IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-1132-2017 (O&M)

Magma HDI General Insurance Co. Ltd. ......Appellant

vs.

Manjit Kaur and others ......Respondent

Date of Reserve: March 16, 2026
Date of Pronouncement:- 17.04.2026
Date of Uploading:- 20.04.2026

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. Vishal Aggarwal and Mr.G.S. Sarao, Advocates
for the appellant.

Mr. Bhavesh Aggarwal, Advocate
for respondent Nos. 1 to 4.

Mr.Sarabjit Singh and Ms.Gurvinder Kaur, Advocates
for respondent Nos. 5 and 6.
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SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 07.10.2016 filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Amritsar (for short, 'the Tribunal') wherein the appellant-Insurance Company was fastened with the liability to pay the compensation of Rs. 20,53,000/- to the claimant/respondent No.1 to 4 along with interest @ 7.5% per annum as well as quantum of compensation being on higher side.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 13.11.2015, Kulbir Singh son of Baldev Singh, alongwith his paternal Smt Bholi wife of Kashmir Singh and her son Kulwant Singh, with grand daughter of Baldev Singh namely Baby Monika daughter of Harpal Singh was travelling on a motor cycle bearing registration No.PB-02-BW-0635 and Baldev Singh along with his nephew Punjab Singh son of Kirpal Singh was also travelling on a cycle bearing registration No.PB-02-IL-9291, make Discover, which was being driven by Punjab Singh and Baldev Singh was pillion rider Kulbir Singh and others were going ahead and Punjab Singh alongwith Baldev Singh was following them. When they crossed the nala of Village Harian, at about 10.00 AM a Tractor Trolley of blue colour, make SONLIKA came from the backside and crossed the Motorcycle of Punjab Singh in a very high speed and then struck with the Motorcycle of Kulbir Singh from backside in a rash and negligent manner and crushed the Motorcycle which was being driven by Kulbir Singh, as a result of which Kulbir Singh and Smt. Bholi were crushed under the said Tractor and resultantly Smt. Bholi died on the spot, while Kulbir Singh and others received serious multiple injuries and were taken to Guru Nanak Dev Hospital, Amritsar, where on the same day, Kulbir Singh also died due to grievious and multipler injuries received by him the the said accident. FIR No. 112 dated 13.11.2015 under Sections 304-A/337/338/279/427 of IPC was registered at P.S. Majitha on the statement of Baldev Singh.

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

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

> *"1. Whether Kulbir Singh died in accident, which took place on 13.11.2015, at about 10 AM, near Canal Harian, Police Station*

Majitha, Tehsil and District Amritsar, due to rash and negligent driving of Tractor Trolley make Sonalika bearing No.PB-02-CG-0451 by Kulwant Singh, respondent No.1? OPP

2. Whether claimants are entitled to compensation, if so, from whom and at what rate?OPP

3. Whether claim petition is not maintainable in present form? OPR

4. Whether claim petition is bad for mis-joinder and non-joinder of necessary parties? OPR

5. Whether respondent No.1 was not holding a valid driving licence at the time of accident?OPR(3)

6. Whether the claimants have no locus standi and cause of action to file the claim petition? OPR

7. Relief."

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondent Nos. 1 to 4. However, the appellant-Insurance Company was held liable to pay the compensation to them. Hence, the present appeal.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

6. Learned counsel for the appellant–Insurance Company contends that the learned Tribunal has erred in holding that accident occurred due to rash and negligent driving of respondent No. 5. He further contends that the FIR was lodged against unknown vehicle and unknown driver which shows that the offending vehicle was later on introduced to extract the compensation from the appellant-Insurance Company. He further contends that four persons were riding on the bike and deceased himself was negligent in driving the motorcycle, therefore, the finding of the learned Tribunal on rash and negligent driving of respondent No. 5 is liable to be set aside. The learned Tribunal has erred in assessing the monthly income of the deceased as Rs.8000/- which is more than the minimum wages. He

furthermore contends that the learned Tribunal erred in awarding 50% towards future prospects instead of 40% as per settled law.

7. He further contends that the learned Tribunal has committed an error in law by awarding compensation separately under the heads of “loss of consortium” as well as “loss of love and affection.” He has placed reliance upon the Constitution Bench judgment of the Hon’ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi, 2017) 16 SCC 680]*** to contend that compensation under the head of “loss of love and affection” is not permissible, and the claimants are entitled only to compensation under the conventional head of “loss of consortium.”

8. He further contends that the learned Tribunal has erred in awarding Rs.1,00,000/- towards loss of estate which is on the higher side.

9. On the strength of these submissions, learned counsel prays that the present appeal be allowed.

10. Per contra, learned counsel appearing for the respondent No. 1 to 4– claimants submits that the learned Tribunal has rightly held that the accident occurred due to rash and negligent driving of respondent No. 5. He furthermore contends that the income of the deceased-Kulbir Singh is taken on the lower side and deserves to be enhanced. He therefore, prays that the compensation be enhanced and the present appeal, being devoid of merit, deserves to be dismissed.

11. I have heard learned counsel for the parties and perused the whole record of this case.

12. Before proceeding further, it would be apposite to reproduce relevant portion of the award. The same is reproduced as under:-

> ***“ISSUE NO.1***
>
> *10. The learned counsel for the claimants argued that the claimants while leading evidence have duly proved that on 13.11.2015, Kulbir*

Singh son of Baldev Singh, alongwith his paternal aunt Smt. Bholi and her son Kulwant Singh alongwith grand daughter of Baldev Singh namely Baby Monika daughter of Harpal Singh was nevelling on a Motorcycle bearing No.PB-02-BW-0635 and Baldev Singh along with his nephew Punjab Singh were also travelling on motor cycle bearing registration No.PB-02-11-9291, make Discover, driven by Punjab Singh and when they crossed the canal of village Harian at about 10.00 AM, respondent No.1 Kulwant Singh, came from backside by driving Tractor Trolley, make Sonalika in a rash and negligent manner and struck with the Motorcycle of Kulbir Singh and crushed the motorcycle driven by Kulbir Singh, as a result of which Kulbir Singh and Bholi were crushed under the said tractor and Smt. Bholi died on the spot and Kulbir Singh suffered multiple injuries and was taken into hospital where he succumbed to the injuries and regarding this accident FIR No.112 dated 13.11.2015 under Sections 304-A, 337, 338,279,427 IPC was registered against the respondent No.1 at Police Station Majitha on the statement of Baldev Singh. He further argued that respondent has failed to rebut the evidence led by the claimants and to substantiate their plea taken in the written statement qua the said accident.

11. On the other hand, learned counsel for the respondents vehemently argued that no accident, as alleged by the claimants, took place and even the Tractor-Trolley number is also not mentioned in the FIR and false FIR has been registered against dent No. 1. Thus, the claimants have failed to prove that alleged cent was caused due to rash and negligent driving of Tractor-Trolley bearing No. PB-02-CG-0451 by respondent No. 1.

12 I have considered the rival contentions raised by the learned counsel for the parties and find merits in the contentions raised by the learned counsel for the claimants.

13 Manjit Kaur, (claimant No.1), widow of deceased Kulbir Singh while stepping into witness box as CW-1, tendered into evidence his affidavit Ex.CWI/A, wherein she has reiterated the version regarding the manner in which accident was caused by respondent no.1 by driving Tractor-Trolley bearing No.PB-02-CG-0451, resulting into *death of Smt. Bholi and Kulbir Singh and also tendered the copy of the postmortem report Ex.P1. During her cross-examination she has admitted that she is not eye witness of the accident, but she has denied the suggestion that her husband has not died due to some accident. No suggestion was put to her that accident was not caused by respondent No.1 by a driving Tractor-Trolley NPB-02-CG-0451 in a rash and negligent manner.*

14. CW.2 Kulwant Singh, tendered into evidence his ExCW2/A, wherein he reiterated the version of the claimants ing the manner in which accident was caused, by the respondent by driving Tractor-Trolley bearing No.PB-02-CG-0451, resulting to death of Smt. Bholi and Kulbir Singh. He has also tendered copy of the FIR Ex. P2. During cross-examination he deposed that the police officials got them admitted in the hospital and police officials told him name of the accused. He has denied the suggestion that no accident had niken place, with the Tractor-Trolley. He has also denied the suggestion that Bholi and Kulbir Singh had not died in any accident.

15. In ***Parmeshwari Versus Amir Chand and others 2011(2) RCR (Civil), 153 (Supreme Court)*** *it has been held by the Hon'ble Apex Court that in road accident, the strict principle of proof in criminal case are not attracted. The claimants were merely to establish their case on the touch stone of preponderance of probability.*

16. In ***"Kusum Lata and others Versus Satbir Singh and others" 2011(2) RCR (Civil) 379"****, it has been held by the Apex Court that claimants are not required to prove the case as required to be done in a criminal trial.*

17. In ***N.K.V. Bros. Pvt. Ltd. Versus M.Karumai Ammal and others AIR 1980 Supreme Court 1354****, it has been held er the Hon'ble Apex Court that Accidents Tribunal must take special to see that innocent victims do not suffer and drivers and owners do not escape liability merely because of some doubt here or some obscurity there, save in claim cases, culpability must be inferred from the circumstances where it is fairly reasonable the Court should not succumb to niceties, technicalities and mystic maybes.*

*18. In **"Varinderjit Singh Versus Tajinderjit Singh and others" 2008(1) RCR (Civil) 67** it has been held by the Hon'ble Punjab & Haryana High Court that Motor Accident Claim Tribunal cannot act as criminal Court and demand proof of accident beyond any shadow of reasonable doubt. Under the Scheme incorporated under the Motor Vehicle Act relating to the inquiries by the Motor Accident Claims Tribunal, the proceedings are summary in nature and strict rules of evidence are not applicable. The job of the Tribunal is to ascertain as to whether the accident has been caused out of the use of motor vehicle.*

*19. In **"Raghbir Singh Versus Sarita Sharma and inquiry under the Motor Ors. 2002(3) Civil Court Cases 648** it has been held by the Hon'ble Panjab & Haryana High Court that in an vehicle Act, the Tribunal is to follow summary procedure. Strict principle of evidence, as provided by the Act are not required to be followed.*

20. In the instant case on the appraisal of the entire evidence it is proved that regarding the accident in question FIR No. 112 dated 13.11.2015, under Sections 304-A,337,338,279,427 IPC. copy of which is Ex.P2 was registered at Police Station Majitha, District Amritsar against Kulwant Singh respondent no.1, on the statement of Baldev Singh As per the Post Mortem Report Ex.Pl Kulbir Singh died on 13.11.2015 on account of injuries received in the accident. The claimants by leading evidence have duly proved that accident took place due to rash and negligent driving of Tractor-Trolley bearing No.PB-02-CG-0451 by respondent no.1, who hit the same with the Motorcycle No.PB-02-BW-0635 of Kulbir Singh, who was going on his correct side and was not at fault. No application was moved by respondents No.1 and 2 to any higher authority with and to the false implication of respondent no.1 in the accident in ion There is not even an iota of evidence on record to prove that w and CW-2 were in any way inimical toward the respondents No.1 and 2. The respondent No. I was the material witness who could depose the mode and manner in which he was driving his vehicle at the time of accident but he did not step into witness box to rebut the case o the claimants. Therefore, adverse inference is drawn against him and the story put forth by the *claimants, regarding accident caused on account of rash and negligent driving of Tractor-Trolley bearing No.PB-02-CG-0451 by respondent no.1 is correct. The contention of the learned counsel for the respondents that respondent no.1 has been falsely implicated in the accident, has no merit and this Tribunal is inclined to hold that Kulbir Singh, died on account of injuries, received in Motor vehicular accident, which took place on 13.11.2015 at 10.00 AM, in the area of Canal Harian, Police Station Majitha, Tehsil and District Amritsar due to rash and negligent driving of vehicle Tractor-Trolley bearing No.PB-02-CG-0451 by respondent no.1 and deceased Kulbir Singh, was not at fault. Hence, this issue is decided in favour of te and against the respondents.*

ISSUES NO.2 AND 5

21. Both these issues are interconnected and taken up together for disposal to avoid repetition.

22. While deciding issue No. I this Tribunal has come to the conclusion that deceased Kulbir Singh died in an accident caused y respondent No.1, by driving a vehicle Tractor-Trolley bearing No.PB-02-CG-0451, in rash and negligent manner, and deceased was not at fault. Now, the requisite question for determination arises as to whether claimants are entitled to compensation? if so, to what extent?

23. The claimants have come forward with the plea that deceased Kulbir Singh, was 32 years of age, at the time of his death. He was a labourer and was earning Rs.12000/- per month and the claimants were dependent upon her and on account of his death, claimants had suffered great financial loss and have also lost the love and affection of deceased.

24. CW.2 Kulwant Singh, in his affidavit Ex.CW.2/A, has reiterated the above version, but during cross-examination he deposed that he had not brought any document regarding income of his He admitted that his wife was not income tax payee.

25.Though, the respondents have not led any evidence rebut the above evidence led by the claimants, but since the mants have not placed on record any documentary evidence panding the income of the deceased Kulbir Singh, therefore, in the absence of any documentary evidence, *the income of the deceased, as stated by the claimants cannot be believed. So, considering Kulbir Singh as labourer, his monthly income is assessed Rs.8000/-*

*26 In **"Rajesh and another Versus Rajvir and Others" 2013(3) RCR (Civil) 170**, it has been held by the Hon'ble Apex Court that it is duty of the Court to award just compensation. The Court should not succumbed to niceties or technicalities, in such matters. Attempt of the Court should be to equate, as far as possible, the misery on account of the accident with the compensation, so that the injured/the dependents should not face the vagaries of life on account of the discontinuance of the income earned by the victim. It has been further held that it would be just and reasonable that Court should award at least Rs. One lac for loss of consortium. The Tribunal is to award at least Rs.25,000/- towards funeral expenses. It has been further held that in case of self employed or a person with fixed wages, must be addition to the actual income of the deceased while compounding the future prospectus.*

*27. In **"Smt. Neeta wife of Kallappa Kodolkar & Ors Fersus The Divisional Manager MSRTC. Kolhapur, 2015(2) Civil Court Cases, 524 (SC)",** it has been held by the Hon'ble Apex Court that even in a case of private employment, future prospectus can Se taken into consideration to determine the loss of dependency.*

28. So, in view of the above rulings, this tribunal is inclined to hold that as deceased as per the postmortem report was 32 years old at the time of his death, and was earning Rs.8,000/-per month, so an addition of 50% of his income is to be added as future prospect. Thus, his monthly income would have become (Rs.8,000/- + 4000/-) Rs.12,000/- and annual income would become (Rs.12,000/-X 12) =1,44,000/-. Admittedly, claimant No.1 is the widow, claimants No.2 and 3 are the children of the deceased Kulbir Singh and claimant No.4 Baldev Singh is father of the deceased. There is nothing on record to prove that they were not dependent upon the earning of the deceased Kulbir Singh. As per Smt. Sarla Verma and others vs. Delhi Transport Corporation and others, 2009(3) RCR (Civil) 77, the number of dependents is 4 to 6 the deduction should be ence 1/4th income of the deceased shall be deducted as per schich the deceased would have incurred towards *himself. e been alive. Thus, after deducting the 1/4th income of the ed the dependency of the claimants comes to Rs.1,08,000/- peг (Rs 1,44,000/-minus Rs.36,000/- Rs.1,08,000/-).*

29. Now, adverting to the multiplier. As the deceased 32 years of age, at the time of his death, so, keeping in view the e of the deceased, the tribunal is of the opinion that multiplier of 16 his to be applied to work out the compensation. Thus, the amount of compensation would become Rs.17,28,000/- (Rs.1,08,000/-X 16). In addition to the amount of compensation the claimants are entitled to Rs.25,000/- as funeral expenses, Rs.1,00,000/- towards love and affection, Rs.1,00,000/- towards loss of estate and claimant No.1 is also entitled to Rs.1,00,000/- as loss of consortium. Thus, the total amount of compensation comes to Rs.20,53,000/-

30. Now, the next question to be determined is as to from whom the claimants are entitled to get the compensation.

31. The learned counsel for the claimants argued since respondent no.2 is owner of the offending vehicle Tractor Trolley M-02-CG-0451 and respondent No.1 was driver of Tractor Trolley 19-02-CG-0451 and said vehicle was insured with respondent therefore, respondent no. 1 to 3 be held liable to pay amount of compensation to the claimants.

32. On the other, hand Sh.Sarabjit Singh, learned counsel for the respondents No.1 and 2 argued that since the respondent No. I was having a valid driving licence and Tractor Trolley No.PB-02-CG-0451 was being plied on valid documents and the said vehicle was insured with respondent No.3 at the time of alleged accident, therefore, respondents No.1 and 2 are not liable to pay the compensation to the claimants.

33. Sh.R.P.Singh, learned counsel for the respondent No.3 argued that though Tractor No.PB-02-CG-0451 was insured with the respondent No.3 at the time of alleged accident but the said tractor was being used for commercial purpose at the time of alleged accident for which the respondent No.1 was not having valid driving licence, therefore, respondent No.2 has violated the terms and conditions of the insurance policy and as such, the respondent No.3 in not liable to pay any *compensation to the claimants, rather the respondents No. 1 and 2 are liable to pay the same.*

34 I have given my thoughtful consideration to the contentions raised by the learned counsel for the parties and find merit in the contention raised by learned counsel for the claimants.

35. Admittedly, respondent No.2 is the owner of the Tractor Trolley No.PB-02-CG-0451, which was insured with the respondent No.3 at the time of accident as is evident from the copy of insurance policy Ex.R2 and at the time of accident, respondent No.1 was driving the said vehicle.

36. RW.1 Pargat Singh, Clerk, SDM Office, Ajnala had brought the record of the driving licence of respondent No.1 Kulwant Singh and proved its photo copy Ex.R1 and deposed that as per the said driving licence Kulwant Singh was not authorised to drove the tractor-trolley on road. The perusal of copy of said driving licence reveals that same had been issued on 11.2.2004 and is valid up to 31.1.2014 and is meant to drove scooter, Car and Tractor. However, at the time of accident, the respondent No.1 was driving the said vehicle read with a trolley.

*37. In "**Nagashetty Versus United India Insurance Co.Ltd. 2001(4) R.C.R (Civil)597**" it has been held by the Hon'ble Apex Court that a valid driving licence for driving a tractor includes driving a Tractor with Trailer as well. Mere fact that a Trailer was added to Tractor itself will not make the driving licence invalid and insurance company was held liable to pay the compensation.*

*38. In **"Fahim Ahmad and others Versus United India Insurance Company Ltd. 2014(2) R.C.R(Civil) 470"**, a Tractor carrying sand in the Trolley met with an accident. Sand was for the purpose of construction of tank. It has been held by the Hon'ble Apex Court that merely because it was carrying sand would not mean that the the tractor was being used for commercial purposes. Insurance Company was held liable to pay the compensation.*

*39. In **"New India Assurance Company Limited Versus Smt. Kanta and others 2015(5) Law Herald 4352**" Tractor-Trolley being driven rashly hit the motor cycle resulting the death of driver and injury to the pillion rider. The driver was possessing licence for driving the tractor* *at the time of accident. It has been held the Hon'ble Punjab and Haryana High Court that driver can drive a Tactor attached with a Trolley and insurance company was held able to pay compensation.*

40. So, in view of the rulings referred above, since the respondent No. I was having a valid driving licence to drove the tractor at the time of accident, so merely because that Trolley was attached with the said tractor at the time of accident, does not prove that he was not having a valid driving licence to drove the said vehicle. Therefore, the contention of learned counsel for the respondent No.3 that respondent No.3 cannot be held liable to pay compensation to the claimants has no merit. As such, the respondents No.1 to 3 are jointly and severally held liable to pay compensation to the claimants. Hence, issue No.2 is decided in favour of the claimants and against respondents and issue No.5 is decided against the respondent No.3 and in favour of the respondents No.1 and 2."

13. The contention advanced by the appellant–insurance company that the monthly income of the deceased has been assessed on the higher side does not merit acceptance and is accordingly rejected.

14. It is well settled that in cases where direct evidence of income is not forthcoming, the Court is not bound to adopt the minimum wages notification as an inflexible standard. Hon'ble the Supreme Court in a case of ***Chandra @ Chanda @ Chandraram & Anr. vs. Mukesh Kumar Yadav & Ors., 2021 INSC 593*** authoritatively holds that while minimum wages may serve as a guiding benchmark, the determination of income must necessarily involve a degree of reasonable estimation, having regard to the facts and circumstances of each case.

15. Applying the aforesaid principle, this Court finds that the learned Tribunal has adopted a pragmatic and judicious approach in assessing the monthly income of the deceased. The determination neither appears arbitrary nor excessive, but rather reflects a fair approximation based on the material available on record.

16. In the absence of any cogent ground demonstrating perversity or material irregularity in such assessment, no interference is warranted. The finding of the learned Tribunal on the issue of monthly income is, therefore, affirmed.

17. With regard to contention of learned counsel for the appellant-Insurance Company that the learned committed an error in law by awarding compensation separately under the heads of "loss of consortium" as well as "loss of love and affection" is concerned, the said submission merits acceptance.

18. The Hon'ble Supreme Court in ***V. Pathmavathi and Others v. Bharti AXA General Insurance Co. Ltd. and Another, 2026 INSC 131***, has recently clarified the legal position with regard to compensation under conventional heads. The Apex Court has categorically held that "loss of love and affection" is not an independent or distinct head of compensation, and the same stands subsumed within the broader concept of consortium, which includes spousal, parental and filial consortium. Consequently, separate compensation under the head of loss of love and affection is impermissible. The relevant extract of the same is reproduced as under:-

> *"22. In Rajesh (supra), this Court recognised "loss of love and affection" as a distinct head of compensation, reflecting the non-pecuniary deprivation suffered by family members upon the untimely death of a loved one. However, the Constitution Bench in Pranay Sethi (supra) expressly disapproved this approach holding that Rajesh (supra) was rendered per incuriam and that compensation should be confined to three conventional heads, i.e., loss of estate, loss of consortium and funeral expenses in order to preserve consistency and certainty in awards. Observing disagreement, Pranay Sethi (supra) held thus:*
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> *52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh [Rajesh v. Rajbir Singh, (2013) 9 SCC 54]. 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 [Rajesh v. Rajbir Singh, (2013) 9 SCC 54] refers to Santosh Devi [Santosh Devi v. National Insurance Co. Ltd., (2012) 6 SCC 421], 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.

23. There can be no quarrel with the binding nature of Pranay Sethi (supra). Judicial discipline demands that a Constitution Bench decision must prevail over a judgment of a Bench of lesser strength. Accordingly, this Court is constrained to follow the law declared therein.

24. That said, it is difficult to ignore the conceptual tension that underlies this exclusion. The head of "future prospects" itself is a *creation of judicial interpretation, evolved to respond to socio-economic realities and the legitimate expectations of dependents. If the law is capable of recognising anticipated economic progression as a valid loss, it is not too clear why emotional deprivation manifested in loss of love and affection must be viewed as an impermissible head, especially when Chapter XII of the Act is a beneficial piece of legislation meant to help people in distress arising out of road accidents.*

25. The concern expressed in Pranay Sethi (supra) was primarily one of consistency and *avoidance of unguided discretion. However, consistency, though desirable, cannot be elevated to a point where it eclipses the core objective of awarding "just compensation". The law must remain responsive to lived human realities, especially in cases involving the sudden rupture of familial bonds.*

26. It is in this context that the subsequent decision of this Court in Magma General Insurance Co. Ltd. v. Nanu Ram17 assumes significance. This Court expanded the ambit of "consortium" to include parental and filial consortium, implicitly acknowledging the emotional and relational loss suffered by children and parents alike. (2018) 18 SCC 130 This doctrinal expansion suggests that the distinction between "consortium" and "loss of love and affection" may be one of form rather than substance. The coordinate Bench ruled as follows:

21. A Constitution Bench of this Court in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680] 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: [Rajesh v. Rajbir Singh, (2013) 9 SCC 54].*

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". [Black's Law Dictionary (5th Edn., 1979).] 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 [Rajasthan High Court in Jagmala Ram v. Sohi Ram, 2017 SCC OnLine Raj 3848; Uttarakhand High Court in Rita Rana v. Pradeep Kumar, 2013 SCC OnLine Utt 2435;

Karnataka High Court in Lakshman v. Susheela Chand Choudhary, 1996 SCC OnLine Kar 74]. 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. 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.

27. Interestingly, we find from paragraph 25 of Magma General Insurance (supra) that apart from Rs. 80,000/- awarded on account of filial consortium, this Court awarded Rs. 1,00,000/- on account of loss and affection in addition.

28. More recently, in the case of United India Insurance Co. Ltd. v.

Satinder Kaur18, a three-Judge Bench of this Court harmonised the principles laid down in Pranay Sethi (supra) and Magma General Insurance (supra) to ensure uniformity in the award of compensation under conventional heads. Reaffirming the binding nature of Pranay Sethi (supra), this Court held that compensation in death cases is confined to three conventional heads, i.e., loss of estate, loss of consortium and funeral expenses. At the same time, drawing upon Magma General Insurance (supra), this Court clarified that consortium is a compendious concept encompassing spousal, parental and filial consortium. It was further held that loss of love and affection is subsumed within loss of consortium and cannot be awarded as a separate head. This Court held as follows:

(2021) 11 SC 780

34. At this stage, we consider it necessary to provide uniformity with respect to the grant of consortium, and loss of love and affection.

Several Tribunals and the High Courts have been awarding compensation for both loss of consortium and loss of love and affection. The Constitution Bench in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680], has recognised only three conventional heads under which compensation *can be awarded viz. loss of estate, loss of consortium and funeral expenses. In Magma General [Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130], this Court gave a comprehensive interpretation to consortium to include spousal consortium, parental consortium, as well as filial consortium. Loss of love and affection is comprehended in loss of consortium.*

35. The Tribunals and the High Courts are directed to award compensation for loss of consortium, which is a legitimate conventional head. There is no justification to award compensation towards loss of love and affection as a separate head.

29. Consistent with the aforesaid position but notwithstanding the reservations noted earlier, this Court is bound by the law declared by the Constitution Bench in Pranay Sethi (supra), which does not countenance "loss of love and affection" as a distinct head of compensation. As subsequently clarified in Satinder Kaur (supra), referring to both Pranay Sethi (supra) and Magma General Insurance (supra), the non-pecuniary loss arising from deprivation of love and affection is comprehended within the broader head of "consortium". Consequently, no separate award under the head of loss of love and affection is warranted."

19. In view of the aforesaid authoritative pronouncement of the Hon'ble Supreme Court, the award of compensation granted by the learned Tribunal under the separate head of "loss of love and affection" cannot be sustained in law. Accordingly, the amount awarded by the Tribunal under the said head is liable to be deducted from the total compensation.

20. So far as the contention raised by the appellant–Insurance Company that the learned Tribunal erred in adding 50% towards future prospects instead of 40% is concerned, the said submission deserves acceptance as per settled law.

21. Further perusal of the award reveals that the amount awarded under the head of loss of estate is also on the higher side and liable to be reduced, as per settled law.

22. Consequently, the compensation awarded by the learned Tribunal requires to be recalculated and the same is calculated as under:-

Sr. No.	*Heads*	*Compensation Awarded*
1	Monthly Income	Rs.8000/-
2	Future prospects @ 40%	Rs.3200/- (40% of 8000)
3	Deduction towards personal expenditure 1/4th	Rs.2800/- (11200X 1/4)
4.	Total Income	Rs.8400/-(11200-2800)
4	Multiplier	16
5	Annual Dependency	Rs.16,12,800/- (8400X12X16)
6	Loss of Estate	Rs.15000/-
7	Funeral Expenses	Rs.15,000/-
8	**Loss of Consortium** **Rs. 40,000/-x4**	**Rs.1,60,000/-**
	Total Compensation	**Rs.18,02,800/-**
10	**Amount Awarded by the Tribunal**	**Rs.20,53,000/-**
11	**Reduced amount**	**Rs.2,50,200/-** **(Rs.20,53,000 - Rs.18,02,800)**

23. 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***, respondent No.1 to 4-claimants are granted the interest

@ 9% per annum on the amount from the date of filing of claim petition till the date of its realization.

24. Vide order dated 17.05.2023, Coordinate Bench of this Court had directed to the learned Tribunal to disburse the amount as awarded by the learned Tribunal to the claimants subject to equivalent security furnished by them.

25. It is pertinent to mention here that Hon'ble Supreme Court in the case titled as ***Usha Devi v. National Insurance Company Ltd; Law Finder Doc ID: 1673911***, held that the sum which has already been made over to the claimants shall not be recovered from them.

26. The relevant portion of case titled as ***Usha Devi v. National Insurance Company Ltd*** is reproduced as under:-

> *"8. However, considering the facts and circumstances of the case, where 50% of the awarded sum has already been made over to the claimants, we do not deem it appropriate to direct refund of said sum.*
>
> *9. Therefore, while affirming the view taken by the High Court, we direct that 50% of the sum which has been made over to the claimants shall not be recovered from them and the Insurance Company will be entitled only to the refund of balance 50% sum which stands deposited with the Registry of the Tribunal along with any interest accrued thereon.*
>
> *10. The appeal is disposed of in aforesaid terms."*

27. As a sequel to above discussion, and relying on the judgments rendered by the Hon'ble Supreme Court, the amount of compensation already disbursed to the claimants/respondent Nos.1 to 4 is not liable to be recovered.

28. Accordingly, it is directed that the amount so disbursed shall not be recovered from the claimants/respondent Nos. 1 to 4 as per the law laid down by the Hon'ble Supreme Court in ***Usha Devi & Ors. Vs. The New India Insurance Company Limited & Ors. [2020 (1) CivilLJ 854]***.

29. Consequently, the present appeal is ***partly allowed*** and award dated 07.10.2016 is modified to the above extent.

30. The statutory amount of Rs.25000/- deposited by the appellant at the time of admission of the appeal, is ordered to be refunded to it.

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

(SUDEEPTI SHARMA)
JUDGE

17.04.2026
Gaurav Arora

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