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

FAO-3430-2017 (O&M)

RELIANCE GENERAL INSURANCE CO. LTD.

......Appellant

vs.

AMANDEEP KAUR AND ORS.

......Respondents

Reserved on:- 05.05.2026
Pronounced on:- 13.05.2026
Uploaded on:- 19.05.2026

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. Vipul Sharma, Advocate
Mr. Paras M. Goyal, Advocate
Mr. Vijay Veer Singh, Advocate
for the appellant-Insurance Company.

Mr. Gaurav Aggarwal, Advocate
for respondents No.1 to 3.

None for respondent No.4.

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SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 09.03.2017 passed by the learned Motor Accident Claims Tribunal, Fatehabad (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein the appellant-Insurance company was fastened with the liability to pay the compensation of Rs.84,25,000/- to the

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claimants along with interest @7.5% per annum as well as on the ground of quantum of compensation to be on higher side.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 23.10.2014 Jagsir Singh (since deceased) had started from Jakhal Mandi for going to Rajasthan in Bolero Jeep bearing registration No.HR-71A-5646 where the work of over-bridge was going on of Zanders Engineers Ltd and the said vehicle, belongs to the company and which was being driven by Harvinder Singh at a very high speed and in a rash and negligent manner and when the jeep reached 7-8 acres towards village Diwana from Shakarpura T-point then on account of its fast speed, the driver lost control over the vehicle, as a result of which the Bolero Jeep struck against the side kikkar tree and both Harvinder Singh as well as Jagsir Singh sustained serious injuries and died at the spot. Later on the police of Police Station Jakhal recorded a rapat No.8 dated23.10.2014 at the instance of father of Harvinder Singh, driver of the said Bolero and hushed up the case and did not record the FIR against the driver in collusion with the relatives of Darshan Singh, who was not even an eye witness. However, the fact remains that the aforesaid accident took place due to rash and negligent driving of Bolero Jeep No.HR-71A-5646, which was owned by respondent No.1 and insured with respondent No.2 and therefore, both the respondents are jointly and severally liable to pay the compensation. The petitioners further pleaded that post mortem examination was conducted at General Hospital, Tohana and a sum of ₹90,000/- was spent on transportation of dead body and on last rites ceremony. It was further pleaded that prior to his death, Jagsir Singh was 35 years old and was hale and hearty person and the deceased after completing

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his studies started the contractor-ship in private sector whereafter he was appointed as Site Incharge of Chittorgarh site by SECL Industries Ltd. (formerly Singla Engineers and Contractors Pvt. Ltd.) and he had earned a name in the field of construction of big projects and after completing the project in Chittorgarh, the deceased had recently joined as Project Coordinator with a construction company namely Zanders Engineers Ltd. having its corporate office at Chandigarh on 28.12.2013 whereby he was being given a salary of ₹45,000/- per month and the deceased was having very high prospectus and as such his income definitely would have multiplied in future. Besides this, the deceased was also having 10 acres of land at village Mohanpura and was supervising the cultivation of the lands and his services towards management of the agricultural pursuits and land can be assessed at ₹20,000/- per month. It was further pleaded that petitioner No.1 is the widow, petitioner No.2 is the minor son and petitioner No.3 is mother of deceased Jagsir Singh and all the petitioners were totally dependent upon the earning of the deceased and due to death of Jagsir Singh, the petitioners have been deprived of love and affection of Jagsir Singh and lives of the petitioners have been completely ruined.

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 accident dated 23.10.2014 resulting in death of Jagsir Singh occurred on account of rash and negligent driving of vehicle No.HR-71A-5646 by respondent No.1? OPP.*

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2. Whether the claimants are entitled to compensation as prayed, if so, to what extent and from whom?OPP.

3. Whether the driver of offending vehicle was not holding a valid and effective driving licence on the date of accident and the vehicle was being driven in violation of the terms and conditions of the insurance policy? OPR-2

4. 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.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

6. Learned counsel for the appellant-Insurance Company contends as under:-

i. that the learned Tribunal has erred in holding that accident occurred due to rash and negligent driving of offending vehicle.

ii. that in the DDR it was categorically written that no one was at the fault.

iii. that no criminal proceedings were initiated and no eye witness was examined to prove rash and negligence on the part of driver of offending vehicle.

iv. that income of Rs.45,000/- assessed by the learned Tribunal is wholly without any basis as no account statement was produced on record to prove the income as assessed by learned Tribunal.

v. that no income tax was deducted from salary and learned Tribunal has erred in awarding 50% towards future prospects instead of 40%.

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vi. that 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." Therefore, he prays that the present appeal be allowed.

7. Per contra, learned counsel for claimants/respondents No.1 to 3 contends that learned Tribunal has rightly held that accident occurred due to sole rash and negligent driving of offending vehicle. He furthermore contends that compensation awarded by the learned Tribunal is on the lower side and claimants respondent Nos.1 to 3 have filed separate appeal bearing ***No.FAO-5797-2017*** titled as "***Mandeep Kaur and Ors. Vs. Raj Kumar and Ors.***" seeking enhancement of compensation. He therefore, prays that the present appeal be dismissed.

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

9. A careful consideration of the evidence available on record shows that the learned Tribunal has rightly returned the finding that the accident in question occurred on account of rash and negligent driving of vehicle No. HR-71A-5646 by its driver Harminder Singh, resulting in the

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death of Jagsir Singh. The said finding does not suffer from any illegality or perversity warranting interference by this Court.

10. The learned Tribunal has duly appreciated both the oral as well as documentary evidence produced by the claimants. Though PW1 was not an eye witness to the occurrence, the claimants examined PW2 ASI Kuldeep Singh, who proved DDR No.8 dated 23.10.2014 along with the proceedings conducted under Section 174 Cr.P.C. and the postmortem reports. The said witness categorically deposed that the vehicle in question had met with an accident after the driver lost control over it and that no other vehicle was involved in the occurrence. The evidence further establishes that the vehicle dashed against a Kikar tree, resulting in the death of both the driver Harminder Singh and occupant Jagsir Singh at the spot.

11. Merely because the DDR was recorded on the statement of Darshan Singh, father of the deceased driver, stating that no one was at fault, the same cannot be treated as conclusive so as to negate negligence. It is well settled that findings regarding negligence in proceedings under the Motor Vehicles Act are to be recorded on the touchstone of preponderance of probabilities and overall appreciation of evidence on record and not solely on the basis of the contents of the FIR or DDR. The learned Tribunal, therefore, rightly examined the attending circumstances of the occurrence and concluded that the driver had lost control over the vehicle while driving in a rash and negligent manner.

12. In the present case, the undisputed fact that the offending vehicle went out of control and struck against a tree clearly establishes negligence on the part of its driver. No material has been brought on record to indicate any

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mechanical defect, unavoidable circumstance or involvement of any third/other vehicle which could absolve the driver of negligence. The manner in which the accident occurred itself sufficiently establishes lack of due care and control while driving the vehicle.

13. Consequently, the finding recorded by the learned Tribunal on Issue No.1 is based upon proper appreciation of oral as well as documentary evidence and does not call for any interference by this Court. The same is accordingly affirmed.

14. Adverting now to the contention of appellant insurance company that compensation awarded is on the higher side same is dealt with as under after taking into account settled law on compensation.

SETTLED LAW ON COMPENSATION

15. Hon'ble Supreme Court in the case of ***Sarla Verma Vs. Delhi Transport Corporation and Another*** **[(2009) 6 Supreme Court Cases 121]**, laid down the law on assessment of compensation and the relevant paras of the same are as under:-

> "***30***. *Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.*

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__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 Thomas[3], 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

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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.

16. 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 Rajesh*[2]*. 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*

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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

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rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

* * * * *

59.3. *While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*

59.4. *In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.*

59.5. *For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma*[4] *which we have reproduced hereinbefore.*

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59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma[1] 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."

17. 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 Sethi[2] dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family.

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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*

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parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

***23**. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*

***24**. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi[2]. 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.*

18. A perusal of the award reveals that deceased was 32 years of age at the time of accident, which is duly proved from post-mortem report Ex.P-24. However, learned Tribunal has erred in assessing the age of the

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deceased as 35 years 02 months by placing in reliance on Aadhar Card. It is trite law that Aadhar Card is not a valid proof of age as held by Hon'ble The Supreme Court in ***"Saroj and Ors. v. Iffco-Tokio General Insurance Co. Ors, 2024 INSC 816"*** The relevant extract of the same is reproduced as under:-

> *"9.4 The second aspect is the age of the deceased. The High Court, relied on the age as mentioned in the Aadhar Card of the deceased, i.e., 1st January, 1969. However, as submitted by the claimant-appellants, the School Leaving Certificate records the date of birth of the deceased to be 7th October, 1970. This will affect the multiplier to be applied. Let us now consider this question.*
>
> *It has to be noted at the outset that a School Leaving Certificate has been accorded statutory recognition. Sub-section (2) of section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads thus:*
>
> > *"(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining -*
> >
> > *(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;*
> >
> > *(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;*
> >
> > *(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board..."*

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(Emphasis Supplied)

*Whether the Aadhar Card is sufficient proof of a person's age, has come up for consideration before some High Courts, albeit in the context of different statutes. We shall refer to a few instances but, prior to doing so, it is also important to take note of the purpose behind introduction of the Aadhar Scheme. In the Constitution Bench judgment in **K.S. Puttaswamy v. Union of India (5-J.) (2019) 1 SCC 1** Dr. A.K. Sikri, J. wrote as hereinbelow extracted, encapsulating the object and purpose of Aadhar:-*

> *"24. Before adverting to the discussion on various issues that have been raised in these petitions, it would be apposite to first understand the structure of the Aadhaar Act and how it operates, having regard to various provisions contained therein. UIDAI was established in the year 2009 by an administrative order i.e. by resolution of the Govt. of India, Planning Commission, vide notification dated January 28, 2009. The object of the establishment of the said Authority was primarily to lay down policies to implement the Unique Identification Scheme (for short the `UIS') of the Government, by which residents of India were to be provided unique identity number. The aim was to serve this as proof of identity, which is unique in nature, as each individual will have only one identity with no chance of duplication. Another objective was that this number could be used for identification of beneficiaries for transfer of benefits, subsidies, services and other purposes. This was the primary reason, viz. to ensure correct identification of targeted beneficiaries for delivery of various subsidies, benefits, services, grants, wages and other*

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social benefits schemes which are funded from the Consolidated Fund of India ...

Summing up the Scheme:

62. The whole architecture of Aadhaar is devised to give unique identity to the citizens of this country. No doubt, a person can have various documents on the basis of which that individual can establish her identity. It may be in the form of a passport, Permanent Account Number (PAN) card, ration card and so on. For the purpose of enrolment itself number of documents are prescribed which an individual can produce on the basis of which Aadhaar card can be issued. Thus, such documents, in a way, are also proof of identity. However, there is a fundamental difference between the Aadhaar card as a means of identity and other documents through which identity can be established. Enrolment for Aadhaar card also requires giving of demographic information as well as biometric information which is in the form of iris and fingerprints. This process eliminates any chance of duplication. ..... It is for this reason the Aadhaar card is known as Unique Identification (UID). Such an identity is unparalleled."

(Emphasis supplied)"

19. Furthermore it is trite law that in absence of material indicating to the contrary, there is no inhibition to accept the age of deceased as per post mortem report. Reliance at this stage can be made on judgment of Hon'ble the Supreme Court in ***Sunita Vs. Vinod Singh 2025 INSC 366.***

20. In view of the above, referred to judgment, the age of deceased is rightly ascertained as **32 years** at the time of accident as per PMR.

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Consequently learned Tribunal has erred in applying multiplier of 15 instead of 16 as per settled law.

21. Further perusal of the award reveals that the deceased was stated to be working as a Project Coordinator in Zanders Engineers Ltd. and his monthly income was stated to be 45,000/- per month. A perusal of the award further reveals that PW-3/Rohit Kumar, Accountant Zanders Engineers Ltd. was examined and he proved the salary slips and salary sheet of the deceased for the months from January 2014 to October 2014. A further perusal of the award reveals that income tax returns for the assessment years 2015-16, 2014-15 and 2013-14 as Ex.P-25 to Ex.P-27 were placed on record before the learned Tribunal. It is transpired that learned Tribunal after taking into account both oral as well as documentary evidence including income tax returns has rightly assessed the income of deceased as Rs.45,000/- and the same is hereby affirmed.

22. So far as the contention raised by learned counsel for the appellant–Insurance Company that the learned Tribunal 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.

23. 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

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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*

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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 <u>Pranay Sethi</u> (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 <u>Pranay Sethi</u> (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*

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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

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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

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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:

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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

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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.."

24. 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. A further perusal of the award reveals that no compensation is awarded under the heads of loss of estate and compensation awarded under the head of funeral expenses is on higher side.

25. Consequently, the compensation is liable to be recalculated as under:-

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Sr. No.	*Heads*	*Compensation Awarded*
1	Monthly Income	Rs.45,000/-
2	Future prospects @ 40%	Rs.18,000/- (40% of 45000)
3	Deduction towards personal expenditure 1/3rd	Rs.21,000/- (63000 X 1/3)
4	Total Income	Rs.42,000/-(63000-21000)
5	Multiplier	16
6	Annual Dependency	Rs.80,64,000/- (42000 X 12 X 16)
7	Loss of Estate	Rs.15000/-
8	Funeral Expenses	Rs.15,000/-
9	**Loss of Consortium** **Parental : Rs. 40,000/-x 1** **Spousal : Rs. 40,000/-x 1** **Filial : Rs. 40,000/-x 1**	**Rs.1,20,000/-**
10	**Total Compensation**	**Rs.82,14,000/-**
11	**Amount Awarded by the Tribunal**	**Rs.84,25,000/-**
12	**Reduced amount**	**Rs.2,11,000/-** **(Rs. 84,25,000 - Rs.82,14,000)**

26. Vide order dated 23.05.2017, Coordinate Bench of this Court had directed the learned Tribunal to disburse 50% of amount as awarded by the learned Tribunal to the claimants subject to equivalent security furnished by them.

27. 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***

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Doc ID: 1673911, held that the sum which has already been made over to the claimants shall not be recovered from them.

28. 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."*

29. 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 3 is not liable to be recovered.

30. Accordingly, it is directed that the amount so disbursed shall not be recovered from the claimants/respondent Nos. 1 to3 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]***.

31. Consequently, the present appeal is ***partly allowed*** and award dated 09.03.2017 is modified to the above extent.

32. 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.

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

13.05.2026 **(SUDEEPTI SHARMA)**
Ayub/Sahil **JUDGE**

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

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