KARC500011942024

IN THE COURT OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL AT SINDHANUR

Present :- SRI. LAKSHMIKANTH JANAKIRAM MISKIN, M.A., LL.M
Senior Civil Judge & J.M.F.C.
Sindhanur

M.V.C. No. 469/2024

Dated: 02nd day of June 2026

Petitioners: - 1) Channaveerayya S/o B.H.M. Neelakanthaiah
Age: 59 years,Occ: Nil
R/o Nagenahalli village, Tq. Hosapete
Dist. Vijayanagar now residing at
Gomarsi village, Tq. Sindhanur, Dist. Raichur

(Represented by: Sri.SB., Advocate)

-Versus-

Respondents: - 1) Naveen S/o Earanna
Age: Major, Occ: Driver of NEKSRTC
Bus No.KA-35/F-401, Kudligi depot
R/o Gorkal, Tq. Manvi, Dist. Raichur.

2) The Divisional Controller,
NEKSRTC, Hosapete Division
Hosapete
(Owner and self-insurer of NEKRTC bus No.KA-35/F-401)
(R1 by: Sri.GVJ Advocate)
(R2 by: Sri.HP Advocate)

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~:: JUDGMENT ::~

This petition filed under Section 166 of Motor Vehicle Act claiming compensation from the respondents, in connection with the Road Traffic Accident dated 16.08.2024

2. **The brief facts of the petition:-**

On 16.08.2024 this petitioner along with his wife Smt. Sharadamma and his granddaughter namely Ananya were proceeded to Virupapur village tq. Sindhanur from Nagenahalli for attending the house opening ceremony of their relative on his motor cycle bearing registration No.KA-35/EE-2945. This petitioner was riding the said motor cycle. The wife of petitioner was the pillion rider. That at about 10.30 AM while they were passing near K.Basapur cross at Hanchinal Camp (K) on Sindhanur -Gangavathi main road, on left side of the road, in slow and cautious manner observing the traffic conditions, at that time the respondent No:1 i.e., driver of NEKRTC bus reg No: KA-35/F-401 came driving his bus in high speed in rash and negligent manner, driving in zigzag manner, endangering to human life and thereby dashed his Bus to the said motor cycle from the Back Side. Due to the accident the the petitioner. his wife Sharadamma and Ananya were fell on road. The respondent No. 1, without observing the Sharadamma who fell on the road, passed his bus on her, she succumbed to grievous injuries on Spot. Thereafter the dead body of deceased Sharadamma was shifted to Govt. Hospital Sindhanur, wherein PME was conducted and the body of deceased Sharadamma was handed over to the petitioner, who performed her last rights by incurring huge expenses of Rs. 2,00,000/-. That the deceased

Sharadamma was working as coolie and earning Rs.20,000/- per month from her coolie work and she was contributing entire income to her family. The deceased was hale and healthy with no bad habits. Now the petitioner age old person and suffering from age old ailments. Due sudden demise of the deceased, the petitioner was lost his consortium and his support, love and affection once for all in old age. That the petitioner has been put to great financial setback apart from mental shock and agony, the family of the deceased is now literally come on road. The claimant/petitioner was entirely depending on the income of the deceased. The said accident had occurred only due to rash and negligent driving of NEKRTC bus beg reg No: KA-35/F-401 by the respondent No. 1 in High speed and negligent. Therefore the respondent is liable to pay compensation of Rs.30,00,000/-. With these averments the petitioners pray for allow the above petition.

3. This tribunal issued notice to the respondents. The respondents have appeared through their counsel. The respondent No.2 has filed written statement.

4. **The case of the respondent No.2 in brief:-**

The contents of claim petition are not true and correct either in law or on facts. Hence, it is fit to be dismissed. The age, occupation, income, health conditions of deceased as stated in the petition is denied by the respondent. The compensation claimed by the petitioners is exorbitant and denied all other allegations made in the petition and sought for dismissal of the same.

5. In this back ground this tribunal has framed the following issues:-

1. Whether the petitioner prove that the death of Smt. Sharadamma W/o Channaveerayya was due to rash and negligent act of the driver of NEKRTC bus bearing Reg. No.KA-35/F-401 on 05.10.2019 at about 4.00 AM near Heggeri Gate, NH 150A road, Chellakeri, Dist. Chitradurga? By its driver i.e., respondent No.1 in a road traffic accident which took place on 16.08.2024 at about 10.30 AM, on Gangavathi – Sindhanur main road, near K. Basapur cross at K.Hanchinal camp (Shanthinagar), Tq. Sindhanur?

2. Whether the petitioner is entitled for compensation? If, so, at what rate and from whom?

3. What orders or award?

6. The petitioner has entered the witness box as PW-1 and got marked Ex.P1 to Ex.P7. The respondent No.1 himself examined as Rw-1 and no documents got marked and case posted for arguments.

7. I have heard arguments on both sides. My findings on the above issues are as follows:-

ISSUE NO.1 : In the Affirmative
ISSUE NO.2 : In the Partly Affirmative
ISSUE NO.3 : As per final order
for the following.

~:: REASONS ::~

8. **ISSUE NO.1 :-** This Court perused the material available on record. A perusal of the material available on record make it clear the that investigation officer filed charge - sheet marked at exhibit P-3 make it clear that, the investigation officer after making a thorough investigation has filed it. Thus in the considered opinion of this court, charge - sheet marked at exhibit P-3 is a prima facie proof of negligence on the part of the driver of the offending truck . It is to be noted that the investigation officer in a case files charge - sheet marked at exhibit P-3 after scientific investigation from all angles. Thus in the considered opinion of this court, charge - sheet marked at exhibit P-3 is a prima facie proof of negligence of the driver of the alleged truck **.**In this regard it is beneficial to refer to the decision of the Hon’ble High Court of Karnataka reported in 2018 ACJ 91 =[2016 SCC OnLine Kar 8864] in between Jacob Vs. The Managing Director, K.S.R.T.C. Depot , para No.8 reads as under.

M.F.A. No. 534 of 2012.
M.F.A. No. 533 of 2012.
M.F.A. No. 4066 of 2012 (MV).
M.F.A. No. 4065 of 2012 (MV).
M.F.A. No. 534 of 2012 :
M.F.A. No. 533 of 2012 :
M.F.A. No. 4066 of 2012 :
M.F.A. No. 4065 of 2012 :
Dated 18.11.2016.

8. Re: Negligence:
The case of the Corporation is that IMV Report at Exhibit.P4 shows, the front right side corner and right side bumper of the bus was damaged and front side of the auto was damaged. The bus was moving on the main road, the auto in which the deceased was traveling was coming from opposite direction and took a right turn/'u' turn towards eastern side of the road without giving any signal and as such, the negligence ought to have been fixed on the driver of the auto. This argument of the Corporation is not worthy of acceptance, the crucial witness to establish the factum of negligence would have been the driver, no driver of the offending vehicle was examined by the Corporation. In such circumstances, an adverse inference has to be drawn against the Corporation, more particularly, against the driver of the offending vehicle. Contributory negligence has to be proved on factual grounds. A mere allegation/accusation would not be suffice to ascertain the contributory negligence on the part of the person. Contributory negligence has to be proved by leading direct and corroborating evidence which is conspicuously missing in the present case. **On the other hand, charge-sheet filed against the driver of the offending vehicle indicates negligence on the part of the driver of the offending vehicle. No case is made out by the Corporation to fix the negligence on the part of the driver of the auto.**

The ratio (underline emphasized by me) laid down by the Hon’ble High Court of Karnataka reported in 2018 ACJ 91 =[2016 SCC ONLINE KAR 8864] in between Jacob Vs K.S.R.T.C. Depot is that charge-sheet filed against the driver of the offending vehicle indicates negligence on the part of the driver of the offending vehicle . In the present case also as discussed above the investigation officer as shown at charge - sheet marked at exhibit P-3 filed it against the driver of the truck that he is solely negligence for causing the accident leading to the death of the deceased. In view of the law laid down by the Hon'ble High Court of Karnataka , it is the driver of the truck is alone responsible for the accident.

9. In this regard it is beneficial to refer to the decision of the Hon ble Supreme Court of India reported in reported in 2025 SCC ONLINE SC 497 in between Ranjeet vs Abdul Kayam Neb, in para No.3 and para No.4 of the order of the Hon ble Supreme Court of India reads as under.

Civil Appeal No. OF 2025
(Arising out of SLP(C), No. 10351/2019)
Dated-25-02-2025

3. In an accident which took place on 13.06.2006, one 'Ramkaran' was alleged to have been hit by the bus leading to his death. An FIR was lodged wherein charge sheet was submitted against the driver of the bus. On the claim being preferred to the Motor Accident Claims Tribunal[1], **since, the eye-witnesses were not produced, the Tribunal refused to grant any compensation**. The decision of the Tribunal was upheld by the High Court.

4. **<u>It is settled in law that once a charge sheet has been filed and the driver has been hereinafter referred to as "the Tribunal". held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eye- witnesses are not examined</u>**, that will not be fatal to prove the death of the deceased due to negligence of the bus driver.

5. In view of the aforesaid facts, we are of the opinion that the Tribunal and the High Court both manifestly erred in law in refusing to grant any compensation to the claimants.

The ratio (underline emphasized by me) laid down in the decision of the Hon ble Supreme Court of India reported in reported in 2025 SCC ONLINE SC 497 in between Ranjeet vs Abdul Kayam Neb is that charge-sheet filed by the investigation officer is sufficient to prove negligent driving of the offending vehicle without examining eye-witnesses. More ever the petitioner himself is a witness to the accident as she has been hit by the offending vehicle. Thus there is nothing to disbelive the version the petitioner that the offending vehicle is alone is resposible for causing accident.

10. In the present case it is the specific allegation of the claimant that he was on his way to attend house warming ceremony on the date of accident at night at that time, the driver of the offending vehicle suddenly dashed his motor bike from behind leading to accident which resulted in victim sustaining grievous injuries who succumbed to injuries later on. . It is the driver offending vehicle who tries to over take vehicle moving ahead of his vehicle has to be too cautious. If the

rider who causes accident trying to overtake the vehicle and hit from behind, the driver of the vehicle who hit the another vehicle from behind is solely responsible for causing accident. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in 2011 AIR SC 2436 = [2011 (6) scc 425] = 2011 ACJ 1677] = [2011 AIR SCW 3625 in between Jawahar Singh vs. Bala Jain head Note A, para No.11 reads as under.

S.L.P. (Civil) 8660 of 2011.
With
S.L.P. (C) Nos. 864 to 865 of 2010.
Dated . 09.05.2011

11]. We cannot shut our eyes to the fact that it was Jatin, who came from behind on the motorcycle and hit the scooter of the deceased from behind. The responsibility in causing the accident was, therefore, found to be solely that of Jatin. However, since Jatin was a minor and it was the responsibility of the Petitioner to ensure that his motorcycle was not misused and that too by a minor who had no license to drive the same, the Motor Accident Claims Tribunal quite rightly saddled the liability for payment of compensation on the Petitioner and, accordingly, directed the Insurance Company to pay the awarded amount to the awardees and, thereafter, to recover the same from the Petitioner. The said question has been duly considered by the Tribunal and was correctly decided. The High Court rightly chose not to interfere with the same.

The ratio (underline emphasized by me) laid down by to refer to the decision of the Hon'ble Supreme Court of India reported in 2011 AIR SC 2436

= [2011 (6) SCC 425] = 2011 ACJ 1677] = [2011 AIR SCW 3625 in between Jawahar Singh vs. Bala Jain is that that it was rider of the motor bike who came from behind on the motorcycle and hit the scooter of the deceased from behind the responsibility in causing the accident was, found to be solely that of the motor cycle rider who came from behind. In the present case also the driver of the offending vehicle which who in a negligence manner driven his vehicle and hit the motor bike from behind alone is responsible for causing accident. In view of law laid down by to refer to the decision of the Hon'ble Supreme Court of India reported in 2011 AIR SC 2436 = [2011 (6) scc 425] = 2011 ACJ 1677] = [2011 AIR SCW 3625 IN BETWEEN Jawahar Singh vs. Bala Jain it is the driver of the offending truck who hit from behind alone responsible for causing accident. Hence, issue No.1 answered in Affirmative

11. **ISSUE NO.2:-** The deceased was 59 years as on the date of the accident as post-mortem dated 16-08-2024 marked at exhibit P-6 . It is made clear that the services of the victim, who was a housewife in the said case was invaluable. The gratuitous services rendered by wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. An housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean etc., but she can never be a substitute for a wife who would render selfless service to her husband and children. However, the loss of service to the household is estimated on the expenses incurred for the above said multifarious services rendered by the wife. The claimants who have lost the gratuitous service rendered by the deceased are entitled to adequate compensation

12. It is unfair, unjust and inappropriate to compute the compensation payable to the dependents of a deceased wife/mother or injured woman, who does not have regular income, by comparing her services with that of a housekeeper or a servant or an employee, who works for a fixed period. The gratuitous services rendered by wife/mother to the husband and children cannot be equated with the services of an employee and no evidence or data can possibly be produced for estimating the value of such services. The same cannot be compared with the services rendered by a house- keeper/servant. The services of the mother/wife is available 24 hours and her duties are never fixed. Further courts have to recognize the contribution made by the wife to the house is invaluable and that it cannot be computed in terms of money. Further a housewife/homemaker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the homemaker has to be necessarily kept in view while calculating the loss of dependency. The services of the mother/wife is available 24 hours and her duties are never fixed. Further courts have to recognize the contribution made by the wife to the house is invaluable and that it cannot be computed in terms of money. Further a housewife/homemaker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the homemaker has to be necessarily kept in view while calculating the loss of dependency .A woman in our society does hundred one job, such as cooking, sweeping house, feeding children, fetching water, taking care of entire family members . If every job done by the women is measured in terms of money then her monthly income will be more than the daily wages fixed by Government

13. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in (2015) 4 SCC 237 =[2015 AIR (SCW) 1067] in between Jitendra Khimshankar Trivedi VS. Kasam Daud Kumbhar the paras No.2, para No.9 to para No.11 read as under.

Civil Appeal No. 1415 of 2015
(Arising out of SLP (Civil) No. 4969 of 2014).
Dated-03.02.2015.

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2. The undisputed facts emerging from this case can be briefly stated as under: on 21-9-1990 Respondent 1 while driving tempo bearing Registration No. GQY 4701 in a rash and negligent manner lost the control over it and hit Smt Jayvantiben Jitendra Trivedi (deceased) who subsequently succumbed to injuries. Appellant 1 is the husband of the deceased and Appellants 2 to 5 are husband's sisters, daughter and father-in-law respectively of the deceased Jayvantiben. The claimants filed claim petition before the Motor Accidents Claims Tribunal, Bhuj-Kachchh, Gujarat, inter alia, claiming compensation under different heads to the tune of Rs 2,96,480 along with interest @ 18% p.a. The appellants averred in the claim petition that the deceased was a housewife at the time of accident and was aged 22 years and that she was doing embroidery and knitting work and was earning Rs 900 per month from the said work and was maintaining her family. Respondents 1 and 2 did not enter into defence. Respondent 3, Insurance Company has filed counter-statement denying averments made in the claim petition and contended that the compensation claimed is on the higher side

9. As noticed earlier, the Tribunal has taken the income of the deceased at Rs 1500 whereas the High Court has assessed the income of the deceased at Rs 1350 per month. As observed by the Tribunal, embroidery work, stitching work and local traditional embroidery work was doing well in the district of Kachchh and there was good earning. Considering the nature of the work and the evidence of the claimants' witnesses, father-in-law and mother-in-law of the deceased, had the deceased Jayvantiben been alive she would have earned not less than Rs 3000 per month.

10. Even assuming Jayvantiben Jitendra Trivedi was not self-employed doing embroidery and tailoring work, the fact remains that she was a housewife and a homemaker. It is hard to monetise the domestic work done by a house-mother. The services of the mother/wife is available 24 hours and her duties are never fixed. Courts have recognised the contribution made by the wife to the house is invaluable and that it cannot be computed in terms of money. A housewife/homemaker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the homemaker has to be necessarily kept in view while calculating the loss of dependency. Thus even otherwise, taking deceased Jayvantiben Jitendra Trivedi as the homemaker, **it is reasonable to fix her income at Rs 3000 per month.**

11. Recognising the services of the homemaker and that domestic services have to be recognised in terms of money, in *Arun Kumar Agrawal* v. *National Insurance Co. Ltd.* (2010) 9 SCC 218, this Court has held as under: "*62*. The alternative to imputing money values is to measure the time taken to produce these services and compare these with the time that is taken to produce goods and services which are commercially viable. One has to admit that in the long run, the services rendered by women in the household sustain a supply of labour to the economy and keep human societies going by weaving the social fabric and keeping it in good repair. If we take these services for granted and do not attach any value to this, this may escalate the unforeseen costs in terms of deterioration of both human capabilities and social fabric.

63. Household work performed by women throughout India is more than US $612.8 billion per year (*Evangelical Social Action Forum and Health Bridge*, p. 17). We often forget that the time spent by women in doing household work as homemakers is the time which they can devote to paid work or to their education. This lack of sensitiveness and recognition of their work mainly contributes to women's high rate of poverty and their consequential oppression in society, as well as various physical, social and psychological problems. The courts and the Tribunals should do well to factor these considerations in

> assessing compensation for housewives who are victims of road accidents and quantifying the amount in the name of fixing 'just compensation'."

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in (2015) 4 SCC 237 =[2015 AIR (SCW) 1067] in between Jitendra Khimshankar Trivedi VS. Kasam Daud Kumbhar is the services of the mother/wife is available 24 hours and her duties are never fixed. Further it is held that courts have to recognize the contribution made by the wife to the house is invaluable and that it cannot be computed in terms of money. Further it held that a housewife/homemaker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the homemaker has to be necessarily kept in view while calculating the loss of dependency.

14. Future prospects should not be confined only to those who have a permanent job and would extend to self-employed individuals. In this regard it is beneficial to refer to the Hon'ble three Judges Bench of the Hon'ble Supreme Court of India reported in AIR 2018 SC 1347 =[2018(4) SCC 571] =[2018 AIR (SCW) 1347] =[2018 ACJ 1011] in between Jagdish vs. Mohan, (SC) the para No.10 and 11 read as under.

Civil Appeal No.2217 of 2018
(arising out of SLP (C) No.7739 of 2017),
Dated- 06-03-2018.

> **10]. <u>In the judgment of the Constitution Bench in Pranay Sethi (supra), this Court</u>**

<u>has held that the benefit of future prospects should not be confined only to those who have a permanent job and would extend to self-employed individuals. In the case of a self-employed person,</u> an addition of 40 per cent of the established income should be made where the age of the victim at the time of the accident was below 40 years. Hence, in the present case, the appellant would be entitled to an enhancement of L 2400/- towards loss of future prospects.

11]. In making the computation in the present case, the court must be mindful of the fact that the appellant has suffered a serious disability in which he has suffered a loss of the use of both his hands. For a person engaged in manual activities, it requires no stretch of imagination to understand that a loss of hands is a complete deprivation of the ability to earn. Nothing - at least in the facts of this case - can restore lost hands. But the measure of compensation must reflect a genuine attempt of the law to restore the dignity of the being. Our yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. If it does, as it must, it must provide a realistic recompense for the pain of loss and the trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights, they constitute entitlements under law. Our conversations about law must shift from a paternalistic subordination of the individual to an assertion of enforceable rights as intrinsic to human dignity. The Tribunal has noted that the appellant is unable to even eat or to attend to a visit to the toilet without the assistance of an attendant. In this background, it would be a denial of justice to compute the disability at 90 per cent. The disability is indeed total. Having regard to the age of the appellant, the Tribunal applied a multiplier of 18. In the circumstances, the compensation payable to the appellant on account of the loss of income, including future prospects, would be L 18,14,400/-. In addition to this amount, the appellant should be granted an amount of L 2 lakhs on account of pain, suffering and loss of amenities. The amount awarded by the Tribunal towards medical expenses (L98,908/-); for extra nourishment (L 25,000/-) and for attendant's expenses (L 1 lakh) is maintained. The Tribunal has declined to award any amount towards future treatment. The appellant should be allowed an amount of L 3 lakhs towards future medical expenses. The appellant is thus awarded a total sum of L 25,38,308/- by way of compensation. The appellant would be entitled to interest at the rate of 9 per cent per annum on the compensation from the date of the filing of the claim petition. The liability to pay compensation has been fastened by the Tribunal and by the High Court on the insurer, owner and driver jointly and severally which is affirmed. The amount shall be deposited before the Tribunal within a period of 6 weeks from today and shall be paid over to the appellant upon proper identification.

The ratio (underline emphasized by me) laid down by the Hon’ble three Judges Bench of the Hon’ble Supreme Court of India reported in AIR 2018 SC 1347 =[2018(4) SCC 571] =[2018(3) JT 112] =[2018(3) Scale 615] =[2018 AIR (SC) 1347] =[2018 AIR (SCW) 1347] =[2018 DNJ 366] =[2018 ACJ 1011] in between Jagdish vs. Mohan, is that In the judgment of the Constitution Bench in Pranay Sethi (supra), this Court has held that the benefit of future prospects should not be confined only to those who have a permanent job and would extend to self-employed individuals.

15. In the case deceased was a self-employed person and was doing bamboo business by opening a road side shop. . . In view of the law laid down in laid down by the Hon’ble three Judges Bench of the Hon’ble Supreme Court of India reported in AIR 2018 SC 1347 =[2018(4) SCC 571] =[2018(3) JT 112] =[2018(3) Scale 615] =[2018 AIR (SC) 1347] =[2018 AIR (SCW) 1347] =[2018 DNJ 366] =[2018 ACJ 1011] in between Jagdish vs. Mohan the future prospects can be extended deceased even if he was a self employed.

16. The deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be added 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. In this regard it is beneficial to refer to the decision of the Hon’ble Constitution Bench of the Hon’ble Supreme Court of India reported in 2017 AIR SC 5157 = [2017 A C J

2700] =[2017 (13) SCALE 12] in between National Insurance Company Limited vs. Pranay Sethi, (SC)(Constitution Bench) para No.61 reads as under. :

Special Leave Petition (Civil) No. 25590 of 2014.
With
Special Leave Petition (Civil) No. 16735 of 2014, Civil Appeal No. 6961 of 2015, Special Leave Petition (Civil) No. 163 of 2016, Special Leave Petition (Civil) No. 3387 of 2016, Special Leave Petition (Civil) No. 7076 of 2016, Special Leave Petition (Civil) No. 32844 of 2016, Special Leave Petition (Civil) No. 16056 of 2016, Special Leave Petition (Civil) No. 22134 of 2016, Special Leave Petition (Civil) No. 24163 of 2016, Civil Appeal No. 8770 of 2016, Civil Appeal Nos. 8045-8046 of 2016, Special Leave Petition (Civil) No. 26263 of 2016, Special Leave Petition (Civil) No. 25818 of 2016, Special Leave Petition (Civil) No. 26227 of 2016, Special Leave Petition (Civil) Nos. 29520-29521 of 2016, Special Leave Petition (Civil) No. 35679 of 2016, Special Leave Petition (Civil) No. 34237 of 2016, Special Leave Petition (Civil) No. 36072 of 2016, Special Leave Petition (Civil) No. 35371 of 2016, Special Leave Petition (Civil) No. 34395 of 2016, Special Leave Petition (Civil) No. 36027 of 2016, Special Leave Petition (Civil) No. 8306 of 2017, Special Leave Petition (Civil) No. 37617 of 2016, Special Leave Petition (Civil) No. 7241 of 2017, Civil Appeal No.12046 of 2017, Special Leave Petition (Civil) No. 17436 of 2017, Civil Appeal No. 8611 of 2017 the para No.61 reads as under. .

Dated.31.10.2017.

61]. In view of the aforesaid analysis, we proceed to record our conclusions:-
(i) The two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is

because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

(ii) As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.

(iii) 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.

(iv) **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.

(v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

(vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) 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.

62]. The reference is answered accordingly. Matters be placed before the appropriate Bench.
Order accordingly

The ratio (underline emphasized by me) laid down by the Hon'ble Constitution Bench of the Hon'ble Supreme Court of India reported in 2017 AIR SC 5157 = [2017 A C J 2700] =[2017 (13) SCALE 12] in between National Insurance Company Limited vs Pranay Sethi, (SC)(Constitution Bench) is that 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. In the present, the age of the deceased was 59 as per the post mortem report dated- 16-08-2024 marked at exhibit P-6. Hence 10 % of future prospectus can be taken

17. As per dictum laid down by the Hon ble Supreme Court of India in Sarla verma (SMT) and others vs Delhi transport corporation and another 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.

18. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in 2009 AIR (SC) 3104 =[(2009) 6 Supreme Court Cases 121] in between Sarla verma (SMT) and others vs Delhi transport corporation and another the para No.30 reads as under. . .

Civil Appeal No. 3483 of 2008
(Arising out of SLP [C] No. 8648 of 2007).
Dated -15.04.2009.

> **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*[4], the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court, **we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is**

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

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in 2009 AIR (SC) 3104 =[(2009) 6 Supreme Court Cases 121] in between Sarla verma (SMT) and others vs Delhi transport corporation and another is 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. In the present case petitioners are three thus one third deduction can be made towards living and personal and living expenses. In the present case the deceased was married and the petitioner was alone dependent. Thus one third deduction can be made.

19. Spousal consortium is defined as rights pertaining to the relationship of a husband-wife. Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. 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. Spousal consortium is defined as rights pertaining to the relationship of a husband-wife. In case of loss of spouse either husband or wife entitled for spousal consortium.

20. Further spousal consortium at the rate of Rs.40,000/- (Rupees forty thousand only) and towards loss of parental consortium to child at the rate of Rs.40,000/- (Rupees forty thousand only) the compensation under these heads also needs to be increased by 10% as per law laid down by the Hon ble Supreme Court of India Pranay Sethi ‘s decision from 31.10.2017. . . The Hon ble Supreme Court of India reported in AIR 2023 SC 44 in between Smt. Anjali VS Lokendra Rathod held that the Court ought to have added the increment of 10% to the conventional heads as per the dictum in Pranay Sethi ‘s case of the Hon ble constitution bench of the Hon ble Supreme Court of India . In this regard it is beneficial to refer to the Hon ble Supreme Court of India reported in AIR 2023 SC 44 in between Smt. Anjali VS Lokendra Rathod the para No.15 to para No.17 read as as under.

Civil Appeal No. 9014 of 2022
(Arising out of Special
Leave Petition (Civil) No. 18808 of 2019),,
decided on 06/12/2022

> 15. The Tribunal erred by not making any additions to future prospects of the deceased, whereas the High Court by placing reliance on Sarla Verma (Supra) and Pranay Sethi (Supra) held that since the deceased was under 40 years of age and was self-employed, he be entitled to addition of future prospects of 40% of his established income. We find no error in the High Court's reasoning for adding 40% of the deceased's income towards future prospects.

16. The Tribunal awarded meagre sums of Rs.10,000/- and Rs.2,000/- towards conventional heads and funeral expenses, respectively, whereas the High Court while placing reliance on Pranay Sethi (Supra) awarded Rs.70,000/- under conventional heads and Rs.10,000/- towards funeral expenses of the deceased. Although the High Court was correct in placing reliance on Pranay Sethi (Supra), the High Court erred by not granting an increment of 10% on the conventional heads in every three years as directed in the Pranay Sethi (Supra), it may be relevant to extract the following observations :-

`52....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."

Hence, ***we are of the opinion* that the High Court ought to have added the increment of 10% to the conventional heads as per the dictum in Pranay Sethi** (Supra).

17. A three-Judge Bench of this Court in United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur and Ors. (2021) 11 SCC 780 after considering Pranay Sethi (Supra), has awarded spousal consortium at the rate of Rs.40,000/ (Rupees forty thousand only) and towards loss of parental consortium to each child at the rate of Rs.40,000/ (Rupees forty thousand only). **The compensation under these heads also needs to be increased by 10%. Thus, the spousal consortium is awarded at Rs.44,000/ (Forty-four thousand only), and towards parental consortium at the rate of Rs.44,000/ each (Total Rs.1,32,000/) is awarded to the three children.**

The ratio laid down by the Hon ble Supreme Court of India reported in AIR 2023 SC 44 in between Smt. Anjali VS Lokendra Rathod is that the Court ought to have added the increment of 10% to the conventional heads as well as fillial as per the dictum in Pranay Sethi ‘s case every three years.. In the present case accident is of the year 2024. Thus 20% of increase shall be made which comes to 48,000-00.

21. In the present case the deceased was 59 years of age at the time of his death as per the post mortem report dated- 16-08-2024 marked at exhibit P-6 . In view of law laid down by the Hon’ble Supreme Court of India reported in 2009 AIR SC 3104 = [2009 SCC (6) 121] Smt. Sarla Verma vs. Delhi Transport Corporation, for age group of 55 to 60 years, multiplier of 9, hence the proper multiplier would be 9.

22. In view of laid down by the Hon’ble Constitution Bench of the Hon’ble Supreme Court of India reported in 2017 AIR SC 5157 = [2017 ACJ 2700] =[2017 (13) SCALE 12] in between National Insurance Company Limited vs. Pranay Sethi, (SC)(Constitution Bench) is 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/- totally Rs.70,000-00 respectively. In view of law laid down by the the the Hon ble Supreme Court of India reported in AIR 2023 SC 44 in between Smt. Anjali VS Lokendra Rathod 20% increase in conventional heads comes at 84,000-00

23. In the absence of income proof, the notional income as per the chart fixed by the Karnataka State Legal Services Authority shall be taken . In this regard it is beneficial to refer to the decision of the Hon ble High Court of Karnataka (KALABURAGI BENCH) reported in AIRONLINE 2022 KAR 921

(DB) in between Managing Director NEKRTC, Sarige Sadan, Central Office, Kalaburagi. VS Rachamma Subash Jaishetty Since Deceased By Her LR's the para No.13 reads as under.

Miscellaneous First Appeal - 201591 of 2021,
Dated-08/12/2022

13. It is not in dispute that Smt. Rachamma met with an accident on 11.04.2018 and sustained grievous injuries and she succumbed to the injuries. The legal representatives filed a claim petition contending that the deceased was aged about 60 years at the time of accident and was doing agriculture and getting income of Rs.9,000/- per month. In order to substantiate the contention of the petitioners, the petitioners have not produced any income proof of the deceased Rachamma**. In the absence of income proof, the Tribunal, taking into consideration the notional income of the year 2018, as per the chart fixed by the Karnataka State Legal Services Authority** and also considering the age of deceased Rachamma has considered the notional income of the deceased as Rs.9,000/- per month and further considering the age of the deceased as 65 years, awarded a compensation under the head of loss of dependency at Rs.6,04,800/- and also awarded compensation under the head of loss of consortium and loss of estate and funeral expenses and medical expenses and nursing charges. The petitioners have not placed any material to show the income of the deceased. On the contrary, the petitioners themselves have admitted that deceased Rachamma was getting income of Rs.9,000/-

per month. Considering the admission of the petitioners, the Tribunal was justified in considering the notional income of the deceased Rachamma at Rs.9,000/- p.m. Hence, in view of the above discussion, the petitioners have not made out any ground for enhancement of compensation.

Accordingly, we answer point No.1 in negative.

The ratio (Under line emphasized by me) the Hon’ble High Court of Karnataka (KALABURAGI BENCH) reported in AIRONLINE 2022 KAR 921 (DB) in between Managing Director NEKRTC, Sarige Sadan, Central Offices, Kalaburagi VS Rachamma Subash Jaishetty Since Deceased By Her LR's is that In the absence of income proof, the notional income as per the chart fixed by the Karnataka State Legal Services Authority shall be taken.

24. There is no material to show the exact income of deceased. Thus this court would have to rely on notional income for the year 2022 fixed by the KSLSA vide direction letter dated 26-02-2022 at Bangalore . Admittedly the accident took place in the year of 2024. The notional income for the year 2022 fixed by the KSLSA vide direction letter dated 26-02-2022 at Bangalore is Rs.14,750 for the districts coming under the jurisdiction of the Hon’ble High Court of Karnataka, (KALABURGI), Bench . But accident has taken place in the year 2024 therefore 500 increase should be made for the year 2023 and 2024 each Hence income of the deceased can be assessed at Rs.15,750.

$$\frac{\text{Rs.}15{,}750 \times 10}{100} = \text{Rs.}1{,}575/- \quad \text{(10\% of future prospects)}$$

Rs.15,750/-
+ Rs. 1,575/-
Rs.17,325/- (after adding 10% of future prospects)

Rs.17,325
3 = Rs.5,775/- (one third deductions made)

Rs.17,325/-
- Rs.5,775/-
Rs.11,550/-

Rs.11,550 x 12 x 9 =Rs.12,47,400/-

01.	Loss of dependency	Rs.12,47,400-00
02.	Spousal filial consortium of wife	Rs.48,000-00
03.	Loss of estate, loss of consortium & funeral expenses	Rs.84,000-00
	Total	**Rs.13,79,400-00**

25. This court opined that the claimants entitled for 6% interest on the compensation amount Rs.13,79,400/- to be awarded. Hence Issue No.2 answered in partly affirmative.

26. **ISSUE NO.3:-** In view of the findings on issues, I proceed to pass the following order:-

~:: <u>O R D E R</u> ::~

The petition filed by the petitioners under Section 166 of Motor Vehicle Act is **partly** allowed with costs.

The respondent The Divisional Controller, NEKRTC, Hosapete division is directed to pay sum of **Rs.13,79,400=00 (Thirteen Lakhs Seventy Nine Thousand Four Hundred only)** to the petitioners with interest at the rate of 6% per annum from the date of petition till realization.

The respondent No.2 is liable to pay the compensation amount and he is directed to deposit the compensation amount with in 30 days from the date of this Judgment to this tribunal.

Out of compensation 50% of the amount shall be deposited in any nationalized bank in his name for a period of 03 years free from all encumbrances. The remaining amount with proportionate interest shall be disbursed to the petitioner through A/C payee Cheque on proper identification.

Advocate fee fixed at Rs.1000/- only

Draw award accordingly.

(Dictated to the Stenographer directly on computer, computerized by him and corrected and then pronounced by me in the open court on 02nd day of June 2026)

(Lakshmikanth J Miskin)
Senior Civil Judge & M.A.C.T
Sindhanur

ANNEXURE

I) **Witnesses examined on behalf of Petitioner.**

PW-1 : Channaveerayya

II) **Documents exhibited on behalf of Petitioner:**

Ex.P1	:	Certified copy of FIR
Ex.P2	:	Certified copy of Complaint
Ex.P3	:	Certified copy of Charge sheet
Ex.P4	:	Certified copy of Spot panchanama
Ex.P5	:	Certified copy of PM report
Ex.P6	:	Certified copy of Inquest panchana
Ex.P7	:	Certified copy of IMV report

III) **Witnesses examined on behalf of Respondents: -**

RW-1 : Naveen

IV) **Documents exhibited on behalf of Respondents:**

--NIL--

(Lakshmikanth J Miskin)
Senior Civil Judge & M.A.C.T
Sindhanur.