned counsel for the appellant–Insurance Company (FAO No. 2427-2022) contends that there was delay of 104 days in lodging the FIR. Further, there is no nexus between the alleged injuries and death, thus, there is no clear finding with regard to cause of death. He further contends that the learned Tribunal has further erred in law in granting consortium to the widow twice. He, therefore prays that the present appeal be allowed.

9. Per contra, learned counsel for the claimants/appellant (FAO No. 2847-2022) contends that the learned Tribunal has rightly held Insurance Company liable to pay compensation. He further contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present appeal be allowed and compensation be enhanced as per latest law. He further prays that the appeal FAO No. 2427-2022 filed by the Insurance Company be also dismissed.

10. I have heard learned counsel for the parties and perused the whole records of the case.

11. Before proceeding further, it is relevant to reproduce the relevant portion of the award, which reads as under:-

“ISSUE No.1

11. As the present claim petition has been filed under Sections 166 & 140 of the Motor Vehicles Act, 1988, it was incumbent upon the petitioners to prove that Joga Singh died in an accident caused due to rash and negligent driving of the offending vehicle i.e. Car bearing registration No.HR41-H-2933 by its driver i.e. respondent No.1



12. To determine the negligence of driver of offending vehicle, it has been held in *National Insurance Company Ltd. Vs. Pushpa Rana & another*, 2009, *Accident Claims Journal* 287, as follows :-

*“The last contention of the appellant insurance company is that the respondents-claimants should have proved negligence on the part of the driver and in this regard the counsel has placed reliance on the judgment of the Hon'ble Apex Court in *Oriental Insurance Company Ltd. Vs. Meena Variyal* (supra). On perusal of the award of the Tribunal, it becomes clear that the wife of the deceased had produced: (i) certified copy of the criminal record of criminal case in FIR No. 955 of 2004, pertaining to involvement of offending vehicle (ii) criminal record showing completion of investigation of police and issue of charge sheet under sections 279/304-A, Indian Penal Code against the driver; (iii) certified copy of FIR, wherein criminal case against the driver was lodged; and (iv) recovery memo and mechanical inspection report of offending vehicle and vehicle of deceased. These documents are sufficient proofs to reach the conclusion that the driver was negligent. Proceedings under the Motor Vehicle Act are not akin to proceedings in a civil suit and hence strict rules of evidence are not required to be followed in this regard. Hence, this contention of the counsel for the appellant also falls face down. There is ample evidence on record to prove negligence on part of the driver.”*

13. In order to prove issue No.1, petitioner No.1 Smt. Palwinder Kaur, who is also eye witness of the accident, has adduced her evidence by way of affidavit Ex.PW1/A, wherein, she has reiterated the contents of the petition as well as manner of accident as stated in the claim petition and in the FIR Ex.P1. She has given a detailed account of the impugned accident by stating date, time, place and manner. She has categorically deposed that accident in question had taken place due to rash and negligent driving of respondent No.1, driver of the offending vehicle i.e.



Car bearing registration No. HR41-H-2933 Petitioners have also relied upon copy of FIR No.255 dated 05.04.2019, under Sections 279 & 304-A IPC, Police Station, Assandh, District Karnal, as Ex.P1, certified copy of final report under Section 173 Cr.P.C. filed in the said FIR No.255 dated 05.04.2019 against respondent No.1, under Sections 279 & 304-A IPC, as Ex.P2, certified copy of rough site plan of the place of occurrence prepared by the police as Ex.P3, certified copy of charge framed against respondent No.1 under Sections 279 & 304-A IPC, as Ex.P4, certified copy of the personal search memo of respondent No.1 Satpal Singhal as Ex.P5, copy of postmortem report of deceased Joga Singh as Ex.P6 and Case summary, OPD Card & Discharge & Follow-up Card of deceased Joga Singh as Ex.P9 to Ex.P11, respectively.

14. The above evidence led by the petitioners-claimants has gone unrebutted and unchallenged. Nor there are any material circumstance on the file to disbelieve the same, particularly when respondent No.1 has taken categorical stand that no such accident had taken place. In his written statement, respondent No.1 has denied all the contents of the petition and stated that no such accident ever took place and the alleged offending vehicle was never involved in any such accident on the alleged date, time and place and that the FIR, if any, is a manipulated one just to harass the answering respondent and to procure the money from him and further pleaded that there is unexplained delay in lodging of the FIR, wherein, neither the name and parentage or the registration number of the alleged offending vehicle is not mentioned. It is further pleaded that the claimant cannot be allowed to take the benefit of his own wrongs as he was himself driving the motor-cycle in a rash and negligent manner and is the sole author of the alleged accident, because in these circumstances, it was incumbent upon him to examine himself to refute the statement of PW1 Palwinder Kaur as well as the contents of FIR Ex.P1, but he has neither dared to enter into the witness box on his own nor any attempt was made by him in this regard for the reasons best know to him, which requires to draw an adverse interference against him that they did not adopt any such exercise intentionally and deliberately, knowing well that respondent



No.1 would not be able to face the test of his cross-examination being guilty in his mind for causing this accident as held by the Hon'ble Apex Court in case Ishwar Bhai C. Patel alias Bachu Bhai Patel Vs. Harihar Behera and another, 1999(2) Civil Court Cases (SC)-1 that "Where a party does not enter in the witness box to make statement on oath in support of his pleadings, an adverse inference has to be drawn that what it has stated in the pleadings, is not correct".

15. It is argued by the learned counsel for the respondent No.2 that the alleged accident occurred on 22.12.2018, whereas, FIR Ex.P1 was registered on 05.04.2019, so, there is delay of about 4 months in registration the FIR, which shows that the FIR was got lodged after due deliberation and manipulation in collusion with respondent No.1 with active connivance of the local police. 16. On the other hand, learned counsel for the petitioners- claimants has argued that the delay occurred in recording of the FIR Ex.P1 on the ground that talks of compromise were going on between the parties and respondent No.1 agreed to bear all the expenses of the treatment of Joga Singh (since deceased), but later on, he refused to fulfil his commitment and accordingly, FIR Ex.P1 has been lodged on the basis of petitioner No.1 Smt Palwinder Kaur, being the eye witness of the accident in question and thus, the delay in lodging the FIR is not at all intentional, but due to the above said reason.

17. A perusal of the record shows that in the FIR Ex.P1, it is specifically mentioned that on dated 22.12.2018, a telephonic information had been received in the police station regarding the accident of Joga Singh, on which, Investigating Officer reached at Cygnus Hospital, Karnal for conducting the appropriate proceedings, where, he moved an application seeking the opinion of the doctor as to whether Joga Singh, who is lying admitted in the hospital on account of the injuries sustained by him in the accident, is fit or unfit to make his statement, on which, the

doctor declared him to be unfit to make statement. Thereafter while making repeated telephonic calls and personally visiting to the legal heirs of Joga Singh and enquired about him, on which, it was stated



that Joga Singh is in comma and does not speak. Today on dated 05.04.2019, Palwinder Kaur wife of Joga Singh, resident of Dera Thari came present in the police station and got recorded her statement, on the basis of which, present FIR has been recorded. In her complaint made to the police, claimant No.1 Smt. Paramjeet Kaur has specifically stated that on the next day of accident, her husband Joga Singh, who went in Comma, was referred to PGI, Chandigarh by the doctors of Cygnus Hospital, Karnal, where, the treatment of her husband was continuing for several days. After some days, her husband was sent to the house after giving medicines to him and in the morning of 15.4.2019, he had died due to the injuries sustained by him in the accident dated 22.12.2018. However, in the final report Ex.P2 as well as copy of postmortem, the date of death of deceased Joga Singh has been mentioned as 05.04.2019. In the FIR Ex.P1 and the final report Ex.P2, it has been specifically got recorded by the complainant in her statement that till date, talks were going to compromise the matter with driver and owner of the vehicle in question, but they did not get any money. In these circumstances, the delay occurred in registration of the FIR has been sufficiently explained and the same is not fatal to the present case. This Court relies upon law laid down by the Hon'ble Apex Court in case titled as Ravi Vs. Badrinarayan and others, 2011 (1) Apex Court Judgments (SC) 732, wherein, while dealing with the aspect of the case that FIR was lodged after 3 months of accident, the Hon'ble Apex Court has held that, although lodging of FIR is vital in deciding motor accident claims cases, delay in lodging the same should not be treated as fatal for such proceedings, if the claimant has been able to demonstrate and cogent reasons for it. In the instant case, there was delay of 3 months in lodging FIR, which was satisfactorily explained by claimant and claim awarded".

18. In the present case, FIR Ex.P1 was lodged after about 3½ months of the accident and since the delay occurred in the lodging of the FIR has been satisfactorily explained by the petitioners-claimants and further that the fact that the factum of compromise is also evident from the documents i.e. Notice to Admit documents Ex.R2 and the compromise



deed dated 11.03.2019 Ex.R3 placed on record by respondent No.2- insurance company, therefore, in view of the above settled proposition of law, the contention of respondent No.2 is not tenable.

19. Moreover, it is also settled proposition of law that motor accident preponderance of probability- Are not required to prove their case according to strict principles of proof in a criminal case. Reliance can also be placed on 2011(4) Latest Judicial Reports page 193 (SC) in which Hon'ble Apex Court has held that Motor Vehicle Act, 1988- Section 166 and 168 – Motor accident preponderance of probability- Are not required to prove their case according to strict principles of proof in a criminal case.”

20. At the same time if it is established by the petitioners by leading oral evidence that the offending vehicle was involved in it and it was for the owner of the such vehicle to prove that the vehicle was not involved in the accident. Reliance can be placed on 2006(3) RCR (Civil) page 682(P&H) in which Hon'ble Punjab and Haryana High Court has held that Motor Vehicles Act 1988, Section 166- Accident- Involvement of offending Vehicle- If it is prima-facie established by oral evidence that the offending vehicle was involved, it is for the owner of such vehicle to prove that it was not involved.

21. It is also settled proposition of law that if the driver is being tried on account of rash and negligent driving and then prima-facie it would be safe to conclude that the accident occurred on account of rash and negligent driving of the driver.

22. The reliance can also be placed on Punjab Law Reporter Vol. CIV(1993-2) page 109 in which Hon'ble High Court has opined that Motor Vehicles Act(IV of 1939) Section 110-A- Negligence- Driver was being tried on account of rash and negligent driving- Prima-facie safe to conclude that the accident occurred on account of rash and negligent driving of the driver.

23. Moreover, the registration of FIR Ex.P1 against respondent No.1 and the fact that police has filed the final report under Section 173 Cr.P.C. against him under Sections 279 & 304-A IPC, Ex.P2 and the police has prepared the rough site plan Ex.P3 of the place of



occurrence and the fact that the charge has been framed against him under Sections 279 & 304-A IPC Ex.P4 and he is facing trial in the Court of Ms. Aparna Bhardwaj, Ld. SDJM, Assandh (Karnal) and the fact that his personal search was conducted by the police and in this regard, memo of personal search Ex.P5 has been prepared by the police and also the fact that the respondents have not proved any other version of the accident, leads to the conclusion that the deceased Joga Singh died on 05.04.2019 due to the injuries sustained by him in the accident in question which occurred on 22.12.2018 due to the rash and negligent driving of respondent No.1, driver of offending Car bearing registration No.HR41-H-2933.

24. Thus, in view of the testimony of PW1 Smt. Palwinder Kaur, petitioner No.1 and the documents placed on record, the negligence of respondent No.1 being driver of offending Car bearing registration No. HR41-H-2933 in causing the accident in question, as a result of which, deceased Joga Singh died, has been proved on record. Accordingly, issue No.1 is decided in favour of the petitioners and against the respondents.”

12. A perusal of the record shows that the findings recorded by the learned Tribunal on the issue of rash and negligent driving deserve to be upheld.

13. The learned Tribunal meticulously appreciated the entire oral as well as documentary evidence available on record. The testimony of PW-1 Smt. Palwinder Kaur, eye-witness to the occurrence, remained unshaken and un rebutted. Her deposition, coupled with the documentary evidence including FIR (Ex P1), final report under Section 173 Cr.P.C., site plan (Ex P2), post-mortem report (Ex P5) and other medical record, clearly establishes the manner of the accident. The respondents, particularly the driver, failed to step into the witness box to controvert the said evidence, thereby inviting an adverse inference. In these circumstances, the learned Tribunal has rightly concluded that the accident in question occurred



due to the sole rash and negligent driving of the offending vehicle by respondent-driver of the offending vehicle.

14. The learned Tribunal has also rightly dealt with the objection regarding delay in lodging of the FIR. It has been correctly appreciated that delay in registration of FIR is not fatal to a claim petition under the Motor Vehicles Act, if the same stands satisfactorily explained. In the present case, the learned Tribunal has rightly accepted the explanation furnished by the claimants that the injured remained in a critical condition and that efforts towards compromise were ongoing, which led to the delay. The said reasoning is in consonance with settled legal principles.

15. Further, the learned Tribunal has correctly applied the standard of proof required in motor accident claim cases. It is well settled that proceedings before the Motor Accident Claims Tribunal are governed by the principle of preponderance of probabilities and not by strict rules of evidence as applicable in criminal trials. The learned Tribunal has rightly held that the claimants have successfully discharged their burden by establishing, on the touchstone of preponderance of probabilities, that the accident occurred due to the negligence of the respondent-driver of the offending vehicle.

16. Accordingly, this Court finds no infirmity in the well-reasoned findings returned by the learned Tribunal, and the same are hereby affirmed.

17. Adverting now to the contention of learned counsel for the claimants/appellants that the compensation awarded is on the lower side, the same is decided as under after taking into consideration the settled law on compensation.

SETTLED LAW ON COMPENSATION

18. Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi**



down the law on assessment of compensation and the relevant paras of the same are 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 standardised deductions. Having a 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 exceeds 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 dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.



32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

* * * * *

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 Thomas³, 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.

19. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;



- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
- (E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

*“52. As far as the **conventional heads** are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it*



seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

* * * * *

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 paras 30 to 32 of Sarla Verma⁴ which we have reproduced hereinbefore.

59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 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.”

20. Hon’ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

“21. A Constitution Bench of this Court in Pranay Sethi² dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his



family. With respect to a spouse, it would include sexual relations with the deceased spouse.

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

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

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

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

23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A



few High Courts have awarded compensation on this count. 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 Sethi². 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.

21. So far as contention of the appellant-Insurance Company that the learned Tribunal has awarded compensation twice to the widow-wife of the deceased, the same warrant acceptance, as it reveals from the record that the learned Tribunal has given compensation twice under the head of loss of consortium, which is impermissible in the eyes of the law.

22. A perusal of the record further reveals that the learned Tribunal has rightly assessed the age of the deceased as 46 years 09 months and 2 days by taking into consideration the birth certificate and rightly applied the multiplier of 13.

23. A further perusal of the award shows that the deceased was stated to be working as agriculturist and was also running a dairy business and stated to be earning ₹30,000 per month. However, no documentary evidence was placed on record to substantiate the said claim.

24. Furthermore, the learned Tribunal, despite the absence of proof of income, proceeded to assess the monthly income of the deceased at Rs.8,500/- by placing reliance upon the minimum wages for the relevant time. The said approach, however, suffers from material infirmity.

25. It is a settled position of law, as laid down by the Hon'ble Supreme



Ors., reported as (2022) 1 SCC 198, that in cases where there is no documentary evidence of income, the minimum wages notification may be adopted as a guiding factor, but the same cannot be treated as an inflexible or absolute standard. The Court has further held that a reasonable amount of guesswork, based on the facts and circumstances of each case, is permissible and indeed necessary while assessing the income of the deceased.

26. In view of the aforesaid settled legal position, and keeping in mind the nature of business, age of the deceased, and the overall facts and circumstances of the present case, it would be just, fair, and reasonable to assess the monthly income of the deceased at **Rs.12,000** for the purpose of determining compensation.

27. Furthermore, the learned Tribunal has rightly assessed the medical expenditure spent upon the deceased during his treatment.

28. Further perusal of the award reveals that the learned Tribunal has rightly deducted 1/4th towards personal and living expenses of the deceased, as per settled law.

29. Moreover, the learned Tribunal has awarded a meager amount under the conventional heads of loss of estate and funeral expenses, therefore, the award requires indulgence of this Court.

CONCLUSION

31. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the appeal **FAO No. 2847-2022** filed by claimants/appellants is allowed and appeal **FAO No. 2427-2022** filed by the appellant-Insurance Company is dismissed. The award dated dated 08.03.2022 is modified accordingly. The appellants-claimants are entitled to enhanced amount of compensation as per the calculations made here-under:-



Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.12000/-
2	Future prospects @ 25%	Rs.3000/- (25% of 12000)
3	Deduction towards personal expenditure 1/3rd	Rs.3750/- (15000X 1/4)
4.	Total Income	Rs.11250/-(15000-3750)
4	Multiplier	13
5	Annual Dependency	Rs.17,55,000/- (11250X12X13)
6	Loss of Estate	Rs.18,150/-
7	Funeral Expenses	Rs.18,150/-
8.	Medical Expenses	Rs.63,548/-
9.	Loss of Consortium Filial : Rs. 48,400/-x1 Parental : Rs. 48,400/-x2 Spousal : Rs. 48,400/-x1	Rs.1,93,600/-
	Total Compensation	Rs.20,48,448/-
	Deduction Amount Awarded by the Tribunal	Rs.15,36,673/-
	Enhanced amount	Rs.5,11,775/- (2048448-1536673)

32. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nadu State Transport Corporation** (2022) 5 **Supreme Court Cases 107**, the appellants-claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

33. Appellant-Insurance Company (FAO No. 2427-2022) is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The

**FAO-2427 and 2847-2012 (O&M)****21**

along with interest in the accounts of the claimants/appellants (FAO No. 2847-2022), as per award dated 08.03.2022. The claimants/appellants (FAO No.2847-2022) are directed to furnish their bank account details to the Tribunal.

34. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

19.03.2026

Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes