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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-3007-2022 (O&M)
XOBJC-60-2022 (O&M)

THE NEW INDIA ASSURANCE CO. LTD.

.....Appellant

vs.

RADHA RANI AND ORS.

.....Respondents

Reserved on:- 11.12.2025
Pronounced on:- 10.02.2026
Uploaded on:- 10.02.2026

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: Ms. Sandeep Suri, Advocate
for the appellant-Insurance Company.

Mr. Ajay Jain, Advocate
for respondents No.1 to 3/cross-objectors.

SUDEEPTI SHARMA J.

1. Vide this common judgment, this Court, shall dispose of the appeal filed by the appellant-Insurance Company as well as cross-objections filed by the cross-objectors/claimants.

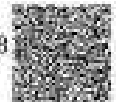
FAO-3007-2022

2. The present appeal has been preferred by Insurance Company against award dated 11.01.2022 passed by learned Motor Accident Claims Tribunal, Sirsa, Haryana (in short 'Tribunal'), whereby, the claim petition under Section 166 of the Motor Vehicles Act, 1988 filed by respondents No.1 to 3 has been allowed.

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3. The present cross-objections has been preferred by respondent No.1

to 3/cross-objectors/claimants against the award dated 11.01.2022 passed in the

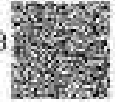


claim petition filed under Section 166 of the Motor Vehicles Act, 1988, by the learned Motor Accident Claims Tribunal, Sirsa, Haryana for enhancement of compensation, granted to respondent Nos.1 to 3/claimants to the tune of Rs.45,40,950/- along with interest @ 6% per annum on account of death of deceased-Jitender Singh in a motor vehicular accident, occurred on 23.06.2018.

BRIEF FACTS OF THE CASE

4. Brief facts of the case are that on 23.06.2018, Jitender Kumar (since deceased) had gone for morning walk towards Hanumangarh Road side and when he reached near New Jagjit Janta Agro Industries Works, Ellenabad, then the driver of unknown vehicle hit his vehicle into Jitender Kumar from behind and caused the accident and Jitender Kumar sustained serious and grievous injuries on his person. On account of the injuries Jitender Kumar died at the spot. A case FIR No.157 dated 23.06.2018 under Sections 279, 337 and 304-A IPC was registered on the statement of Sanjay Kumar son of Shri Om Parkash. The said accident was witnessed by Atma Ram son of Shri Harpal, resident of Ellenabad who was also on morning walk on the said road on 23.06.2018 and disclosed the said fact of accident to police on 25.06.2018 to the effect that at the time of morning walk when he reached near Durga Mandir, then one white Zen Car No.PB-61B/0271 being driven by Ram Lal, respondent no.1 met him and said "Ram Ram" to him and then gone towards his house. On the day of accident, he approached him and disclosed that in the morning near Jagjit Janta Agro Industries, Ellenabad accident has taken place with his car and in the said accident Jitender Kumar Khatri of Ellenabad has died. He disclosed the said fact to police and then respondent no.1 was arrested in this case and challaned by the police.

5. From the pleadings of the parties, the Tribunal framed the following



- “1. Whether the accident in question took place due to rash and negligent driving of driver of Zen car bearing registration no.PB-61B-271 as alleged in the petition?OPP.*
- 2. If issue no.1 is proved, whether petitioners are entitled for any compensation on account of death of deceased Jitender, if so to what amount and from whom?OPP*
- 3. Whether this petition is not maintainable in the present form?OPR.*
- 4. Relief. ”*

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

6. Learned counsel for the appellant contends that factum of accident is not proved still learned Tribunal has granted compensation to the respondents. He further contends that even the income of the deceased assessed by learned Tribunal is on the higher side. He therefore, prays that the present appeal be allowed.

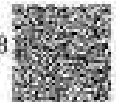
7. Per contra, learned counsel for respondents contends that learned Tribunal has rightly decided issue No.1, wherein, the respondents are able to prove the factum of accident. He further contends that so far as income of deceased is concerned, respondents No.1 to 3/claimants have filed cross-objections No.XOBJC-60-2022 for enhancement. Therefore, he prays that the present cross-objections be allowed and present appeal be dismissed and amount of compensation be enhanced as per latest law.

8. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

9. The relevant portion of the award is reproduced as under:-

“ISSUE No.1

13. Onus to prove this issue was upon the petitioners and in order to prove the same, petitioner Radha Rani widow of deceased Jitender Kumar appeared as PW1 and tendered her



affidavit Ex.PW1/A to the effect that death of her husband was caused in the accident in question. During cross-examination she stated that she had not witnessed the accident.

14. PW3 Sanjay Kumar, brother of deceased tendered his affidavit Ex.PW3/A to the effect death of his brother Jitender Kumar was caused in the accident in question. He got recorded the FIR against an unknown driver of unknown vehicle. In cross-examination he stated that the accident did not occur in his presence. However, in document Ex.P11 in the supplementary statement of Sanjay PW3, name of accused as well as number of the offending vehicle is mentioned.

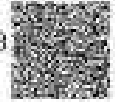
15. PW4 Atma Ram is eye witness. He tendered his affidavit Ex.PW4/A and deposed that on 23.06.2018 at about 5:00/6:00 AM in the morning he went for a routine morning walk at Hanumangarh road and when he reached near Durga Mandir, in the meanwhile a white Zen Lxi Estilo Car No.PB61B/0271 driven by Ram son of Shri Puran Chand (respondent no.1) in a rash and negligent manner and at a high speed crossed him and struck against Jitender Kumar while driving the car on the wrong side of the road. He further stated that Ram Lal driver of Car No.PB-61B/0271 confessed before him that on 23.06.2018 when he was driving his car, he struck his car against a person near new Jagjit Janta Agro Industries Works, Ellenabad and consequently he died. His statement was also recorded by the police during investigation of FIR No.157 dated 23.06.2018 under Section 279, 337 and 304-A IPC, in Police Station Ellenabad (Ex.P11). He specifically stated that the accident has been occurred due to rash and negligent driving of offending car by respondent no.1.

16. This witness was subjected to cross-examination by respondents, but nothing could be elicited through this witness to raise any doubt about the veracity of his statement. He has given a vivid account of the manner in which the accident took place and the testimony of PW4 being cogent and convincing inspires confidence.

17. The petitioners have also examined Rajesh Kumar, Ahlmad as PW5 who brought the summoned record of case filed titled as State vs. Ram Lal, FIR No.157 dated 23.06.2018 under Sections 279, 337, 304-A IPC, Police Station Ellenabad which was pending for 11.02.2020. He stated that certified copy of report under Section 173 Cr.P.C. is Ex.P10, FIR Ex.P11, PMR Ex.P12 and that of Superdari order is Ex.P9 which are correct according to the original record.

Besides this, learned counsel for the petitioners has also tendered certified copy of charge sheet Ex.P22, copy of superdari order Ex.P23 and death certificate Ex.P24.

18. On the other hand, respondent no.1 Ram Lal himself appeared as DW1. He deposed that written statement filed by him may be read and treated in his evidence. He tendered his driving licence Ex.R1, registration certificate of the offending vehicle Ex.R2 and Insurance Policy Ex.R3.



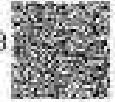
19. The testimony of PW4 coupled with documentary evidence as stated above, has gone unrebutted and unchallenged on record. FIR No.157 dated 23.06.2018, the certified copy of which is Ex.P11 was registered against unknown driver and unknown vehicle at Police Station Ellenabad for causing the accident in question and after through investigation report under Section 173 CrPC Ex.P10 was submitted against respondent no.1 for his trial under Sections 279, 337, and 304-A IPC. Name of this respondent no.1 has come in supplementary statement of complainant and in statement of eye witness Atma Ram on 25.06.2018 (Ex.P11). The respondent no.1 was facing trial in the criminal case which was pending in the court of learned SDJM, Ellenabad where he was charge sheeted for the commission of offence under Sections 279, 337 and 304-A IPC vide order dated 16.01.2019. Respondent No.1 is still facing trial and the same has not concluded till date. The respondent no.1 has taken the offending vehicle on superdari vide application Ex.P23 and order Ex.P9.

20. Although respondent no.1 while appearing as DW1 has denied the accident, but there is no evidence on the file that respondent no.1 ever filed any protest petition before the higher authorities against false implication or against false involvement of the vehicle and his silence for such a long period also goes against him. The only irresistible conclusion that can be drawn is that the accident in question took place due to rash and negligent driving on the part of respondent no.1, while driving the offending vehicle. In holding so, the reliance is placed upon **2008(2) RCR (Civil) 72 Sudama Devi Vs. Kewal Ram.**

21. The respondents no.1 to 3 have also raised a plea that the accident in question took place on 23.06.2018 and the FIR was lodged on the same day but the said FIR was lodged against unknown driver and unknown vehicle and later on the respondent no.1 and offending vehicle have been involved in the accident. The name of respondent no.1 and offending vehicle for the first time came on 25.6.2018 when statement of Atma Ram was recorded, so there was a delay of two days which is not explained and the said delay has been used to falsely implicate respondent no.1 and the offending vehicle in question in the accident.

22. The law on the point of delay has been explained in Ravi V. Badrinarayan, (2011) 4 SCC 693, the relevant extract of which is reproduced herein below:-

“17. It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station.



Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim.

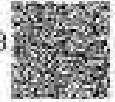
18. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinized more carefully. If court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences.

19. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.

20. In the case in hand, the Claims Tribunal as well as the High Court, committed grave error in not appreciating the mental agony through which Suresh was passing, whose son was severely injured. In the light of the aforesaid discussion, we are of the considered opinion that the MACT as well as High Court committed error in coming to the conclusion that lodging the FIR belatedly would result in dismissal of the claim petition.”

Similarly, in Anita Sharma and others Vs. The New India Assurance Co. Ltd. and another, 2021(1) RCR (Civil), 201, it has been held by Hon'ble Supreme Court in para no.22 as under:-

“22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence



in accident claim cases ought not to be to find fault with nonexamination of some best eyewitnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646 wherein this Court reiterated that:

“7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (Bimla Devi v. Himachal RTC [(2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101])” (emphasis supplied).

23. Having regard to the severe injuries and later on account of death of injured, the one has to make realistic assessment of the psychological condition of the victim's family immediately after the accident and till such time they could reasonably be assured that the victim was out of danger. Moreover, the name of accused-respondent no.1 as well as vehicle number has come in the statement of Atma Ram, the eye witness of the accident and in the supplementary statement of complainant on 25.06.2018, within 48 hours and these witnesses have stepped into the witness box as PW3 and PW4.

24. It has been held in Bimla Devi & others v. Himachal Road Transport Corporation & others (2009)13 SC 530 by the Hon'ble Supreme Court of India that strict proof of an accident by a particular bus/vehicle in a particular manner may not be possible and it would be sufficient if the claimants establish their case on the touchstone of preponderance of probability. It is held in Kusum Lata v. Satbir, 2011(2) T.A.C. 1 (S.C.) that where caution has been sounded that in a case relating to motor accident claims, the claimants are not required to prove the case as is required to be done in a criminal trial.

25. Moreover, the Insurance company has not cross-examined the driver of the offending vehicle. Since they have taken a plea that accident was not caused by the vehicle insured by them and this vehicle was involved with a view to get compensation in connivance and collusion with respondents no.1 and 2, then it is incumbent upon them to prove this assertion. The Insurance Company should have summoned the driver to appear in the court through the process of the court and if the Company had a suspicion that the driver was colluding with the claimants and then Insurance company should have put him to cross-examination with the permission of Tribunal but no such course was opted by the Insurance company when driver appeared as DW1. In the normal course, if there was



any doubt regarding the involvement of the vehicle in an accident, the Insurance Company would engage an Investigator to find out the manner of accident which apparently has not been done in the present case. If there was a suspicion, a request could have been made to the police or some other Investigating Agency to re-do the investigation properly, but no such exercise has been done by the Insurance Company. Had the Insurance Company taken any steps to examine the owner of vehicle or the Inspector of Police who laid charge against the rider of the above said vehicle and proved that the laying of charge sheet, is incorrect or false, then the said document can be said to be not conclusive proof of the facts contained therein. Not even a single report has been placed on record by the Insurance Company to get a summary report from their investigator regarding the accident in question. In written statement the Insurance Company has put allegation on police investigation and collusion of them with petitioners, but they did not summon the Investigating Officer in the witness box to ask about his investigation, if defective.

26. It has been held in Girdhari Lal Vs Radhey Sham and others VOL.CIV (1993- 2) PLR 109 that “where the driver of the offending vehicle is facing trial for causing injuries to the petitioner by way of rash and negligent driving, it is safe to hold that accident took place due to his rash and negligent driving.”

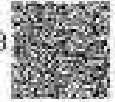
27. Negligence of the driver is to be proved on the touchstone of preponderance of probability and not by standard of proof beyond reasonable doubt. Filing of charge sheet against the driver of offending vehicle points towards his complicity in driving the vehicle in rashly and negligently. No evidence was adduced by the opposite party to prove that deceased was driving his motor cycle rashly and negligently.

28. The petitioners also tendered copy of post mortem report of the deceased as Ex.P12 and the contents of postmortem report have also remained unrebutted, as no evidence to prove to the contrary has been led by the respondents. From the postmortem report Ex.P12 it is established that the deceased died as a result of injuries suffered by him in the accident.

29. In view of the above reasoning, there is no suspicion on the accident in question and involvement of the offending vehicle. Therefore, evidence of the petitioners is accepted and it is held that the accident in question was caused by respondent No.1 Ram Lal while driving offending Car No.PB-61B-0271 in a rash and negligent manner which resulted into death of Jitender Kumar. Accordingly, Issue no.1 is decided in favour of petitioners and against the respondents.”

10. A perusal of the record reveals that Radha Rani, widow of the

deceased Jitender Kumar, was examined as PW-1. She tendered her affidavit (Ex.



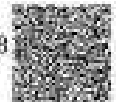
PW1/A), wherein she categorically deposed that the death of her husband occurred as a result of the motor vehicular accident in question. Her testimony was subjected to cross-examination, but nothing material could be elicited so as to discredit her version.

11. Sanjay Kumar, brother of the deceased, was examined as PW-3. In his affidavit (Ex. PW3/A), he stated that the death of his brother was caused due to the said accident and that he had lodged the FIR against an unknown driver of an unknown vehicle. Ex. P-11, being the supplementary statement of PW-3, assumes significance, as therein he disclosed the identity of the accused as well as the registration number of the offending vehicle.

12. Atma Ram, the eye-witness, was examined as PW-4. He gave a vivid and coherent account of the occurrence and categorically deposed that the accident took place due to the rash and negligent driving of the offending vehicle. PW-4 was cross-examined at length, his testimony remained consistent, cogent, and unimpeached, thereby inspiring confidence.

13. PW-5 Rajesh Kumar, Criminal Ahlmad, was also examined. He proved on record that a charge-sheet had been filed against the respondent-driver in FIR No. 157 dated 23.06.2018. It is a settled proposition of law that the registration of an FIR and the filing of a challan against the driver of the offending vehicle constitute strong prima facie evidence of negligence for the purposes of proceedings under the Motor Vehicles Act.

14. In view of the aforesaid evidence, this Court finds that the conclusions arrived at by the learned Tribunal are based on proper appreciation of facts and law and do not suffer from any perversity or legal infirmity warranting interference. Consequently, the findings recorded by the learned Tribunal on issue



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15. A perusal of the impugned award shows that the deceased, Jitender Singh, was engaged in the business of commission agency under the name and style of M/s United Trading Company. PW-2 Yashpal, the accountant of the deceased for the preceding five years, duly proved his affidavit (Ex. PW2/A) and deposed that the deceased was earning about ₹3,00,000 per annum from business and an equal amount from agricultural operations. The Income Tax Returns for several assessment years (Ex. P1 to Ex. P8), prepared by PW-2 in the ordinary course of business, were also brought on record.

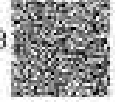
16. The agricultural income stands further corroborated by PW-6 Vinod Kumar, who proved the contract deeds (Ex. P13 to Ex. P21) demonstrating that land measuring 80 kanals was leased to the deceased on contract from 2013 onwards at progressively increasing rates. The documentary evidence establishes continuity and regularity of agricultural activity.

17. The Income Tax Return for the assessment year 2018–2019 (Ex. P2) reflects a total income of ₹6,41,282, including agricultural income of ₹3,87,032. The returns for the preceding years disclose a consistent upward trend in income.

18. The learned Tribunal, however, erred in assessing the annual income of the deceased at ₹5,54,250, ignoring the proved Income Tax Returns which reflect higher income.

19. In view of the cogent documentary evidence and the progressive income trend, the annual income of the deceased is assessed at ₹6,40,000 per annum in the interest of justice.

20. A perusal of award further reveals that meagre amount was awarded for loss of consortium, therefore, the award requires indulgence of this Court.



SETTLED LAW ON COMPENSATION

21. Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation and Another** [(2009) 6 Supreme Court Cases 121], laid 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.

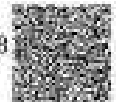
31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is 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 d 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.

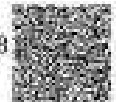


22. Hon'ble Supreme Court in the case of *National Insurance Company Ltd. Vs. Pranay Sethi & Ors.* [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (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:-

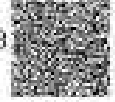
“52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss 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.

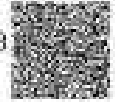
59.5. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma⁴ which we have reproduced hereinbefore.

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.”

23. Hon'ble Supreme Court in the case of **Magma General Insurance**



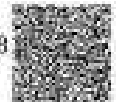
SCC 130] after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

*“21. A Constitution Bench of this Court in **Pranay Sethi**² 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

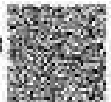
under "loss of consortium" as laid down in Pranay Sethi². In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.

CONCLUSION

24. In view of the law laid down by the Hon’ble Supreme Court in the above referred to judgments, the appeal stands dismissed and cross-objections filed by claimants/cross-objectors stands allowed. The award dated 11.01.2022 is modified accordingly. The claimants/cross-objectors are entitled to enhanced compensation as per the calculations made hereunder:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.53,333/-
2	Future prospects @ 10%	Rs.5,333/- (10% of 53333)
3	Deduction towards personal expenditure 1/3	Rs.19,555/- (58,666 X 1/3)
4	Total Income	Rs.39,111/- (58666-19333)
5	Multiplier	11
6	Annual Dependency	Rs.51,62,652/- (39111 X 12 X 11)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Parental : 2 x 48,400 Spousal : 1 x 48,400	Rs.1,45,200/-
10	Total Compensation	Rs.53,44,152/-
11	Deduction Amount Awarded by the Tribunal	Rs.45,40,950/-
12	Enhanced amount	Rs.8,03,202/-(53,44,152-5,40,950)

25. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176**



and **R.Valli and Others VS. Tamil Nandu State Transport Corporation (2022) 5 Supreme Court Cases 107**, the claimants/cross-objectors 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.

26. The appellant-Insurance Company is directed to deposit the enhanced amount along with interest at the rate of 9% with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the same to the claimants/cross-objectors in their bank accounts. The claimants/cross-objectors are directed to furnish their bank account details to the Tribunal.

27. Pending application (s), if any, also stand disposed of.

10.02.2026

Ayub/Saahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No