



FAO-1142-2017 (O&M)

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

FAO-1142-2017 (O&M)

Magma HDI General Insurance Co. Ltd.

.....Appellant(s)

vs.

Kashmir Singh and others

.....Respondent(s)

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 3.

Mr.Sarabjit Singh and Ms.Gurvinder Kaur, Advocates
for respondent Nos. 4 and 5.

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. 11,34,600/- to the claimant/respondent No.1 to 3 along with interest @ 7.5% per annum as well as quantum of compensation being on higher side.

**FACTS NOT IN DISPUTE**

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 alongwith 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 nal 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 grievous 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 Bholi 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 3. 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-housewife as Rs.8000/- which is more than the minimum wages. He furthermore contends that the learned Tribunal erred in awarding 15% towards future prospects instead of 10% 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 3—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-housewife is taken on the lower side and deserves to be enhanced. He fairly concedes that no independent appeal has been preferred by the respondent-claimant for seeking such enhancement. Nonetheless, placing reliance on the judgment of this Court passed in *FAO-5934-2015 titled as ‘National Insurance Co. Ltd. Vs. Laltesh and others’, decided on 31.01.2026*, he contends that this Court, in exercise of its appellate jurisdiction, possesses ample power to enhance the quantum of compensation even in the absence of a cross-



appeal or cross-objections filed by the claimant. 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 neveling 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 Kashmir Singh, (claimant No.1), husband of deceased Smt. Bholi while stepping into witness box as CW-1, tendered into evidence her affidavit Ex.CW1/A, wherein he 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. Pl. During his cross-examination he deposed that he does not know about the accident. The factum of accident was disclosed to him by some body in his house and when he alongwith Baldev Singh reached the spot, dead body had already been taken. He has denied the suggestion that his wife had not met with an road accident. No suggestion was put to him that accident was not caused by respondent No.1 by a driving Tractor-Trolley bearing No.PB-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 taken 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 by the Hon'ble Apex Court that Accidents Tribunal must take special care 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 "**Raghubir Singh Versus Sarita Sharma and inquiry under the Motor Ors. 2002(3) Civil Court Cases 648**" it has been held by the Hon'ble Punjab & 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. 1 this Tribunal has come to the conclusion that deceased Smt. Bholi died in an accident caused by 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.1 Kashmir Singh, husband of Smt. Bholi, in his affidavit Ex.CW.1/A, has reiterated the above version, but during cross-examination he deposed that he had not brought any document regarding income of his wife. He has 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 claimants have not placed on record any documentary evidence regarding the income of the deceased Smt Bholi, therefore, in the absence of any documentary evidence, the income of the deceased, as stated by the claimants cannot be believed. So, considering Smt. Bholi as labourer and that she was also performing household chores and rendering services to her family. Her monthly income is assessed Rs.8000/-

*26 In "**Rajesh and anothers 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 be taken into consideration to determine the loss of dependency.*

28. *So, in view of the above rulings, this tribunal is inclined to hold to hold that as deceased as per the postmortem report was 53 years old at the time of her death as is evident from the copy of the post mortem report Ex.C1 and was earning Rs.8,000/-per month, so an addition of 15% of his income is to be added as future prospect. Thus, her monthly income would have become (Rs.8,000/-+1200/-) Rs.9200/-and annual income would become (Rs.9200/- X 12) 1,10,400/- Admittedly, claimant No. 1 is the husband, claimants No.2 and 3 are the children of the deceased Bholi. There is nothing on record to prove that they were not dependent upon the deceased Bholi. As per 'Smt. Sarla Verma and others Versus Delhi Transport Corporation and others, 2009(3) RCR (Civil) 77 where the number of dependents is 2 to 3 the deduction should be 1/3th. Hence, 1/3rd income of the deceased shall be deducted as per expenses which the deceased would have incurred towards herself, had she been alive. Thus, after deducting the 1/3rd income of the deceased the dependency of the claimants comes to Rs.73,600/- per annum. (Rs. 1,10,400/-minus Rs.36,800/-Rs.73,600/-).*

29. *Now, adverting to the multiplier. As the deceased was 53 years of age, at the time of her death, so, keeping in view the age of the deceased, the tribunal is of the opinion that multiplier of 11 be applied to work out the compensation. Thus, the amount of compensation would become Rs.8,09,600/- (Rs.73,600/-X 11Rs.8.09,600/-). In addition to the amount of compensation the claimants are entitled to Rs.25,000/- as funeral expenses, Rs.1,00,000/-wards 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. 11,34,600/-*



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 that since the respondent no.2 is owner of the offending vehicle Tractor Trolley No.PB-02-CG-0451 and respondent No.1 was driver of said vehicle, which was insured with respondent No.3, at the time of accident, therefore, respondents 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.1 was having a valid driving licence and Tractor Trolley No.PB-02-CG-0451 was being plied on valid documents and de said vehicle was insured with respondent No.3 at the time of leged accident, therefore, respondents No. Land 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 derespondent No.3 at the time of alleged accident but the said Tractor wan 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 is 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 34. 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 policy Ex R2 and at the time of accident, respondent No.1 the said vehicle.

36. RW.1 Pargat Singh, Clerk, SDM Office, Ajnala had ght the moord of the driving licence of respondent No.1 Kulwant sg and proved its photo copy Ex.R1 and deposed that as per the ring licence Kulwant



Singh was not authorised to drive the vehicle on road. The perusal of copy of said driving licence wait that same had been issued on 11.2.2004 and is valid up to 11.2.2014 and is meant to drive scooter, Car and Tractor. However, at the time of accident, the respondent No. 1 was driving the said vehicle road 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 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 Tractor 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. 1 was having a valid driving licence to drive 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 drive 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. Upon a careful appraisal of the impugned award and the evidence on record, this Court finds no infirmity in the conclusion drawn by the learned Tribunal with regard to the issue of rash and negligent driving.

14. The testimony of CW-1 Kashmir Singh, though not an eyewitness, establishes the factum of the accident and the consequential death of Smt. Bholi. His cross-examination does not discredit the substratum of the case of the claimants, particularly when no suggestion was put to him disputing the involvement of the offending vehicle bearing No. PB-02-CG-0451 or the negligence of respondent No.5.

15. More significantly, CW-2 Kulwant Singh, eyewitness, has consistently supported the version of the claimants and categorically deposed that the accident was caused by respondent No.5 while driving the Tractor-Trolley in a rash and negligent manner. His testimony remains unshaken in cross-examination.

16. The registration of FIR No.112 dated 13.11.2015 under Sections 279, 304-A, 337, 338 and 427 IPC, coupled with the postmortem report, duly corroborates the occurrence of the accident and the cause of death.

17. It is also noteworthy that respondent No.5, who was the best person to explain the manner in which the vehicle was being driven, chose not to step into the witness box. In such circumstances, the learned Tribunal has rightly drawn an adverse inference against him.

18. It is also well settled that proceedings before the Motor Accident Claims Tribunal are summary in nature and the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt.



19. Applying the aforesaid principles, and in the absence of any cogent rebuttal by the appellant-Insurance Company, this Court concurs with the finding of the learned Tribunal that the accident in question occurred due to rash and negligent driving of Tractor-Trolley bearing No. PB-02-CG-0451 by respondent No.5.

20. Accordingly, the finding on Issue No.1 is affirmed, and it is held that Smt. Bholi died as a result of injuries sustained in the motor vehicular accident dated 13.11.2015, caused solely due to the negligence of respondent No.5.

21. So far as the contention raised by learned counsel for the appellant-Insurance Company that the compensation awarded by the learned Tribunal is on the higher side, the same is dealt as under:-

SETTLED LAW ON COMPENSATION

22. 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 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.

23. 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.

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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.”

24. 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.

25. A perusal of the award further reveals that the deceased Bholi was aged around 53 years at the time of the accident and was stated to do household work and rendering services to the household. However, the learned Tribunal has



erred in assessing her monthly income at lower side by considering her as a labourer.

26. This Court in **FAO-1292-2006** titled as ***Jasbir Singh and another vs. Surjit Singh and others, decided on 08.11.2024*** while assessing the notional income of the housewife has held as under:-

“8. It is imperative to acknowledge the multifaceted role of a housewife as a homemaker. Her contributions extend beyond measurable economic parameters, encompassing household management, child care, emotional support, and the upkeep of familial stability. These services, though often unrecognized in monetary terms, are invaluable to the functioning and well-being of a household. In assessing compensation, the court must factor in this indispensable contribution, which would otherwise necessitate considerable expenditure if outsourced. In view of the above, it is just and reasonable to determine the monthly income of the deceased – Charanjit Kaur, housewife at Rs.9,000/- per month, therefore, the award requires interference by this Court.

27. In ***Jasbir Singh’s (supra)***, the notional income of the house wife was assessed as Rs.9000/- per month. However, in the present case, the accident occurred in the year 2010. Considering the continuous rise in inflation, the higher cost of living, and the judicial recognition of the expanded role of a housewife, it would be just and reasonable to revise the notional income. Furthermore, the contribution of a homemaker cannot be undervalued or restricted to simplistic economic parameters. Her services are integral to the stability and functioning of the family unit and would entail substantial financial expenditure if procured from the market.



28. In light of the above legal position and having due regard to the facts of the present case, this Court finds it appropriate to assess the notional income of the deceased at **Rs.12,000 per month**.

29. 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.

30. 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:

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 Ram](#)¹⁷ 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 Kaur](#)¹⁸, 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.”

31. 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.

32. So far as the contention raised by the appellant–Insurance Company that the learned Tribunal erred in adding 15% towards future prospects instead of 10% is concerned, the said submission deserves acceptance as per settled law.

33. 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.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.12000/-
2	Future prospects @ 10%	Rs.1200/- (10% of 12000)
3	Deduction towards personal expenditure 1/3rd	Rs.4400/- (13200X 1/3)
4.	Total Income	Rs.8800/-(13200-4400)
4	Multiplier	11
5	Annual Dependency	Rs.11,61,600/- (8800X12X11)
6	Loss of Estate	Rs.15000/-
7	Funeral Expenses	Rs.15,000/-
8	Loss of Consortium Spousal : Rs. 40,000/-x1 Filial : Rs. 40,000/-x2	Rs.1,20,000/-
	Total Compensation	Rs.13,11,600/-
10	Amount Awarded by the Tribunal	Rs.11,91,600/-
11	Enhanced amount	Rs.1,70,200/- (Rs.13,61,800 - Rs.11,91,600)



35. The aforesaid re-computation gives rise to a further issue, i.e. whether the award passed by the Tribunal can be enhanced in an appeal preferred by the insurance company, when the claimant has not filed any cross-objection or cross-appeal. It is pertinent to mention that this Court in **FAO-5934-2015 titled as 'National Insurance Co. Ltd. Vs. Laltesh and others', decided on 31.01.2026** has already dealt with the similar issue and held that the compensation can be enhanced in appeal filed by the Insurance Company even in the absence of cross-objections and cross-appeals filed by the claimants. The relevant extract of the same is reproduced as under:-

*“28. This question came up for consideration before three-Judge Bench of the **Hon’ble Supreme Court in Surekha & Ors. v. Santosh & Ors., (2021) 16 SCC 467.** The relevant portion of the said order reads as follows:*

*1. Leave granted. This appeal takes exception to the judgment and order dated 4-1-2019 [Shriram General Insurance Co. Ltd. v. Surekha, 2019 SCC OnLine Bom 12] passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No. 2564 of 2016, whereby **the High Court, even though agreed with the stand of the appellants that just compensation amount ought to be Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal.***

2. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hypertechnical approach and ensure that just



compensation is awarded to the affected person or the claimants.

3. As a result, we modify the order passed by the High Court to the effect that the compensation amount payable to the appellants is determined at Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), with interest thereon as awarded by the High Court.

4. The appeal is allowed in the above terms. Pending applications, if any, stand disposed of."

29. In view of the above, settled principles of law as held by Apex Court this Court can award just and reasonable compensation by enhancing the amount of compensation, even in the absence of a cross-objection or cross-appeal by the claimants.

30. This conclusion is further strengthened by the settled principle that a Court adjudicating claims under the Motor Vehicles Act is duty-bound to award just and fair compensation to victims of road accidents, unrestrained by strict rules of pleadings and evidence, as laid down by the Hon'ble Supreme Court in Nagappa v. Gurudayal Singh & Ors (2003)2SCC 274.

31. Furthermore, this Court in FAO-5834-2016 titled as The Oriental Insurance Company Limited Vs. Smt. Mathri Devi and others decided on 12.09.2025 has already dealt with similar issue and held as under:-

"This Court in FAO-195-2006, titled Mamata and others v. Happy and others, decided on 29.05.2024, while examining the scope of the appellate jurisdiction under Section 107 CPC read with Order XLI Rule 33 CPC, has held as follows:-

"11. RELEVANT PROVISIONS UNDER THE CODE OF CIVIL PROCEDURE, 1908



Section 107 :- Powers of Appellate Court.— (1) Subject to such conditions and limitations as may be prescribed, an Appellate Court shall have power—

- (a) to determine a case finally;*
- (b) to remand a case;*
- (c) to frame issues and refer them for trial;*
- (d) to take additional evidence or to require such evidence to be taken.*

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.

Order XLI Rule 33 of the Code of Civil Procedure, 1908:-

33. Power of Court of Appeal.—*The Appellate Court shall have power to pass any decree and make any order which ought to have been passed or made and to pass or make such further or other decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection and may, where there have been decrees in cross-suits or where two or more decrees are passed in one suit be exercised in respect of all or any of the decrees, although an appeal may not have been filed against such decrees:*

[Provided that the Appellate Court shall not make any order under section 35A in pursuance of any objection on which the Court from whose decree the appeal is preferred has omitted or refused to make such order.]

12 to 18 XXX XXX XXX

19. As per Section 107 of Code of Civil Procedure, 1908 which refers to the powers of the Appellate Court, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are



conferred and imposed by the Code on Courts of original jurisdiction in respect of suits instituted therein, and the Motor Vehicle Act 1988 since being a beneficial legislation, the evidence led by the parties cannot be ignored by the Appellate Authority.

20 to 25 XXX XXX XXX

CONCLUSION

26. *The Appellate Courts for the purpose of doing complete justice between the parties and completely adjudicating upon all the disputes, after appreciating the whole evidence on record, have power under Section 107 read with Order XLI Rule 33 of the Code of Civil Procedure, 1908 to pass any decree and make any order which ought to have been passed or made and to pass or make such further decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection.*

27. *Motor vehicle statute is a beneficial legislation. Generally the victims/claimants/legal-representatives are not aware of their right to compensation and it is Advocates who decide under which provision of the statute the claim petition is to be filed. Before deciding the claim petitions, after appreciating the evidence on record, it is the bounden duty of the Court to apprise the parties of their legal rights as to under which provision they can get the maximum of benefit/compensation. The Judges should apply their judicial mind after appreciating the evidence on record, gravity of offence, gravity of loss, conduct of parties and over all facts and circumstances of each case and after that decide the same. The Court should not go into the technicalities that*



under which provision of statute case is to be filed, specially in the motor accident cases. If at any stage after appreciating the evidence, since it is original jurisdiction of the Court and the case is at initial stage, normally a person of ordinary prudence can calculate the loss of near and dear one's/relationship, the Judge feels that case of the claimant falls under a particular section he should apprise the parties regarding the same. The Courts should not apply straight jacket formula in every case and are presumed actually to do the justice by applying their judicial mind to the facts and circumstances of each and every case. The beneficial intent of the legislation ought to be borne in mind and procedural and technical formalities cannot be invoked to defeat the purpose of the legislation.

28. *The Courts have to be very cautious and careful while accepting the prayer of the claimants/appellants to convert the claim petition filed under Section 163-A to Section 166 of the Motor Vehicles Act, 1988. Under Section 107 read with Order XLI Rule 33 of CPC the general rule is that an appeal is persistence of a suit and, therefore, an Appellate Court can do, while the appeal is pending, what the original Court could have done while the suit was pending. Thus, as per Section 107 Order XLI Rule 33 of CPC, an Appellate Court is empowered to re-appreciate the evidence. While hearing the appeal it is very important for a judge to apply his judicial mind. The Appellate Authority can re-appreciate the evidence before it. The grant of just and fair compensation is a statutory responsibility of the Court.*

29. *Over all conclusion of the above is that the Appellate Court has power to convert the petition under Section 163-A to Section 166 of the Motor Vehicles Act, 1988 to give justice to the claimants.”*



13. *It is manifest from the above discussion that although respondents/claimants No.1 and 2 have not preferred any appeal seeking enhancement of compensation, and the present appeal has been instituted solely by the appellant-Insurance Company challenging the quantum of compensation, the settled principle of law is that an appeal is a continuation of the original proceedings. Consequently, the appellate court is vested with ample jurisdiction to mould relief and to award just and proper compensation, even in the absence of a cross-appeal by the claimants.*

14. *In exercise of such appellate powers, this Court cannot overlook the beneficial nature of the Motor Vehicles Act, 1988, which has been consistently interpreted as a piece of social welfare legislation intended to provide just compensation to victims of motor accidents and their dependents. The statutory duty of the Court is to ensure that the claimants are not deprived of legitimate entitlement merely due to procedural technicalities such as the absence of a cross-appeal.*

15. *Accordingly, in the interest of justice, and to secure the ends of a fair adjudication, this Court deems it appropriate to award a further sum of ₹18,150/- under the head “Loss of Estate” in favour of respondents/claimants No.1 and 2.*

16. *It is well settled by the Hon’ble Supreme Court in **K. Ramya v. National Insurance Co. Ltd., 2022 (4) RCR (Civil) 435** that the Motor Accident Claims Tribunals are vested with latitude to determine “just compensation” and are not shackled by rigid arithmetical rules or strict standards of evidence as in civil suits for damages. Interference by the Appellate Court is warranted only when the award of compensation is manifestly excessive, arbitrary, or contrary to settled principles.”*

36. 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 3-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.

37. The appellant-Insurance Company is directed to deposit the enhanced amount of compensation alongwith interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the enhanced amount of compensation alongwith interest in the account of the claimant/respondents No.1 to 3 as per award dated 07.10.2016. The claimants/respondent No.1 to 3 is directed to furnish his bank account details to the Tribunal.

38. Consequently, the present appeal, being devoid of merits, stands **dismissed**.

39. 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