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

**FAO-665-2024 (O&M)
and Cross objection-27-2026**

Iffco Tokio General Insurance Co. Ltd. ......Appellant

vs.

Gurleen Kaur & ors. ......Respondents

Date of Reserve of FAO: 10.03.2026
Date of Reserve of Cross Obj: 24.02.2026
Pronounced on: 09.04.2026
Uploaded on:- 10.04.2026

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. Sarthak Mehta, Ms. Rajni Godara and
Mr. P.H.S. Pannu, Advocates
for the appellant.

Ms. Garima Modi, Advocate
for respondent Nos. 1 to 3.

****

SUDEEPTI SHARMA J.

FAO-665-2024 (O&M)

1. The present appeal has been preferred against the award dated 28.11.2023 passed by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 on the ground that the liability to pay compensation to the tune of Rs. 38,43,000/- has been wrongly fixed upon the appellant-Insurance Company.

XOBJC-27-2026

2. The present cross-objection has been preferred by cross-objector/claimants against the 28.11.2023 passed by the learned Motor Accident Claims Tribunal, Patiala in the claim petition filed under Section 166 of

the Motor Vehicles Act, 1988, for enhancement of compensation, granted to the claimants to the tune of Rs.38,43,000/- along with interest @ 7.5% per annum on account of death of Gagandeep Singh who died in road accident, which occurred on 12.04.2019.

3. Since the appeal filed by the Insurance Company and the cross-objections filed by the cross-objectors/legal heirs of the claimant are arising out of the same award dated 28.11.2023 passed by the learned Tribunal, therefore, **FAO-665-2024** and **XOBJC-27-2026** are decided vide this common judgment.

BRIEF FACTS OF THE CASE

4. Brief facts of the case are that on 12.04.2019, Gurwinder Singh son of Bhinder Singh, resident of village Kallar Majri, Tehsil Nabha, District Patiala had gone to Mohali in his Swift car bearing registration no. PB-11AP-0021 for his work and after finishing his work in the evening, he went to Sector 78, Mohali to meet Gagandeep Singh (since deceased) where he was getting his new shop constructed for running the business. At about 10.30 pm, they both proceeded towards Patiala in their respective cars. Gagandeep Singh was driving car bearing registration no. CH-01AU-4177 and Gurwinder Singh was driving his Swift car bearing registration no. PB-11AP-0021. Gagandeep Singh was driving his Bolero car on his left side at normal speed ahead of Gurwinder Singh. At about 12.00 am, Bolero car of Gagandeep Singh struck against tractor trolley bearing registration no. HR-04G-6038 (hereinafter referred as offending vehicle, for convenience), which was parked on the road without any indication, as a result of which, Gagandeep Singh received multiple grievous injuries. He was taken to Rajindra Hospital, Patiala but due to his serious condition, he was taken to Amar Hospital, Patiala, where he died. FIR no. 59 dated 12.04.2019, under Sections 283, 304-A & 427 IPC regarding this accident was registered at Police Station Sadar, Patiala

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

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

> *"1. Whether Gagandeep Singh died in the motor vehicular accident occurring due to rash and negligent driving of vehicle no. HR-04G-6038 by respondent no.1? OPP*
>
> *2. Whether the claimants are entitled to compensation, if so to what extent and from whom? OPP*
>
> *3. Whether respondent no.1 was not holding a legal and valid driving licence at the time of the accident? If so, its effect? OPR-2*
>
> *4. Whether there is breach of any condition of the insurance policy by respondent no.1? OPR-2*
>
> *5. Relief.*

7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondent Nos. 1 to 3 to the tune of Rs.38,43,000/-. However, the appellant-Insurance Company was held liable to pay the compensation. Hence, the present appeal.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES

8. Learned counsel for the appellant–insurance company contends that the FIR was initially registered against an unknown vehicle and an unidentified person. It is argued that the alleged offending vehicle has subsequently been falsely implicated in the present case. On these grounds, it is prayed that the present appeal be allowed.

9. Per contra, learned counsel for the respondent Nos. 1 to 3/cross-objectors contends that the learned Tribunal has rightly made the appellant-

Insurance Company liable to pay the compensation to the claimants. He further contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present cross-objection be allowed and appeal filed by the appellant-Insurance Company be dismissed and amount of compensation be enhanced as per latest law.

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

11. Before proceeding further, it is apposite to reproduce the relevant portion of the award, which reads as under:-

> *"Issue no.1*
> *10. Onus to prove this issue was upon the claimants. As per version of the claimants, Gagandeep Singh died in a motor vehicular accident which took place on 12.04.2019 on account of negligent act of respondent no.1 by parking the offending vehicle bearing registration no. HR-04G-6038 on the road, without any indicators.*
> *11. To so establish the fact and manner of accident, claimants examined Gurwinder Singh, an eye witness to the accident as CW2 and in his sworn testimony in the form of affidavit Ex.CW2/A, he has deposed that on 12.04.2019 he had gone to Mohali in his Swift car bearing registration no. PB-11AP-0021 for his work and after finishing his work in the evening, he went to Sector 78, Mohali to meet Gagandeep Singh (deceased) where he was getting his new shop constructed for running the business. At about 10.30 pm, they both proceeded towards Patiala in their respective cars. Gagandeep Singh was driving car bearing registration no. CH-01AU-4177 and he was driving his Swift car bearing registration no. PB-11AP-0021. Gagandeep Singh was driving his Bolero car on his left side at normal speed ahead of him. At about 12.00 am, Bolero car of Gagandeep Singh struck against offending vehicle, which was parked on the road without any indicators, as a result of which Gagandeep Singh received multiple grievous injuries. He was taken to Rajindra*

Hospital, Patiala but due to his serious condition, he was later taken to Amar Hospital, Patiala, where he died. The matter was reported to the police and on his statement, FIR no. 59 dated 12.04.2019, under Sections 283, 304-A & 427 IPC regarding this accident was registered at Police Station Sadar, Patiala, copy of which is Ex.C27. He further deposed that after theaccident, respondent no.1 fled away from the spot by taking the advantage of darkness. He further deposed that the accident took place due to rash and negligent act of respondent no.1, who parked the offending vehicle on the road without any indicators.

12. On the contrary, learned counsel for respondent no.1 has argued that no accident, as alleged has taken place with the offending vehicle and a false FIR has been got registered by the claimants in connivance with the police. He further argued that the claimants have filed the present claim petition by falsely involving the offending vehicle in the alleged accident just to get compensation.

13. The learned counsel for respondent no.2-insurance company has argued that the FIR was lodged against an unknown vehicle and unknown person and the claimants have filed the present claim petition in collusion with respondent no.1 just to get claim under Motor Vehicles Act. To lend force to his contention, learned counsel for the respondent no.2 has drawn the attention of this Tribunal towards FIR (Ex.C26). He further argued that CW2 Gurwinder Singh has stated in his cross-examination that police traced the offending vehicle and its RC number and told it to him. He also stated that the name of driver of offending tractor was also disclosed to him by the police. He argued that from the testimony of this witness, it stands proved that offending vehicle has been falsely involved in the alleged accident and hence the claim petition is liable to be dismissed.

14. On the other hand, the learned counsel for the claimants has argued that though the FIR was lodged against unknown person and unknown vehicle but later on, it was revealed that the accident took place due to negligent act of respondent no.1 by parking the offending vehicle on the road without any indicators and accordingly, *respondent no.1 was arrayed as accused in the criminal case and now he is facing trial in the said case. He further argued that there is nothing on the record to suggest that respondent no.1 has moved any higher authorities regarding his false implication in the said FIR. He further argued that from the evidence led before this Tribunal, the claimants have duly proved that the accident in question had occurred due to negligent act of respondent no.1 by parking the offending vehicle on the road without any indicators.*

15. I have very thoughtfully considered the contentions of both the sides. It is settled law that in a claim petition under Section 166 of the Motor Vehicles Act, it is necessary to be borne in mind that strict proof of an accident caused by a particular vehicle in a particular manner cannot be expected from the claimants. The claimants are merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt may not be possible.

16. In the present case, CW2 Gurwinder Singh in his affidavit, Ex.CW2/A, has given the details of the accident and has stated in clear terms that the accident had occurred due to negligent act of respondent no.1 by parking the offending vehicle on the road without any indicators and despite lengthy cross-examination on behalf of the respondents, nothing could be elucidated from this witness to shake his veracity. Moreover, the respondent no.1 has not led any evidence to prove his defence. The best witness to depose in this regard was respondent no.1 but he did not appear in the witness box for the reasons best known to him and for his non-appearance in the witness box, an adverse inference is drawn against him. Moreover, it is settled law that registration of FIR is sufficient to prove the negligence on the part of the driver of the offending vehicle. In this regard, the Hon'ble Punjab & Haryana High Court in Girdhari Lal vs. Radhe Shyam and others, 1993 PLR 109, has held that registration of the criminal case against the driver of the offending vehicle is a prima facie proof that accident was caused as a result of his negligence. Further, in IFFCO Tokio General Insurance

Company Ltd. vs. Kuldeep Kaur & others, FAO No. 3654-2018, decided on 05.07.2018, the Hon'ble Punjab & Haryana High Court has held that, "in the considered view of this Court the award of a claim under the Motor Vehicles Act is based on welfare legislation and proceedings under Section 166 of the Motor Vehicles Act are summary in nature and only preponderance of evidence is required while awarding compensation in favour of the claimants. Pendency of a criminal case against the driver of the offending vehicle is sufficient to arrive at a conclusion that the driver of the offending vehicle was rash and negligent in causing the accident." In the present case, the respondent no.1 has alleged that a false FIR has been got registered by involving the offending vehicle in the alleged accident, but there is nothing on record to show that respondent no.1 has moved any application before any higher authority regarding his false implication in the said FIR.

17. As far as the contention of learned counsel for respondent no.2-insurance company that FIR was lodged against an unknown vehicle and unknown person and the offending vehicle has been falsely involved in the present case is concerned, then it is observed that the claimants have also produced on record copy of report submitted by the police under Section 173 Cr.PC as Ex.C27 and a perusal of this report reveals that though the FIR was lodged against unknown person and unknown vehicle but during investigation, it was found that the accident had taken place with the offending vehicle and that at the time of accident, the offending vehicle was being driven by respondent no.1 Ishwar Dayal. Thus, respondent no.1 Ishwar Dayal was arrayed as accused in the criminal case and the challan has been presented against him in the Court. In Suman and others vs. Anil Kumar and another, 2019(4) R.C.R. (Civil) 462, the FIR was lodged against unknown vehicle and unknown driver and the Tribunal dismissed the claim petition. However, the Hon'ble Punjab & Haryana High Court while setting aside the award of the Tribunal has observed that, "FIR is not substantive piece of evidence and its only purpose is to set criminal machinery in motion. Involvement of *offending vehicle was found to be there in accident by Investigating Officer. Driver was booked for accident and finding sufficient incriminating evidence against the driver, he was forwarded to face trial and formal charge-sheet has been framed against him."*

18. As far as the contention of learned counsel for respondent no.2-insurance company that CW2 Gurwinder Singh has stated in his cross-examination that police traced the offending vehicle and its RC number and told it to him and that the name of driver of offending tractor was also disclosed to him by the police, is concerned, then this part of his statement cannot washout the claim of claimants as CW2 Gurwinder Singh has also stated during cross-examination that he was called by the police to identify the accused and he had identified the accused. He further stated that he saw the accused second time and prior to that he had seen him on the day of accident. So it stands established that this witness had seen the accused at the time of accident. Thus, this contention of learned counsel is devoid of any merit.

19. As far as the contention of learned counsel for respondent no.3-insurance company that the claimants have filed the present claim petition in collusion with respondent no.1 just to claim compensation, is concerned, then it is observed that the insurance company has failed to adduce on record any evidence to prove the collusion between the claimants and respondent no.1 to get the compensation in the present case. Furthermore, the respondent no.1 has vehemently contested the claim of the claimants and there is nothing on the record to prove any collusion between claimants and respondent no.1. Apart from above, it is an admitted fact that the FIR was lodged and after investigation, the police has submitted its final report under Section 173 Cr.PC indicating the respondent no.1, driver of the offending vehicle to be negligent while parking the offending vehicle on the road without any indicators, resulting in the accident in question. Thus, this contention of learned counsel for respondent no.2 is also devoid of any merit.

20. In view of foregoing discussion, it is held that the accident was caused due to negligent act of respondent no.1 by parking the offending vehicle on the road without any indicators and in the said accident Gagandeep Singh received injuries, which proved fatal for him. Accordingly, this issue is decided in favour of the claimants and against the respondents."

ANALYSIS OF RECORD

12. Upon a careful consideration of the record, this Court finds no infirmity in the findings recorded by the learned Tribunal on the issue of rash and negligent act of the driver of the offending vehicle. The Tribunal has rightly appreciated the evidence on record and has applied the settled principles governing adjudication of claim petitions under Section 166 of the Motor Vehicles Act, wherein the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt.

13. The testimony of CW2 Gurwinder Singh has been duly relied upon by the Tribunal, and nothing material could be elicited in his cross-examination so as to discredit his version. Furthermore, respondent No.4-driver cum owner, who was the best person to depose with regard to the manner of the accident, failed to step into the witness box, thereby inviting an adverse inference against him.

14. The contention raised regarding the FIR having been initially registered against an unknown vehicle and unknown person has also been rightly rejected. The Tribunal has taken into account the report under Section 173 Cr.P.C., which clearly establishes that during investigation, the involvement of the offending vehicle and respondent No.4-driver cum owner was ascertained and challan was presented against him. The said circumstance, coupled with the settled legal position that FIR and criminal proceedings can be relied upon to prima facie

establish negligence in motor accident claims, sufficiently supports the case of the claimants.

15. The allegations of false implication and collusion have remained unsubstantiated, as no cogent evidence has been led by the respondents in support thereof. On the contrary, the material available on record clearly indicates that the accident occurred due to the negligent act of respondent No.4-driver cum owner in parking the offending vehicle on the road without any indicators.

16. In view of the foregoing, this Court concurs with the well-reasoned findings recorded by the learned Tribunal and holds that the accident in question occurred due to the rash and negligent act of the driver of the offending vehicle. The findings on this issue are accordingly upheld.

XOBJC-27-2026

17. Adverting now to the cross-objections filed by the claimants/cross-objectors seeking enhancement of compensation, the same is dealt as under after taking into consideration the settled law on compensation.

SETTLED LAW ON COMPENSATION

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

> "***30***. *Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and*

living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

***31**. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.*

***32**. Thus even if the deceased is survived by parents and siblings, only d the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-*

earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

* * * * * *

42. *We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma 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 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.*

19. 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 exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses* *should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.*

* * * * *

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

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

__59.5__. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma[4] which we have reproduced hereinbefore.

__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."

20. 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. 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 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.*

21. A perusal of the impugned award reveals that the deceased was stated to be 34 years of age at the time of the accident, therefore, the learned Tribunal has rightly applied the multiplier of 16 as per settled law.

22. A further scrutiny of the award shows that the deceased was stated to be Rs.80,000/- per month by working as Agriculturist and was also running a business of dairy farming. To substantiate the same, jamabandis Ex. C6 and Ex. C7 were placed on record. The claimants also examined CW4, Harish Chander, Tax

Assistant, Income Tax Office, Nabha, who produced and proved the income tax returns (ITRs) of the deceased for the years 2008–2009, 2010–2011, 2018–2019, and 2019–2020, exhibited as Ex. CW4/1 to Ex. CW4/4.

23. Furthermore, the learned Tribunal took into consideration only the income tax return for the year 2018–2019 for calculating the compensation towards cross objectors/claimants. However, it is trite law that the compensation should be calculated by placing reliance on the latest ITR of the deceased.

24. Reference at this stage can be made to the recent judgment passed by Hon'ble Supreme Court in ***Nidhi Bhargava & Ors. Vs National Insurance Company Ltd. & Ors. 2025 INSC 526***. The relevant extract of the same is reproduced below :-

> *"12. Just because on the date of the accident i.e., 12.08.2008, the Return for the Assessment Year 2008-2009 had not been filed, cannot disadvantage the appellants, for the reason that the period for which the Return is to be submitted covers the period starting 1s of April, 2007 and ending 31 March, 2008. Thus, for obvious reasons, the Return would be only for the period 01.04.2007 to 31.03.2008, and date of submission would be post-31.03.2008. No income earned beyond 31.03.2008 would reflect in the Income Tax Return for the Assessment Year 2008-2009. To reject the Return on the sole ground of its submission after the date of accident alone, in our considered view, cannot be legally sustained.*
>
> *13. The Income Tax Return is a legally admissible document on which the income assessment of the deceased could be made. This Court in* ***Malarvizhi v United India Insurance Co. Ltd., (2020) 4 SCC 228*** *affirmed that the determination of income must proceed on*

the basis of Income Tax Return(s), when available, being a statutory document. In ***S Vishnu Ganga v Oriental Insurance Company Limited, 2025 SCC OnLine SC 182****, we opined:*

11. ...It is no longer res integra that Income Tax Returns are reliable evidence to assess the income of a deceased, reference whereof can be made to Amrit Bhanu Shali v. National Insurance Co. Ltd., (2012) 11 SCC 738 [Para 17]; Kalpanaraj v. Tamil Nadu State Transport Corporation, (2015) 2 SCC 764 [Para 7], and K Ramya (supra) [Para 14 of 2022 SCC OnLine SC 1338]'

14. In ***Malarvizhi (supra)****, the Madras High Court relied upon the Returns 'for Assessment Year 1997-1998 and not 1999-2000 and 2000-2001 which reflected a reduction in the annual income of the deceased' therein.*

15. The High Court interfered and reduced the compensation as awarded by the Tribunal only on the ground that Return for the Assessment Year 2008-2009 had to be excluded from consideration. It is not in dispute that the deceased was a businessman. The relevance of the Income Tax Return stems, in the context of the Act, for the period which it relates to i.e., the Financial Year concerned, and not on the date on which it is filed with the Income Tax Department. When faced with Returns for different Assessment Years, it would be upto the Tribunal concerned to adopt either the average income therefrom or choose an Assessment Year to rely upon. There is good reason to leave judicial discretion on the Tribunal to adopt one of the afore-noted two courses of action, bearing in nature the social purpose and object behind the Act, which is a beneficial *legislation. It is quite unfortunate that the High Court in the present case has dealt with the matter in such a casual and superficial way where the rightful claim of the appellants under a welfare legislation has been drastically reduced without any cogent reason on a very tenuous ground, which we find to be totally unjustified. As pointed out in* ***Shivaleela v Divisional Manager, United India Insurance Co. Ltd., 2025 SCC OnLine SC 563****:*

'13... In K Ramya v. National Insurance Co. Ltd., 2022 SCC OnLine SC 1338, after taking note of, inter alia, Singamma. United india@ Insurance Co.Ltd., (2009) 13 SCC 710, the Court held that the '... Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forwardlooking.

Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future.

25. In view of the above discussion and referred to judgment, this Court is of the considered opinion that it would be just, proper and appropriate to place reliance upon the Income Tax Returns of Assessment Year 2019-20 for the purpose of determining the loss of income/contribution of the deceased to the family.

26. Furthermore, the learned Tribunal declined to award compensation to the claimants/cross objectors towards the agricultural income of the deceased, on the ground that they would inherit the land of the deceased and continue to enjoy the benefits arising from the said agricultural land.

27. It is pertinent here to mention that Hon'ble Supreme Court in ***K. Ramya v. National Insurance Co. Ltd., 2022 AIR Supreme Court 4802***, has held that mere ownership of agricultural land is not sufficient to determine income, and due consideration must be given to the fact that managerial skills, supervision, and labour engagement are required to cultivate agricultural land. Therefore, having regard to the attendant facts and circumstances, the income for the managerial skills required for managing the agricultural property is justly reassessed at ***₹7,000 per month***.

28. The relevant paras of ***K. Ramya's case (supra)*** are extracted as under:-

> "*21. Now, the sole issue which remains before this court is whether the entire amount under `Income from House Property and Agricultural Land' should be deducted or not. In this respect, we are guided by the observations of this court in* ***State of Haryana v. Jasbir Kaur (2003) 7 SCC 484****. wherein it was noted that -*
>
> > *8. x-x-x-x*
> >
> > *The land possessed by the deceased still remains with his legal heirs. There is however a possibility that the claimants may be required to engage persons to look after agriculture. Therefore, the normal rule about the deprivation of income is not strictly applicable to cases where agricultural income is the source. Attendant circumstances have to be considered.*
> >
> > *(Emphasis Applied)*
>
> ***In our opinion, the*** *abovementioned observations, though made in the context of agricultural land, would also be applicable to rent received from leased out properties as the loss of dependency arises mainly out of loss of management capacity or efficiency. As a rule of prudence, computation of any individual's managerial skills should lie between 10 to 15 per cent of the total rental income but the acceptable range can be increased in*

> *light of specific circumstances. The appropriate approach, therefore, is to determine the value of managerial skills along with any other factual considerations.*
>
> *22. In the instant case, documents produced on record indicate two salient aspects with respect to `Lakshmi Complex', which was the sole source of rental income for the deceased. The partition deed related to the land on which the commercial building is situated, highlights that the building was constructed on account of the joint investment made by the Deceased and his partners. Furthermore, as per the rental records, `Lakshmi Complex' was leased out to more than ten different commercial entities. Hence, keeping in mind that - first, the rental amount which is sought to be deducted partakes the character of investment; and second, that the managerial skills required for supervising the said building would require sophisticated contract management skills and goodwill among the business community, it is necessary that we determine the value of managerial skills of the Deceased on the higher side.*"

29. In the present case, the deceased, aged 34 years, was engaged in agricultural pursuits as well as dairy business and had three dependants to support. Considering the nature of employment, age, social background, and prevailing wages at the relevant time, this Court is of the considered opinion that the learned Tribunal erred in assessing the total income of the deceased at ₹249850/- per annum, which is grossly inadequate. By taking into consideration the ITR 2019-2020 of the deceased and by keeping in view the overall facts and circumstances, the total income of the deceased is reasonably reassessed at ₹23120/- per month from business and Rs.7000/- per month for the managerial skills required for managing the agricultural property for which the total comes to ***Rs.30120/-***.

30. A perusal of the record further reveals that the learned Tribunal has awarded a meager amount under the conventional heads of loss of estate, loss of

consortium and funeral expenses, therefore, the award requires indulgence and interference of this Court.

RELIEF

31. In view of the above, the appeal filed by the Insurance Company is **dismissed** being devoid of any merits, whereas cross-objections filed by the cross-objectors/respondents No.1 to 3 are **allowed.** The award dated 28.11.2023 is modified accordingly. The cross-objectors/respondents No.1 to 3 are held entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.30,120/-
2	Future prospects @ 40%	Rs.12048/- (40% of 30120)
3	Deduction towards personal expenditure 1/3	Rs.14056/- (42168 X 1/3)
4	Total Income	Rs.28112/- (42168-14056)
5	Multiplier	16
6	Annual Dependency	Rs.53,97,504/- (28112 X 12 X 16)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9.	Treatment expenses	Rs.35000/-
9	Loss of Consortium Parental : 1 x 48,400 Spousal : 1 x 48,400 Filial : 1 x 48,400	Rs.1,45,200/-
10	**Total Compensation**	**Rs.56,14,004/-**
11	**Deduction** Amount Awarded by the Tribunal	**Rs.38,43,000/-**
12	**Enhanced amount**	**Rs.17,71,004/- (56,14,004-38,43,000)**

32. 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 amount enhanced calculated shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.

33. Appellant-Insurance Company is directed to deposit the enhanced amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The learned Tribunal is directed to disburse the enhanced amount of compensation along with interest to the claimant in the ratio awarded by the learned Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

09.04.2026
Gaurav Arora

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