IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2885-2019 (O&M)

NEW INDIA ASSURANCE CO. LTD.

..Appellant

Versus

SARITA DEVI AND ORS.

..Respondents

Reserved on: 17.04.2026
Pronounced on: 13.05.2026
Uploaded on : 14.05.2026

Whether only the operative part of the judgment is pronounced? *NO*
Whether full judgment is pronounced? *YES*

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. R.C. Kapoor, Advocate
for the appellant.

Ms. Simran Kaur Bhatti, Advocate
for respondents No.1 to 4.

None for respondents No.5 and 6.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant-Insurance company against the award dated 15.11.2018 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal'), wherein the claim petition filed by the claimants was allowed and appellant-Insurance company was made liable to pay the compensation.

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BRIEF FACTS OF THE CASE

2. Brief facts of the case are that As per version of petitioners as also recorded in FIR No.320 dated 06.12.2016, on 02.12.2016 complainant Rajesh along with his brother Anoop Singh was going towards Mandola on a motor-cycle which was being driven by Rajesh. When they turned from the side of Manpura towards Mandola, one car bearing No.HR-43C-4199 came from the opposite side which was being driven at a fast speed, rashly and negligently and hit their motor-cycle which was being driven on the correct side of the road. He fell on the metalled portion of the road while Anoop Singh fell on the road and suffered head injuries. The car driver stopped the car and came near them and told his name as Suresh Yadav son of Satyavir Singh Yadav resident of Bawwa and he along with car driver took his brother to Aditya Hospital, Rewari. The condition of his brother was not stable who was unconscious and he did not lodge the FIR immediately as he was under mental stress. He told the doctor that he will get the FIR registered lateron. After surgery, the condition of his brother started improving who is still admitted in ICU. The aforesaid information was given to police by complainant Rajesh Kumar on 06.12.2016 and he alleged that accident in question took place due to rash and negligent driving on the part of car driver. Prior to this, ruqa was received in police station on 05.12.2016 regarding the admission of Anoop Singh in the hospital. However, during treatment deceased died on 22.12.2016. It is further submitted that deceased was admitted at Aditya Hospital, Rewari on 02.12.2016 and was discharged and referred on request of relatives to Durlabji Hospital on 21.12.2016. However, deceased was again admitted in the hospital on 22.12.2016 where he succumbed to this injuries

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on the same day. Petitioners had paid the expenses of Rs.507817/-. when deceased was referred from Aditya Hospital. It is further submitted that deceased was 26 years of age and was Accountant-cum-Teacher in Jeevan Jyoti Institute, Mandola and tutor of Accountancy and Mathematics and was earing Rs.46,500/- per month (Rs.16,500/- per month from salary and Rs.30,000/- per month from Tution classes). However, after his death, petitioners who were dependent upon him have no source of income and their future has become bleak. A sum of Rs.50,000/- was spent on the last rites etc. of the deceased. Petitioners will suffer mental as well as physical agony for whole of their lives and have also been deprived of his love and affection. By way of present petition, a sum of Rs.1 crore along with interest has been claimed as compensation.

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

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

> *"(1) Whether deceased Anoop Singh died in a motor vehicle accident occurred on 02.12.2016 due to rash and negligent driving of offending vehicle bearing registration no. HR-43C-4199 by driver respondent no.1? OPP.*
>
> *(2) Whether the petitioners are entitled to get compensation, if so to what amount and from whom? OPP.*
>
> *(3) Whether the respondent No.1 was not holding a valid and effective driving license on the date of alleged accident? OPR2.*

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(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. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

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

(i) that the learned Tribunal has erred in holding that accident occurred due to sole negligence of the driver of offending vehicle.

(ii) that infact the accident was a result of contributory negligence of both the drivers.

(iii) that compensation awarded by learned Tribunal is on the higher side.

(iv) that learned Tribunal has committed an error in law by awarding compensation separately under the heads of "loss of consortium" as well as "loss of love and affection." He has placed reliance upon the Constitution Bench judgment of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi*, 2017) 16 SCC 680]** to contend that compensation under the head of "loss of love and affection" is not permissible, and the claimants are entitled only to compensation under the conventional head of "loss of consortium." Therefore, he prays that the present appeal be allowed.

8. Per contra learned counsel for claimants/respondents No.1 to 5 contends that issue of rash and negligence driving has rightly been decided by learned Tribunal. He furthermore contends that compensation awarded by the learned Tribunal is on lower side and deserves to be enhanced. He furthermore contends that respondents No.1 to 5 have filed separate appeal bearing **FAO-6173-2019, titled as *"Sarita Devi and others Vs. Suresh Kumar Yadav and another"***, seeking enhancement. Therefore, he prays that the present appeal be dismissed.

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

10. A perusal of record reveals that the findings returned by the learned Tribunal on Issue No.1 are founded upon a proper and comprehensive appreciation of the oral as well as documentary evidence available on record and do not suffer from any perversity, illegality or misreading of evidence so as to warrant interference by this Court in exercise of appellate jurisdiction.

11. The testimony of PW-9 Rajesh Kumar, who is not only the author of the FIR but also an eye-witness to the occurrence, inspires confidence and has rightly been relied upon by the learned Tribunal. PW-9 categorically deposed that on 02.12.2016, while he along with deceased Anoop Singh was proceeding towards Mandola on motorcycle No. HR-34F-2327, the offending car bearing registration No. HR-43C-4199 came from the opposite direction at a very high speed and in a rash and negligent manner and struck the motorcycle which was being driven on the correct side of the road. Despite extensive cross-examination, nothing material

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could be elicited so as to discredit his version or impeach his credibility. His testimony has remained consistent on all material particulars.

12. The learned Tribunal has also rightly held that the delay of four days in lodging the FIR cannot be construed adversely against the claimants. The explanation furnished by PW-9 that his immediate concern was to secure medical treatment for his grievously injured brother, who remained admitted in ICU, is natural, plausible and wholly convincing. In motor accident claim cases, delay in registration of FIR cannot be viewed with the same rigour as in criminal trials, particularly when the surrounding circumstances satisfactorily explain such delay.

13. The ocular version of PW-9 further stands duly corroborated from FIR Ex.PW6/A, wherein the manner of occurrence as well as the registration number of the offending vehicle find specific mention. The Tribunal has, therefore, rightly concluded that the accident occurred due to rash and negligent driving of respondent No.1.

14. The Tribunal has correctly applied the settled principles governing adjudication of claim petitions under the Motor Vehicles Act, namely that the issue of negligence is required to be determined on the touchstone of preponderance of probabilities and not on proof beyond reasonable doubt. The reliance placed upon the judgments of the Hon'ble Supreme Court and this Court in that regard is fully justified.

15. Equally significant is the fact that respondent No.1 (driver) failed to step into the witness box to rebut the allegations levelled against him. The learned Tribunal was, therefore, justified in drawing an adverse inference against the respondents.

16. The contention raised by learned counsel for the appellant-Insurance Company that the accident being a head-on collision necessarily warranted apportionment of liability on account of contributory negligence is equally devoid of merit. Mere occurrence of a head-on collision does not *ipso facto* lead to an inference of contributory negligence unless there is cogent evidence on record demonstrating negligence on the part of the deceased as well. In the present case, there is no evidence whatsoever to establish that the motorcycle was being driven rashly or negligently or that the deceased contributed in any manner to the occurrence.

17. It is further significant that neither any specific plea of contributory negligence was raised by the appellant-Insurance Company nor any issue to that effect was framed by the learned Tribunal. In absence of pleadings, issue and evidence, the plea of contributory negligence cannot be permitted to be raised at the appellate stage. In ***M. Nithya & Ors. vs. SBI General Insurance Co. Ltd., arising out of SLP (Civil) No. 833–834 of 2023***, the Hon'ble Supreme Court held that where no issue regarding contributory negligence had been framed by the Tribunal, the High Court ought not to entertain such plea to reduce compensation. The said principle squarely applies to the present case.

18. Therefore, the finding recorded by the learned Tribunal on negligence being based on proper appreciation of evidence warrants no interference.

19. Adverting now to the contention of learned counsel for the appellant-Insurance Company that compensation awarded is on higher side, the same is dealt with as under after taking into account settled law on compensation.

<u>SETTLED LAW ON COMPENSATION</u>

20. Hon'ble Supreme Court in the case of ***<u>Sarla Verma Vs. Delhi Transport Corporation and Another</u>*** **[(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.

21. 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*

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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

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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*

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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."*

22. Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

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

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With respect to a spouse, it would include sexual relations with the deceased spouse.

*21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

*21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

***22**. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most* *jurisdictions therefore permit 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.*

23. A perusal of the award reveals that the deceased-Anoop Singh was stated to be 26 years of age at the time of the accident, therefore, the

learned Tribunal has rightly assessed the age of deceased as 26 years by placing on reliance on post mortem report (Ex.PW2/J).

24. It is settled proposition of law as held by Hon'ble the Supreme Court in ***Sunita Vs. Vinod Singh 2025 INSC 366*** wherein the Hon'ble Apex Court held that in absence of material indicating to the contrary, there is no inhibition to accept the age of deceased as per post mortem report. The relevant extract of the same is reproduced as under:-

> *"11. The amount arrived at by the High Court of the monthly income being Rs.5,819/- (Rupees Five Thousand Eight Hundred and Nineteen) as against the claim of Rs.10,000/- (Rupees Ten Thousand) appears to be on the lower side as the total earning of the deceased from family pension itself ought to have been considered which itself would come to Rs.5,137/- (Rupees Five Thousand One Hundred and Thirty-Seven) to which the notional wages as a home maker had to be added, which we find is reasonable as has been taken by the High Court at Rs.2,500/- (Rupees Two Thousand Five Hundred). Thus, the monthly income would come to Rs.7,637/- (Rupees Seven Thousand Six Hundred and Thirty-Seven), which we are inclined to round off at Rs.7,000/- (Rupees Seven Thousand) Coming to the multiplier factor which is dependent on the age, there is sufficient indication that the deceased was aged about 45 years as per the Post-Mortem Report which is a scientific assessment of the age of the deceased. The purported discrepancy in the age*

with regard to that of the claimant and the deceased is erroneous for the reason that when the claim was filed, appellant no.1 was aged about 30 years and a difference of 15 years between the daughter-in-law and the mother-in-law cannot be said to be totally devoid of reality given the contextual and prevalent societal norms in vogue at the time of marriage of the deceased which could have been at least 25 to 30 years prior to her death i.e., in or about the 1970s. ***Moreover, in the absence of material indicating to the contrary, there is no inhibition to accept the age of the deceased as per the Post-Mortem Report****. Thus, we are inclined to grant her the benefit of multiplier of 14 taking her age as 45 years. With regard to the loss of love and affection, Pranay Sethi (supra) grants Rs.40,000/- (Rupees Forty Thousand) per head with escalation of 10% every three years for loss of consortium which has been interpreted in Magma General Insurance Co. Ltd. v Nanu Ram, (2018) 18 SCC 130 to include spousal, parental, and filial consortium. Thus, there being five claimants the amount shall be [Rs.48,000/- x 5] which comes to Rs.2,40,000/- (Rupees Two Lakhs and Forty Thousand) payable under the head of loss of love and affection."*

25. In view of the above, referred to judgment, the age of deceased Kartik is ascertained as **26 years** at the time of accident. Therefore, the learned Tribunal has rightly applied the multiplier of 17.

26. A further perusal of the award reveals that the deceased was a highly qualified person, who has completed his B.Com and M.Com and he was stated to be working with Neevan Jyoti Insitute of Education, Mandola, earning Rs.16,500/- per month. The learned tribunal erred in assessing the income of the deceased based solely on the prevailing minimum wages in the area, without considering the academic qualifications of the deceased and the potential impact on future earnings.

27. The Supreme Court in recent pronouncement titled as ***Sharad Singh v. H.D. Narang (2025 INSC 1164)***, decided on 26.09.2025 categorically observed that simply adopting minimum wages for a graduate preparing for a professional career is unrealistic and the assessment of the income can be modified on the basis of his education.

28. The relevant portion of the same is reproduced as under :

> *"**4.** The next contention is regarding the loss of income computed. The appellant was a final year B.Com student who had also enrolled with the Institute of Chartered Accountants of India. The Tribunal adopted an income of Rs. 3,339/- per month being the minimum wages applicable to a workman. The High Court found that though he had academic prospects, the victim was yet to attain the qualification, which places the Court at a disadvantage in adopting the income of a Chartered Accountant. The High Court adopted an income of Rs. 3,352/-. While the Tribunal adopted a multiplier of 17, the High Court correctly increased it to 18 as is laid down by a Constitution Bench in **National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680**.*
>
> ***5.** The Tribunal awarded a total amount of Rs. 18,03,512/- which was the total of the medical bills and the loss of income computed as hereinabove mentioned as*

also Rs. 1 lakh for pain and suffering. The High Court increased the quantum of income and awarded a total amount of Rs. 7,24,032/- as loss of income with 100% disability. The High Court further awarded an amount of Rs. 14 lakhs which included attendant charges, loss of amenities, compensation for pain and suffering, loss of marriage prospects and disfigurement occurred, in addition to the total medical expenses of Rs. 11,22,356/-. The total compensation awarded by the High Court came to Rs. 32,46,388/-.

6. *The learned Senior Counsel for the appellant argued that there was no rationale in adopting the minimum wages for determining the income of a bright student who was in the process of completing his graduation and proceeding to sit for the Chartered Accountants examinations. The learned Counsel for the Insurance Company first argued that the amounts determined as minimum wages, is as per the schedule in Delhi relatable to a graduate. We were not convinced that the minimum wages would be determined on the basis of the educational qualification alone without reference to the nature of work carried on. The learned Counsel after further verification submitted that minimum wages adopted is of the year 2001 applicable to a skilled worker. We are not convinced that even that can be adopted for a graduate who was in the process of sitting for the Chartered Accountant examination which would have placed him in a good employment with immense prospects. The aspirations of the young man were shattered by the accident which left him paraplegic and fighting for breath, which also prompted the parents to relocate to another part of the country. We are of the opinion that even if he had not obtained the certificate as a Chartered Accountant, upon graduation, he could have*

> *been employed as an Accountant, who would have, on any reasonable estimate, received an amount of Rs. 5,000/- as monthly income in the year 2001, if the minimum wages prescribed for a skilled worker was Rs. 3,352/-. Adopting Rs. 5,000/- as monthly income, we are of the opinion that, as has been held in Pranay Sethi, 40% has to be computed as future prospects. The loss of income for the 100% disabled paraplegic would be Rs. 15,12,000/- (Rs. 5,000/- × 140% × 12 × 18). To this is to be added an amount of Rs. 14 lakhs granted by the High Court under conventional heads and the medical expenses of Rs. 11,22,356/- totalling to Rs. 40,34,356/-. The total award carrying interest @ 9% per annum from the filing of the petition till realisation, as awarded by the Tribunal & the High Court and enhanced by us will be paid to the substituted appellant within a period of four months from today."*

29. In light of the above referred to judgment, this Court deems it appropriate, in the interest of justice to reassess the income of the deceased. Therefore, the income of the deceased is assessed at **Rs.15,000/- per month**, considering his educational background and the potential for higher earnings in the future.

30. 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.

31. The Hon'ble Supreme Court in ***V. Pathmavathi and Others v. Bharti AXA General Insurance Co. Ltd. and Another, 2026 INSC 131***, has

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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*

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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 Ram17 assumes significance. This Court expanded the ambit of "consortium" to include parental and filial consortium, implicitly acknowledging the emotional and relational loss suffered by children and parents alike. (2018) 18 SCC 130 This doctrinal expansion suggests that the distinction between "consortium" and "loss of love and affection" may be one of form rather than substance. The coordinate Bench ruled as follows:

21. A Constitution Bench of this Court in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680] dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium".

The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse: [Rajesh v. Rajbir Singh, (2013) 9 SCC 54].

21.1. Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, *society, cooperation, affection, and aid of the other in every conjugal relation". [Black's Law Dictionary (5th Edn., 1979).] 21.2. Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training". 21.3. Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An 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

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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:

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

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

32. 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

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sustained in law. Accordingly, the amount awarded by the Tribunal under the said head is liable to be deducted from the total compensation.

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

Sr. No.	*Heads*	*Compensation Awarded*
1	Monthly Income	Rs.15,000/-
2	Future prospects @ 40%	Rs.6,000/- (40% of 15000)
3	Deduction towards personal expenditure 1/4th	Rs.5,250/- (21000 X 1/4)
4	Total Income	Rs.15,750/- (21000-5250)
5	Multiplier	17
6	Annual Dependency	Rs.32,13,000/- (15,750 X 12 X 17)
7	Loss of Estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000 /-
9	Medical	Rs.5,33,667/-
10	Loss of Consortium Parental : 2 x 40,000 Spousal : 1 x 40,000 Filial : 2 x 40,000	Rs.2,00,000/-
11	**Total**	**Rs.39,76,667/-**
12	**Deduction** Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006	**Rs.31,56,000/-**
13	**Total compensation**	**Rs.8,20,667/- (39,76,667-31,56,000)**

34. 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.

35. In view of the above discussion, the present appeal is hereby dismissed, being bereft of any merit.

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

May 13th, 2026 **(SUDEEPTI SHARMA)**
Ayub/Sahil **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No