



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-8244-2017 (O&M)

THE NEW INDIA ASSURANCE COMPANY LTD

..Appellant

Versus

BIMLA AND OTHERS

..Respondents

Reserved on: 13.02.2026

Pronounced on: 12.03.2026

Uploaded on: 18.03.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. K.P.S. Virk, Advocate for the appellant.

Mr. S.K. Yadav, Advocate

Mr. C.S. Saini, Advocate

for respondent No.1 and 2.

Mr. Ram Karan Sharma, DAG, Haryana.

SUDEEPTI SHARMA, J. (Oral)

1. The present appeal has been filed by the appellant-Insurance company against the award dated 18.08.2017 passed in a claim petition filed under Section 166 and 140 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal'), wherein the appellant-Insurance company was fastened with the liability to pay the compensation of Rs.40,35,898/- to the claimants along with interest @ 9 % per annum from the date of filing of claim petition till recovery.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 17.11.2015 at about 1:00 p.m., Dinesh Kumar, since deceased, was heading from Village Payaga to



Mahendergarh on the motorcycle No. HR34G/7433 being ridden by him on extreme left side of road at moderate speed as per traffic rules. Petitioner Sher Singh was travelling as pillion rider on the said motorcycle. After a short riding towards Mahendergarh - Narnaul road then a Haryana Roadways Bus, Depot Charkhi Dadri bearing Temporary no. HR-99VC(T)/7936 now bearing Regd. No. HR-61C/0566 (in short offending vehicle), being driven by respondent no. 1 at a high speed in rash and negligent and in zig-zag manner, flouting all traffic rules came from Mahendergarh side and hit against the motorcycle in their lane. Consequently, they alongwith the motorcycle fell down on the road causing them multiple and grievous injuries besides damages to the motorcycle. The rider Dinesh Kumar succumbed to the injuries on the spot whereas pillion rider Sher Singh (Petitioner in II petition) was seriously injured and one bystander namely Rakesh (Petitioner in III petition) also received injuries in the accident. After the accident, the respondent no.1 fled from the spot leaving behind the offending bus. The aforesaid accident had taken place due to sole rash and negligent driving of offending vehicle by respondent no. 1. Thereafter, the dead body of Dinesh Kumar was shifted to mortuary and petitioners/injured Sher Singh and Rakesh were shifted in General Hospital, Mohindergarh..

3. Upon notice of the claim petition, respondents therein appeared and contested the claim petition by filing separate written statement denying the factum of accident/compensation.

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

“1. Whether petitioners Rakesh and Sher Singh received injuries while Dinesh Kumar died in a motor vehicular



accident which took place on 17.11.2015 at about 1:00 PM in the area of village Payaga under P.S. Mohindergarh due to rash and negligent driving of Bus no. HR-61-C/0566 by respondent no.1? OPP

2. If issue no. 1 is proved, whether the petitioner is entitled to get compensation, if so to what amount and from whom? OPP

3. Whether the vehicle in question was being driven by respondent no. 1 in violation of terms and conditions of insurance policy? OPR3

4. Relief.”

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the liability to pay compensation was fastened upon the appellant-Insurance Company. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant–Insurance Company contends that the driver-respondent No. 3 (arrayed as respondent No. 1 before the Tribunal), was not holding a valid and effective driving licence to drive the bus at the time of the accident. It is submitted that the driving licence of the said driver did not bear the requisite endorsement for driving a Public Service Vehicle (PSV). Consequently, the offending bus was allegedly being plied in violation of the terms and conditions of the insurance policy. On this premise, it is argued that the learned Tribunal has erroneously fastened the liability upon the Insurance Company. He further contends that compensation awarded by the learned Tribunal is on the higher side. He



further contends that learned Tribunal has erred in not deducting income tax and HRA from income of the deceased. He further contends that learned Tribunal has erred in awarding 30% towards future prospects instead of 15%. Moreover, he contends that learned Tribunal has erred in awarding compensation under the heads of loss of love and affection and loss of consortium, which is contrary to the settled proposition of law, therefore he prays that the present appeal be allowed and the award passed by the learned Tribunal be set aside and the present appeal be allowed.

8. Learned counsel for respondents/claimants contends that the learned Tribunal has rightly passed the award. However, they contend that compensation awarded by the learned Tribunal is on the lower side, therefore, they pray for dismissal of the present appeal.

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

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

“19. Dinesh Kumar died in this accident and petitioners Bimla Devi and Anju Devi claimed compensation on account of his death being his widow and daughter respectively. At the time of assessing compensation, the Tribunal has to see income and the age of deceased. It has been pleaded that Dinesh Kumar was 54 years of age at the time of his death and he was drawing ₹ 55,000/- per month salary from Forest Department of Govt. of Haryana. In this regard, the evidence of PW-7 Ravinder Pal Yadav, Assistant, DFO, Mahendergarh is relevant. He proved that deceased Dinesh Kumar had worked as forester in his department and getting ₹ 45052/- salary per month at the time of his death. He proved the Service Certificate Ex. PW7/A and Salary Certificate Ex. PW7/B



pertaining to deceased Dinesh Kumar. In his crossexamination, this witness testified that date of birth of Dinesh Kumar in their record was 02.03.1961 and was to be retired at the completion of his age 58 years. The widow of the deceased is receiving ₹ 42,238/- per month from the department in lieu of salary of deceased likely to get until retirement age of the deceased. He further admitted that 29,822/- has ₹ been received after deduction by the widow in the month of October, 2015. Thus, it stands proved that petitioner Bimla Devi being widow of deceased Dinesh Kumar is receiving an equivalent amount from the Govt. department in lieu of salary of the deceased. Therefore, the amount which the widow would get has to be deducted in view of the latest judgment of Reliance General Insurance Company vs. Shashi Sharma 2016 (4) RCR (Civil) 569.

20. The deceased's gross salary was 45052/- which can be ₹ rounded off to ₹ 45000/- and addition of 30% has to be made towards future prospects as the deceased was in a permanent job and his GPF was being deducted and he was receiving HRA and DA. Thus, the income would come to ₹ 58,500/- per month. The deceased was married and died leaving the petitioners, who are widow and daughter respectively. The petitioners are two in number, hence 1/3rd of the earning of the deceased is to be deducted towards personal expenses and remaining 2/3rd share shall be considered as loss of dependency to the petitioners. So, after deducting 1/3rd as his personal expenses, his contribution towards his family comes to ₹ 39,000/- per month. The annual contribution comes to ₹ 4,68,000/-The date of birth of Dinesh Kumar in matriculation Certificate Ex. P22 and Ex. PW7/A was 02.03.1961 and the accident occurred on 17.11.2015, therefore, the deceased was 54 years of age at the time of



his death. So, just and reasonable multiplier in this case is '11' and amount of compensation comes to be ₹ 4,68,000 x 11 = ₹ 51,48,000/-. The petitioner No.1 Bimla Devi would also be entitled to additional sum of 1,00,000/- for loss of consortium & estate. Both petitioners would ₹ further be entitled to 1,00,000/- for love and affection besides 14,000/- ₹ ₹ towards performance of last rites as so ruled by Hon'ble Supreme Court of India in case titled as Rajesh and others vs. Rajbir Singh and others 2013(3) RCR (Civil) 16. In this manner, petitioners would be entitled to total compensation of (₹ 51,48,000 + 1,00,000 + 1,00,000 + 14,000) = ₹ 53,62,000/-. The widow will get (45000 x 12 x 4) = ₹ ₹ 21,60,000/- as salary for 4 years under 2006 Rules. Therefore, net amount of compensation payable would be 53,62,000 – 21,60,000 = 32,02,000/-. ₹ So, the petitioners are entitled to ₹ 32,02,000/- as compensation on account of the death of Dinesh Kumar.

29. As the offending vehicle was being driven by respondent no.1 therefore, primary liability to compensate the petitioners is that of respondent no. 1. As the offending vehicle was also owned by respondents no. 2 & 3 so, they becomes vicariously liable to compensate the petitioners. It is an admitted position on record in view of Ex. R5 that the offending vehicle was insured with respondent no. 4. Therefore, respondent no. 4 becomes contractually liable to compensate the petitioners for the above mentioned amount. The respondent no.1 was having valid driving licence Ex. R2 at the time of accident which was valid upto 09.06.2017 whereas accident occurred on 17.11.2015. valid permit of offending bus is also available on record as Ex. RW1/D. No evidence led to prove violation of terms of insurance policy. Thus, Issue No. 2 & 3 is accordingly decided in favour of the petitioners and against the respondents.”



11. A perusal of the award reveals that the learned Tribunal, after appreciating the material available on record, concluded that the driver of the offending vehicle was holding a valid and effective driving licence at the time of the accident. The driving licence (Ex. R2) was valid up to 09.06.2017, whereas the accident occurred on 17.11.2015. The Tribunal also noticed that the valid permit of the offending bus was placed on record as Ex. RW1/D.

12. In view of the said evidence, the learned Tribunal rightly held that there was no violation of the terms and conditions of the insurance policy. No cogent evidence was led by the Insurance Company to establish that the offending vehicle was being driven in contravention of the policy conditions or that the driver was not duly authorized to drive the vehicle in question.

13. It is well settled that the burden to prove breach or violation of the terms and conditions of the insurance policy lies upon the Insurance Company. Such burden must be discharged by leading convincing and reliable evidence. In the present case, the appellant–Insurance Company has failed to discharge the said burden. Consequently, the finding recorded by the learned Tribunal fastening liability upon the Insurance Company cannot be faulted.

14. Accordingly, this Court finds no illegality or perversity in the findings returned by the learned Tribunal on this aspect, and the same deserve to be upheld.

15. Adverting now to the contention of learned counsel for the appellant-Insurance Company that deduction ought to have been made from



salary of the deceased on the account of payment received for HRA is concerned, the same is bereft of merit. The Hon'ble Supreme Court in **Meenakshi Vs. Oriental Insurance Company, 2024 INSC 573** has categorically held that allowances under heads of transport, HRS, PF loans and not to be deducted while assessing the dependency factor.

16. 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.

17. 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 Kaur¹⁸, a three-Judge Bench of this Court harmonised the principles laid down in Pranay Sethi (supra)



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

(2021) 11 SC 780

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

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

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



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

18. 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.

19. A perusal of the award further reveals that learned Tribunal has erred in awarding 30% towards future prospects instead of 15%. Consequently, the compensation is liable to be recalculated as under:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.45,052/-
2	Future prospects @ 15%	Rs.6,758/- (15% of 45052)
3	Deduction towards personal expenditure 1/3rd	Rs.17,270/- (51810 X 1/3)
4	Total Income	Rs.34,540/- (51810-17,270)
5	Multiplier	11
6	Annual Dependency	Rs.45,59,280/- (34,540 X 12 X 11)
7	Loss of Estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000 /-
9	Loss of Consortium Spousal : 1 x 40,000 Filial : 1 x 40,000	Rs.80,000/-



10	Total	Rs.46,69,280/-
11	Deduction Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006	Rs.21,60,000/-
12	Total compensation	Rs.25,09,280/- (46,69,280-21,60,000)

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

21. Vide order dated 16.12.2017, Coordinate Bench of this Court had stayed the recovery of amount beyond Rs.25,00,000/-. Consequently, the appellant-Insurance Company is directed to deposit the remaining amount along with interest @ 9% per annum with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the same to the respondents-claimants in their bank accounts. The respondents-claimants are directed to furnish their bank account details to the Tribunal.

22. In view of the above, the present appeal is partly allowed to the above extent.

23. Pending miscellaneous applications, if any, are also disposed of.

12.03.2026

(SUDEEPTI SHARMA)
JUDGE

Ayub/Saahil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No