



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

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FAO-3166-2006 (O&M)

Date of Decision: July 11, 2025

Maya Devi and others

.....Appellant(s)

Vs.

Baldev Raj and others

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Parminder Singh, Advocate for the appellants.

Mr. Suman Jain, Advocate and

Ms. Swati Singal, Advocate for respondent-Insurance Company

None for respondents No.1 and 2.

SUDEEPTI SHARMA J. (ORAL)

The case is listed before this Court for referral to the “Special Mediation Drive-Mediation ‘For the Nation’ List”.

Learned counsel for the parties contend that the matter cannot be referred to Mediation and Conciliation Centre of this Court, since, the present appeal is filed against award dated 27.03.2006 whereby the claim petition filed by the appellants/claimants was dismissed.

FAO-3166-2006

1. The present appeal has been preferred against the award dated 27.03.2006 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short ‘the Act’) by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which, the claim petition filed



by the appellants/claimants, who are the legal heirs of the deceased-Ramesh Kumar, was dismissed.

FACTS NOT IN DISPUTE

2. The brief facts of the case as mentioned in the claim petition are that on 05.07.2004, Ramesh Kumar, (since deceased), along with his brother started from village Kohand on their separate bicycles for their home at Gharaunda. They were paddling their bicycles on the left side of the road. At about 7:30 p.m., when they reached in front of Rest House, Gharaunda, one TATA Sumo bearing registration No.UP-78R-7477 (hereinafter referred to as 'offending vehicle') came from Panipat side. The said offending vehicle was being driven by respondent No. 1 rashly, carelessly and negligently and it hit the bicycle of Ramesh Kumar from behind. Ramesh Kumar fell down on the road and sustained extensive injuries on his person. The driver of the offending vehicle fled away alongwith his vehicle after causing the accident. The accident was witnessed by one Pritam Singh who after the accident went to Madhya Pradesh with his combine (harvester machine) and after his return, he disclosed the registration number of the offending vehicle to the police.

3. Upon notice of the claim petition, respondents appeared and filed 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 Ramesh Kumar son of Ram Sarup had died in the motor vehicular accident took place on 5-7-2004 by rash and negligent driving of vehicle bearing No.UP-78R-



7477 being driven by Baldev Raj son of Durga Dass respondent No.1? OPP

2. If so, whether the claimants, being the LRs, are entitled to the compensation. If so, to what amount? OPP

3. Whether the vehicle in question was being driven by its driver, who was not having any valid and effective driving licence? OPR

4. Whether the vehicle in question was being driven in violation of the terms and conditions of the insurance policy? OPR

5. Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence, the claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. The learned counsel for the claimants-appellants contend that the claim petition was dismissed only on the ground that name of the driver and registration number of the offending vehicle was not there in the FIR. He further contends that deceased-Ramesh Kumar was 37/38 years of age at the time of the accident. He was working as a mechanic of hand pumps and was earning Rs.9000-10000/- per month. Therefore, he prays that the present appeal be allowed and compensation be granted to the appellants/claimants as per latest law.

7. Per contra, learned counsel for the respondents vehemently argues on the lines of the award and contends that the claim petition has rightly been dismissed. Therefore, he prays for dismissal of the present appeal.



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

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

ISSUE No.1:-

“7. In order to prove this issue in their favour, the petitioners examined Raj Kumar, brother of the deceased who lodged the FIR with the police. He came in the witness box as PW1 and filed his affidavit Ex. PA wherein he reiterated the allegations in the claim petition. PW3 Vipin Kumar, Addl. Ahlmad in the court of Shri Devender Singh, Judicial Magistrate I Class, Karnal brought the summoned file of the case titled State Vs. Baldev Raj FIR No.239 dated 5-7-2004 under sections 279,337,304-A of the Indian Penal Code with him. He deposed that the charge for the aforesaid offences was framed against the accused Baldev Raj on 2-2-2005 and the case was fixed for prosecution evidence for 1-5-2000. He also proved the certified copy of the report under section 173 Cr.P.C. Ex. P2, copy of site plan Ex.P3 and copy of FIR Ex.P4 in his statement. PW4 Dr. S.P. Singhal conducted post mortem examination on the dead body of Ramesh Kumar vide post mortem report copy of which is Ex. P5. PW5 Pritam Singh is the alleged eye-witness of the occurrence who tendered his affidavit Ex. PC in accordance with which he saw TATA Sumo bearing registration No.UP-78R-7477 while causing the accident with Ramesh Kumar. He deposed that on that day he was going to Panipat side from his village in a three wheeler when he saw the accident. He also alleged that TATA Sumo No.UP-78R-7477 was being driven by its driver in a rash and negligent manner.

8. In rebuttal to this evidence, Baldev Raj respondent No.1 came in the witness box as RWI and tendered his affidavit Ex.RA wherein he stated that he had no concern with the accident in question. He stated that TATA Sumo No.UP-78R-7477 did not



cause any alleged accident and a false FIR was lodged against him in order to extract compensation. He stated that his vehicle was taken into possession after two months of the alleged accident.

9. The learned counsel for the petitioners has argued that the testimony of PW5 Pritam Singh, who is an eye-witness of the occurrence establishes that driver of TATA Sumo No.UP-78R-7477 had caused the accident with Ramesh Kumar resulting into his death. The learned counsel for the petitioners has argued that Pritam Singh had to go to Madhya Pradesh because his combine had already been sent to Madhya Pradesh for doing agriculture cutting and after he returned to Gharaunda, he met the police and told about the accident. The learned counsel for the petitioners has further argued that the evidence also shows that the police investigated the case and found that the accident was caused by respondent No.1 while driving TATA Sumo No.UP-78R-7477. The learned counsel for the petitioners has cited Champa Devi and others Vs. Ram Sarup and others 1994 ACJ Punjab & Haryana 035 and Laxmi Gontiya and another Vs. Nand Lal Tahalramani and others 1999 ACJ Madhya Pradesh 241 and has argued that identity of the TATA Sumo No.UP-78R-7477 and its driver is fully established in this case and principle of res ipsa loquitur is applicable and it is established that respondent No.1 was rash and negligent while driving TATA Sumo No. UP-78R-7477 and he caused injuries to Ramesh Kumar resulting into his death.

10. I have carefully considered the above arguments of the learned counsel for the petitioners. A perusal of the FIR copy of which is Ex. P4, lodged by Raj Kumar, brother of the deceased, shows that the accident took place at about 7-30 p.m. on 5-7-2004 and the FIR was lodged at 1 a.m. on 6-7-2004. In that FIR Raj Kumar alleged that his brother Ramesh Kumar was paddling his bi-cycle



and he was following him on another bi-cycle when the accident took place in front of Rest House, Gharaunda. He also alleged that one unknown TATA Sumo whose number he could not see, caused the accident with his brother Ramesh Kumar. He also alleged that unknown driver had also fled towards Karnal after causing the accident. Significantly when Raj Kumar came in the witness box as PW1 he stated that he had narrated the occurrence to the police as he saw it and the police did not meet him after recording his statement on that day. He admitted that he had stated before the police that he could not ascertain the name of the driver and registration number of the offending vehicle. Though the registration number of the offending vehicle is recorded in his affidavit Ex. PA yet he deposed on oath that he had not got recorded the registration number of the offending vehicle in his affidavit Ex. PA. Obviously Raj Kumar brother of the deceased who was allegedly present on the scene of accident could not ascertain the registration number of TATA Sumo which caused the accident with his brother Ramesh Kumar nor could he identify the driver of the said vehicle. Till registration of the FIR and even after long time thereafter the police was groping in the dark and was not aware of the registration number of TATA Sumo which caused the accident with Ramesh Kumar. Pritam Singh (PW5) who allegedly saw the accident deposed that he was going on a three wheeler and he had noted down the registration number of the TATA Sumo but he had not told it to anybody. If Pritam Singh noted down the registration number of the TATA Sumo, it is strange as to why he did not consider it proper to tell it to other persons so that they could intimate the police that TATA Sumo No.UP-78R-7477 had caused the accident with Ramesh Kumar. According to the statement of PW5 Pritam Singh many vehicles stopped after the accident and there was traffic jam at that time. Again none of the drivers or persons traveling in those vehicles



told the registration number of the offending TATA Sumo or name of the driver of the offending TATA Sumo to the police. According to the statement of PW5 Pritam Singh he returned from Madhya Pradesh after about one month and twenty days. He stated that the police met at Taxi Stand, Gharaunda and Police Officials were talking about the accident in question and making an enquiry and then he told them the registration number of the offending vehicle. PW5 Pritam Singh was allegedly working as Vice President of Municipality, Gharaunda and he stated that after he returned from Madhya Pradesh he came to know that the deceased was a resident of his colony and his name was Ramesh Kumar. He made a report to the police after one week of his return from Madhya Pradesh. The story projected by PW5 Pritam Singh is not worthy of credence. There is no documentary evidence on record to show that PW5 Pritam Singh remained in Madhya Pradesh for one month and twenty days. Even if it is assumed for the sake of arguments that he remained in Madhya Pradesh, there is no explanation as to why he did not tell registration number of the offending TATA Sumo to the police for one week after returning to Gharaunda. It is improbable that he remembered registration number of the TATA Sumo for such a long time. When PW5 Pritam Singh was cross-examined by the learned counsel for respondent No.3 he stated that he could not tell the registration number of the three wheeler in which he was travelling. He also stated that he had not noted down the registration number of any other vehicle which passed through the scene of occurrence at that time. He could not give registration number of any of the vehicles which were parked outside the court room on the day when he came in the witness box. Under such circumstances it is quite surprising that PW5 Pritam Singh remembered the registration number of TATA Sumo No.UP-78R-7477 even after two months of the accident. Significantly TATA Sumo No.UP-78R-7477 was taken



into possession by the police on 9-9-2004 i.e. after a delay of more than two months. The petitioners did not examine the Investigating Officer to prove as to how he came to the conclusion that TATA Sumo No. UP-78R-7477 driven by-respondent No.1 had caused the accident. I am of the view that the circumstances on record point out that Pritam Singh who was Vice President of Municipality Gharaunda and was residing in the same locality in which the deceased was residing was introduced as a false witness after two months of the occurrence so that the petitioners could get compensation on account of death of Ramesh Kumar. This Tribunal has every sympathy with the dependents of the deceased but at the same time it was for them to prove by-cogent and convincing evidence that respondent No.1 caused the accident with the deceased while driving TATA Sumo No.UP-78R-7477 in a rash and negligent manner. After weighing the evidence led by both the sides, it appears that some unknown driver driving some unknown TATA Sumo caused the accident with Ramesh Kumar resulting into his death. When Baldev Raj respondent No. 1 came in the witness box as RW1 he deposed that he had made an application in the police post about his false implication. Though he did not make any application to the Superintendent of Police or Deputy Commissioner about his false implication yet he stated that he had gone to the Kothi of the Deputy-Commissioner, Karnal but nobody heard him. The mere fact that the police presented report a under/Section 173 Cr.P.C. against respondent No.1 does not prove the case of the petitioners.

11. *The rulings cited by the learned counsel for the petitioners have no application to the facts of the present case. In **Champa Devi Vs. Ram Sarup** (supra) identity of the tractor involved in the accident was established by PW2 Mai Chand. Further PW5 Bipati Ram of that case stated that he could recognize the person who was driving the tractor at the time of accident. The witnesses stood*



*the test of cross-examination, therefore, Hon'ble High Court held that the evidence conclusively established the identity of the tractor and its driver. In the instant case, the position is entirely different because only PW5 Pritam Singh deposed about the registration number of the offending TATA Sumo arid in his cross-examination he stated that he did not know the name of driver of TATA Sumo which caused the accident. As I have already observed his testimony does not inspire confidence because he was introduced as an eye-witness after two months of accident in order to help the petitioners to get compensation. In **Laxmi Gontiya Vs. Nand Lal Tahairamani** (supra) driver of the offending vehicle was discharged by the Magistrate holding that prima facie he was not guilty of rash and negligent driving of the mini-bus. However, Hon'ble High Court on the principle of res ipsa loquitur found the driver of the mini bus to be rash and negligent. In the instant case, as I have already observed since identity of TATA Sumo which caused the accident with Ramesh is not established, the statement of PW5 Pritam Singh does not inspire confidence to connect TATA Sumo No.UP-79R-7477 with the alleged accident,*

12. For the reasons recorded above, the petitioners have failed to establish that Ramesh Kumar died on account of rash and negligent driving of Tata Sumo No.UP-78-R-7477 by respondent No.1. This issue is decided against the petitioners.

13. In view of my finding on issue No.1, this issue has become redundant and is not required to be decided.

10. A perusal of the impugned award reveals that the learned Tribunal has erred in dismissing the claim petition filed by the appellants/claimants on



the ground that the FIR was lodged against an unknown driver and unknown vehicle, and that there was a delay in lodging the FIR.

11. The FIR (Ex. P4), dated 6.7.2004, records that the accident in question occurred on 5.7.2004 at approximately 7:30 p.m. near the Rest House, Gharaunda. It is not in dispute that the complainant Raj Kumar-PW1, the brother of the deceased, lodged the FIR, and at that point, the identity of the vehicle and driver involved in the accident was unknown. Raj Kumar-PW1 also testified in Court and gave a detailed account of the occurrence, stating that he was following his brother on a bicycle and witnessed the accident from some distance. Due to his (Raj Kumar-PW1) position at the time of the incident and the suddenness of the occurrence, he was understandably unable to ascertain the registration number or the identity of the driver.

12. It is a settled principle of law that in motor accident claim cases, it is not unusual that the registration number of the offending vehicle is unknown at the time of lodging the FIR. Often, the identity of the vehicle and driver is discovered only during the investigation of the case. Therefore, mere fact that the FIR was initially lodged against an unknown vehicle and driver cannot, by itself, be a ground to disbelieve the entire case of the claimants. Further, the investigation conducted by the police culminated in the filing of a charge sheet against respondent No.1 (Baldev Raj), the driver of TATA Sumo No. UP-78R-7477, under Sections 279, 337, and 304-A of IPC, which was duly proved by PW-3 Vipin Kumar, who brought the court records of the criminal case and proved certified copy of the police report under Section 173 Cr.PC (Ex. P2), the site plan (Ex. P3) and the FIR (Ex. P4). Charges were framed



against the respondent on 2.2.2005, and the case was fixed for prosecution evidence.

13. The learned Tribunal disbelieved the version of the appellants/claimants primarily on the ground that the Investigating Officer was not examined. However, this finding inverts the burden of proof. Once the police investigation culminated in charge sheet and framing of charges against respondent No.1, it was incumbent on the respondents and the Insurance Company to summon and examine the Investigating Officer if they intended to impeach the credibility of the investigation. The failure to do so cannot be held against the claimants/appellants, especially when the official records of the investigation were duly produced and proved.

14. Significantly, the testimony of PW-5 Pritam Singh, eyewitness, was discarded by the learned Tribunal on the ground that he disclosed the registration number of the offending vehicle to the police only after nearly 50 days. However, this delay stands explained by the witness himself. He deposed that he had left for Madhya Pradesh for agricultural work soon after the accident and it was only upon his return that he came to know that the deceased was a resident of his colony. Upon learning this, he reported the incident and registration number of the offending vehicle to the police.

15. The learned Tribunal failed to appreciate that in the context of motor vehicle accident proceedings, such delay, when adequately explained, does not erode the credibility of the witness entirely. The inference made by the learned Tribunal that PW-5 Pritam Singh while cross examined failed to recall the registration number of other vehicles is speculative and does not



sufficiently undermine his testimony regarding the specific vehicle involved in the accident. Human memory does not operate in symmetrical fashion and it is quite plausible that a traumatic event etched the number of the offending vehicle into the witness's memory. It further emerges from the record that the learned Tribunal picked holes in the deposition of the eyewitness (PW-5) without any justifiable basis, in the opinion of this Court.

16. Moreover, PW-4 Dr. S.P. Singhal, who conducted the post-mortem of the deceased-Ramesh Kumar, clearly deposed that the injuries found on the deceased were consistent with a high-impact road accident and were ante-mortem in nature. PW-4 Dr. S.P. Singhal's medical opinion, supported by the post-mortem report (Ex. P5), corroborates the case of the claimants regarding the nature and cause of death. The learned Tribunal failed to even consider this crucial medical evidence which is a serious oversight.

17. Furthermore, the fact that the challan was presented against respondent No.1 and charges were framed against him which supports the conclusion that sufficient material existed to *prima facie* hold him responsible for rash and negligent driving. It is trite law that once the FIR has been registered and charge sheet has been filed, it constitutes prime facie evidence of the fact that accident occurred due to negligent driving of the accused. Reference at this stage can be made to judgment of this Court in passed in **FAO No.1866 of 2007** titled as "**Smt. Gayatri Devi and others Vs. Ashwani Kumar and others**". The relevant paragraph of the same is reproduced as under:-

"14. Furthermore, PW3-Raja Ram, Criminal Ahlmad to the CJM, Narnaul, testified that a challan had been duly presented in FIR No. 27 dated 4.2.2005 against Respondent No.1



and the charges were already framed under Sections 279 and 304-A IPC. Jurisprudence in motor accident cases unequivocally holds that once the FIR has been registered and a charge sheet has been filed, it constitutes prima facie evidence of the fact that the accident occurred due to the negligent driving of the accused. The learned Tribunal, however, erroneously disregarded this crucial piece of documentary evidence, which lends substantial credence to the case of the appellants/claimants.”

18. Upon a holistic evaluation of the evidence on record comprising the cogent and credible testimony of the eyewitness (PW-5), the official documentary evidence produced by PW-3 Vipin Kumar, Additional Ahlmad reflecting the outcome of investigation culminating in the framing of charges against the respondent No.1 and the medical testimony of PW-4 Dr. S.P. Singhal corroborating the cause and nature of injuries sustained by the deceased, this Court is of the considered view that the rejection of the claim by the learned Tribunal on hyper-technical and unsustainable grounds, without appreciating the standard of proof applicable in motor accident claims, suffers from a manifest error of law and is liable to be set aside.

19. In light of the foregoing analysis, the findings of the Tribunal dismissing the claim petition are legally unsound and liable to be set aside.

20. With respect to determination of compensation, the record contains evidence of the claimant's earning and his age etc. Consequently, this Court shall adjudicate the compensation in accordance with the documentary evidence on the record.



SETTLED LAW ON COMPENSATION

21. 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 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 Thomas³, 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.

22. 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 Rajesh². 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 Verma⁴ which we have reproduced hereinbefore.

59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ 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.”

23. 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 Sethi² 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 Sethi². 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.

24. A perusal of the record reveals that as per claim petition deceased-Ramesh Kumar was stated to be 37/38 years of age at the time of his death. However, no documentary evidence supporting the same was placed before the Ld. Tribunal. Further, post mortem report Ex.P-5 reveals that the age of the deceased was 38 years at the time of his death. 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).10 of 14 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 Ramesh Kumar is ascertained as 38 years at the time of accident. A perusal of the record further shows that the deceased was stated to be a mechanic of hand-pumps and his income was asserted to be Rs.9000/- per month. However, no documentary evidence qua the same was placed on record, therefore, under the prevailing facts of the present case, his income is to be assessed as Rs. 3000/-



per month in accordance with the minimum wages prescribed for skilled worker in the State of Haryana.

RELIEF

26. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is allowed. The award dated 27.03.2006 is hereby set aside. The appellants-claimants are entitled to compensation as per the calculations made here-under:-

Sr. No.	Heads	Compensation Awarded
1.	Monthly Income	Rs.3000/-
2.	Future Prospects @ 40%	Rs.1200/- (40% of 3000)
3.	Deduction towards personal expenditure 1/4th	Rs.1050/- ($\frac{1}{4}$ th of 4200)
4.	Total Income	Rs.3150/-(4200-1050)
5.	Multiplier	15
6.	Annual Dependency	Rs.5,67,000/-(3150x12x15)
7.	Loss of Estate	Rs.18,000/-
8.	Funeral Expenses	Rs.18,000/-
9.	Loss of Consortium Parental : Rs.48,000/- X 4 Spousal : Rs. 48,000/- X 1 Filial : Rs. 48,000/-	Rs.2,40,000/-
	Total Compensation	Rs.8,43,000/-

27. 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 appellants-claimants are granted the interest @ 9% per annum on the compensation amount from the date of filing of claim petition till the date of its realization.



28. Now coming to the findings so rendered by the Learned Tribunal on issues No. 3 and 4. The issues No.3 and 4 were framed as under:-

“3. Whether the vehicle in question was being driven by its driver, who was not having any valid and effective driving licence? OPR

4. Whether the vehicle in question was being driven in violation of the terms and conditions of the insurance policy? OPR”

29. The learned Tribunal has decided the issue No.3 and 4 as under:-

“Burden to prove these issues was on respondent No. 3 but it has not led any evidence to this effect that respondent No. 1 was not holding a valid driving licence at the time of the accident and that the insured violated the terms and conditions of the insurance policy. Both these issues are decided against respondent No. 3.”

30. Consequently, in view of finding on issue No.3 and 4, the Insurance Company is directed to deposit the amount of compensation alongwith interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The learned Tribunal is further directed to disburse the amount of compensation alongwith interest in the accounts of the claimants/appellants. The claimants/appellants are directed to furnish their bank accounts details to the Tribunal.

31. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Suman Jain, Advocate within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007, by this Court.



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

(SUDEEPTI SHARMA)
JUDGE

July 11, 2025

sonia arora

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