



FAO-3683-2007 (O&amp;M)

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

FAO-3683-2007 (O&amp;M)

Date of Decision: 30.01.2025

Smt. Kelo Devi and another

.....Appellants

Vs.

Geeta Parshad @ Rajender and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. S.N.Pillania, Advocate,  
for the appellants.

Mr. Vinod Gupta, Advocate,  
for respondent No.3-Insurance Company.

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**SUDEEPTI SHARMA J.**

1. The present appeal has been preferred against the award dated 14.12.2006 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal'), whereby the claim petition filed by the appellants/claimants, was dismissed.

**FACTS NOT IN DISPUTE**

2. The brief facts of the case are that on 18.06.2003, Naresh @ Sonu (since deceased) was travelling along with Ravi Kumar, Pawan, Neeraj, Sahil, Anil, Banti @ Sonu (since deceased), Ashok Kumar @ Sonu (since deceased) and Amarjit from Village Mundhal Khurd, District Bhiwani to Village Badsa, District Hisar, in a Gypsy bearing registration No.HR-21B-3475, being driven by one Samunder Singh (since deceased), on the correct left hand side of the road at a moderate speed. At about 11:00 A.M., when



the said Gypsy was about two kilometers from Village Sorkhi in Tehsil Hansi, District Hisar, a private bus bearing registration No.HR-39-6999, being driven by respondent No.1, in a rash and negligent manner, came from opposite side and hit the said Gypsy by going on the extreme wrong side of the road on *kachha* berm. As a result thereof, said Gypsy was totally damaged and all the occupants of the Gypsy suffered multiple and grievous injuries. Due to the accident, Samender Singh (driver of the Gypsy) died on the spot, whereas, Naresh @ Sonu, Ashok and Banti @ Sonu succumbed to injuries while they were on the way to hospital, on account of injuries suffered by them in the said accident. In this regard, FIR No.125 dated 18.06.2003 was registered under Sections 279, 337, 427 and 304-A of the Indian Penal Code, 1860, at Police Station Hansi, District Hisar.

3. Upon notice of the claim petition, respondents appeared and filed written reply denying the factum of accident/compensation.

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

*“1) Whether the accident in question occurred on 18.06.2003 due to rash or negligent driving on the part of respondent no.1 Geeta Parshad, while driving the offending vehicle bus bearing registration No.HR-39-3999 resulting into injuries to petitioners? OPP.*

*2) If issue No.1 is proved, to what amount of compensation, the petitioners are entitled to and from whom? OPP.*

*3) Whether respondent no.1 was not holding a valid and effective driving license at the time of accident? OP-respondent no.3.*



4) *Relief.*”

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition. Hence, the present appeal.

**SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES**

6. The learned counsel for the claimants/appellants contends that the learned Tribunal has wrongly dismissed the claim petition on the following grounds

- i) That certified copy of the FIR was not placed on record;
- ii) neither Dharmender son of Mahabir, who had lodged the FIR, nor ASI Satpal Singh, who had recorded the same, have been examined;
- iii) That original copy of the Post Mortem Report has not been placed on record and merely photostate copy (Ex.K1) of the same has been produced on record without examining the doctor, who has conducted the post mortem examination.

7. *Per contra*, learned counsel for respondent No.3-Insurance Company, however, vehemently argues that the award does not suffer from any illegality and infirmity and the claim petition has rightly been dismissed by the learned Tribunal. 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:-



*“Claim Petition No.72 of 2003 of Kalo Devi and Sukhbir Singh.*

*20. Out of these claimants, Smt. Kalo Devi while appearing as PW2 has, in her affidavit Ex.PV claimant herself to be 42 Years has deposed that her son Naresh alias Sonu expired in the accident in question and was earning Rs. 5000/- per month from his avocation of running a tractor shop. However, in the face of Dharmender son of Mahabir who had statedly lodged the FIR, or even ASI Satpal Singh who had recorded the same having not been examined, this petition has to be assessed separately to find out as to whether the death of Naresh in the accident in question actually took place. In the face of non examination of the informant Dharmender or ASI Satpal Singh, who recorded the FIR, coupled with non production of even certified copy of the FIR no evidence is available on record regarding the death of Naresh alias Sonu having taking place in the accident in question more so when the original post mortem report has not been produced on record and merely Photostat copy Ex.K1 of the post mortem report has been produced without examining the doctor who may have conducted the post mortem examination. No cogent reason has been put forth for non production of the original record. This factor assumes significance in the light of the fact that by virtue of section 161 (2) of the Motor Vehicle Act (as substituted the Act No.54 of 1994 w.e. f. 14.11. 1994) the claim petition can be tiled either before the Tribunal before within whose jurisdiction the accident occurred or before the Tribunal within whose jurisdiction the claimant resides or carries on business, or before the Tribunal in whose jurisdiction the defendant*



*resides. There is no averment either in the claim petition, or while appearing in the witness box that no other claim petition has been filed and therefore non production of certified copies of the FIR and post mortem report of the deceased Naresh alias Sonu and non examination of the doctor who may have conducted the post mortem examination cumulatively lead to the conclusion that the death of Naresh alias Sonu in the accident in question cannot be considered to be proved moreso when even the injured claimant Pawan Kumar, since deceased, while appearing as PW1 on 20.5.2005 and another injured claimant Amarjeet while appearing as PW7 on the same date have not said a word regarding the death of Naresh alias Bhollu having taken place in the accident in question while traveling in the same jeep in which they were traveling. Both of them have stated that apart from Dharmender one Sanjit along with said Dharmender were following them on a motorcycle and had witnessed the accident in question but even the said Sanjit Singh has also not been examined. Therefore, claim petition No.72 of 2003 filed by claimant parents, stands dismissed.”*

10. A perusal of the impugned award reveals that the learned Tribunal has committed a grave error in law by dismissing the claim petition on hyper-technical grounds, thereby defeating the very object and spirit of the Motor Vehicles Act, 1988, which is a beneficial legislation aimed at securing just compensation for victims of road accidents and their dependents.



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11. The primary grounds for dismissal, as recorded by the Tribunal, are:

1. The certified copy of the FIR was not placed on record.
2. Dharmender, son of Mahabir (the informant who lodged the FIR), and ASI Satpal Singh (the officer who recorded the FIR) were not examined.
3. The original post-mortem report was not produced; only a photocopy (Ex. K1) was exhibited, and the doctor who conducted the post-mortem was not examined.

However, a careful examination of the record demonstrates that these findings are misplaced and contrary to settled legal principles governing motor accident claims.

12. The Tribunal erred in disregarding the FIR (Ex. 6) solely on the ground that its author, Dharmender, was not examined. It is a well-settled proposition of law, as reiterated by the Hon'ble Supreme Court in **Anita Sharma v. New India Assurance Co. Ltd., 2021(1) SCC (Cri) 475** that the non-examination of the informant does not render the FIR unreliable in motor accident cases. This is because strict rules of evidence do not apply to proceedings before the Motor Accident Claims Tribunal (MACT), which adjudicates claims based on the preponderance of probabilities rather than proof beyond reasonable doubt. The relevant extract of the judgment passed in **Anita Sharma's case (supra)** is reproduced as under:-

*“23. The observation of the High Court that the author of the FIR (as per its judgment, the owner-cum-driver) had not been examined as a witness, and hence adverse inference ought to be*



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*drawn against the appellant claimants, is wholly misconceived and misdirected. Not only is the ownercumdriver not the author of the FIR, but instead he is one of the contesting respondents in the Claim Petition who, along with insurance company, is an interested party with a pecuniary stake in the result of the case. If the ownercumdriver of the car were setting up a defence plea that the accident was a result of not his but the truck driver's carelessness or rashness, then the onus was on him to step into the witness box and explain as to how the accident had taken place. The fact that Sanjeev Kapoor chose not to depose in support of what he has pleaded in his written statement, further suggests that he was himself at fault. The High Court, therefore, ought not to have shifted the burden of proof."*

The FIR in the present case explicitly records that Naresh alias Sonu succumbed to injuries sustained in the accident, which serves as a crucial piece of contemporaneous evidence corroborating the claimants' case.

13. A perusal of PW-8-Din Dayal's testimony establishes beyond doubt that the complete record of the criminal case pertaining to FIR No.125 dated 18.06.2003 was duly brought before the Tribunal. PW-8-Din Dayal, in his capacity as Criminal Ahalmad, categorically stated that charges had been framed against Respondent No. 1, Gita Parshad, and that the challan had been presented in court. Furthermore, he confirmed that the driving license in question was originally issued by the Licensing Authority, Bhiwani, and was subsequently renewed in accordance with due process. His testimony, therefore, not only substantiates the existence of the criminal case but also reinforces the material facts germane to the adjudication of the claim. In



view of the foregoing, the Tribunal's reasoning in dismissing the claim on the ground that the petitioners had submitted only a photocopy of the FIR, without filing a certified copy, is legally untenable. Once the original record of the criminal proceedings was brought before the Tribunal through official testimony, the necessity of certified copy of the FIR became superfluous. The Tribunal, instead of relying on a mere technicality, ought to have appreciated the substantive evidence already on record. By disregarding the duly presented criminal record and dismissing the claim on an extraneous procedural ground, the Tribunal committed a grave legal error.

14. The Tribunal further erred in rejecting the post-mortem report (Ex. K1) merely on the ground that the original document was not produced, and the doctor who conducted the autopsy was not examined. The Hon'ble Supreme Court in **Sunita v. Rajasthan State Transport Corporation, AIR 2020 SC 514**, has categorically held that proceedings before the MACT are not bound by the strict rigors of the Indian Evidence Act, 1872. The relevant extract of the judgment passed in *Sunita's case (supra)* is reproduced as under:-

*“31. Similarly, the issue of non-examination of the pillion rider, Rajulal Khateek, would not be fatal to the case of the appellants. The approach in examining the evidence in accident claim cases is not to find fault with non examination of some "best" eye witness in the case but to analyse the evidence already on record to ascertain whether that is sufficient to answer the matters in issue on the touchstone of preponderance of probability. This Court, in **Dulcina Fernandes (supra)**, faced a similar situation where the evidence of claimant's eye-witness was discarded by the Tribunal and the respondent was*



*acquitted in the criminal case concerning the accident. This Court, however, took the view that the material on record was prima facie sufficient to establish that the respondent was negligent. In the present case, therefore, the Tribunal was right in accepting the claim of the appellants even without the deposition of the pillion rider, Rajulal Khateek, since the other evidence on record was good enough to prima facie establish the manner in which the accident had occurred and the identity of the parties involved in the accident.*

*32. On the issue of negligence by the deceased Sitaram in causing the accident, the Tribunal has referred to the notice issued under Section 134 of the Act (Exh. 7) to the driver of the offending vehicle, respondent No.2. It records that in the said notice, respondent No.2 failed to give any statement indicating that the accident occurred due to any mistake by the rider of the motorcycle, Sitaram. The Tribunal has further relied upon the evidence of Bhagchand (A.D.2) and also upon the site plan of the accident (Exh. 3) to reach a conclusion that respondent No.2 recklessly drove the speeding bus on the wrong side of the road, into the motorcycle being ridden by Sitaram, who was on the correct side of the road, and caused his death. Whereas, the High Court has disregarded the evidence of Bhagchand. Further, the site plan (Exh. 3) cannot be read in isolation. It will have to be examined in conjunction with the other evidence.*

*33. The site plan (Exh. 3) has been produced in evidence before the Tribunal by witness A.D. 1 (appellant No.1 herein) and the record seems to indicate that the accident occurred in the middle of the road. However, the exact location of the accident, as marked out in the site plan, has not been explained muchless proved through a competent witness by the respondents to substantiate their defence. Besides, the concerned police official who prepared the site plan has also not been examined.*



*While the existence of the site plan may not be in doubt, it is difficult to accept the theory propounded on the basis of the site plan to record a finding against the appellants regarding negligence attributable to deceased Sitaram, moreso in absence of ocular evidence to prove and explain the contents of the site plan.*

*34. Be it noted that the evidence of witness A.D.2 (Bhagchand) unequivocally states that the respondent No.2 bus driver was negligent in driving recklessly at a high speed on the wrong side of the road, thus, resulting in the accident which caused the death of Sitaram. It was not open to the High Court to discard this evidence. Additionally, the Tribunal had justly placed reliance on the contents of FIR No.247/2011 (Exh. 1) and charge-sheet (Exh.2) which prima facie indicate the negligence of respondent No.2 in driving the bus. We once again remind ourselves of the dictum in **Dulcina Fernandes** (supra) and thereafter in **Mangla Ram** (supra), and answer the factum of negligence of the driver of the offending vehicle against the respondents.”*

15. The Tribunal’s insistence on the production of the original post-mortem report and examination of the medical officer reflects an unduly rigid approach that is neither warranted by law nor in consonance with the settled principles governing claim petitions under the Motor Vehicles Act. The exhibited copy of the post-mortem report clearly establishes that the cause of death was injuries sustained in the accident, and there exists no cogent reason to doubt its veracity.

16. The learned Tribunal has erroneously disregarded the unimpeachable and credible testimony of PW-2, Smt. Kalo Devi, the mother



of the deceased Naresh alias Sonu. In her affidavit (Ex.PV), she has unequivocally deposed that her son succumbed to injuries sustained in the accident in question. Her testimony remained unshaken during cross-examination, with no material contradictions or omissions brought on record to discredit her statement.

17. The Motor Vehicles Act, 1988, being a welfare legislation, mandates a liberal and purposive interpretation to advance the cause of justice rather than frustrate it through hyper-technical reasoning. The Hon'ble Supreme Court in **Mangla Ram v. Oriental Insurance Co. Ltd., (2018) 5 SCC 656**, has categorically emphasized that technical objections should not be allowed to defeat legitimate claims for compensation. The Tribunal's insistence on rigid procedural compliance, instead of adjudicating the claim on the totality of circumstances and material on record, runs counter to this well-established principle. The rejection of the claim on the specious ground of non-production of certain documents and witnesses is thus wholly perverse and legally untenable.

18. In light of the foregoing discussion, it is evident that the learned Tribunal has adopted an erroneous and unduly technical approach, leading to miscarriage of justice. The impugned award is vitiated by patent illegality and a misappreciation of legal principles, necessitating its outright reversal.

19. So far as Issue No.3 i.e. whether respondent No.1 was not holding a valid and effective driving license at the time of accident, is concerned, the learned Tribunal has already decided the issue in favour of



the appellants/claimants and against respondent No.3-Insurance Company.

The relevant part of the award is reproduced as under:-

*“Issue No. 3:*

*16. The findings under the issue will have a material bearing on the fate of issue No.2 above and therefore this issue is being discussed prior thereto. The onus to prove this issue was upon the insurance company which, however, has led no evidence to prove the same but as per the above discussed testimony of PW8 Dindayal, Ahlmad, of the court of SDJM, Bhiwani that the respondent-driver Geeta Prashad is standing trial as an accused in criminal case arising out of FIR No. 125 dated 11.6.2003 and that his licence No. 13957 /NR/Bhiwani as originally issued on 28.11.1997 and lastly renewed from D.T.O. Hisar exists on the file of said criminal case, **it stands proved that the respondent driver did possess a valid driving licence on the date of accident in question viz. 18.6.2003 on which date the insurance policy Ex.RC was very much in force and resultantly, respondents No.1 to 3 are jointly and severally responsible for payment of compensation arising out of the accident in question.**”*

Consequently, respondent No.3.-Insurance Company is held liable to pay the compensation.

20. A perusal of the award shows that the as per post-mortem report (Ex.K-1), deceased was of 23 years of age and was stated to be running a tractor shop and his monthly income was asserted as Rs.5,000/-, but no documentary evidence was placed on record to substantiate the same. However, under the prevailing facts of the present case, his income is to be assessed as Rs.2,600/- per month, in accordance with the minimum wages prescribed for skilled worker in the State of Haryana.

**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 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 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<sup>3</sup>, 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 Rajesh<sup>2</sup>. It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable*



*sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.*

\* \* \* \* \*

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

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



*59.5. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma<sup>4</sup> which we have reproduced hereinbefore.*

*59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma<sup>1</sup> 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 Sethi<sup>2</sup> dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.*



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

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

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

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium



*under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*

*24. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi<sup>2</sup>. 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.*

### **CONCLUSION**

24. 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 14.12.2006 is hereby set aside. The appellants/claimants are held entitled to compensation as per the calculations made here-under:-

| <b><i>Sr. No.</i></b> | <b><i>Heads</i></b>                        | <b><i>Compensation Awarded</i></b> |
|-----------------------|--|------------------------------------|
| 1                     | Monthly Income                             | Rs.2,600/-                         |
| 2                     | Future prospects @ 40%                     | Rs.1,040/- (40% of 2,600)          |
| 3                     | Deduction towards personal expenditure 1/2 | Rs.1,820/- {(2,600 + 1,040) X 1/2} |
| 4                     | Total Income                               | Rs.1,820/- (3,640 – 1,820)         |
| 5                     | Multiplier                                 | 18                                 |
| 6                     | Annual Dependency                          | Rs.3,93,120/- (1,820 X 12 X 18)    |
| 7                     | Loss of Estate                             | Rs.18,000/-                        |
| 8                     | Funeral Expenses                           | Rs.18,000/-                        |



|   |   |                      |
|---|---|----------------------|
| 9 | Loss of Consortium<br>Parental : Rs. 48,000/- x 2 | Rs.96,000/-          |
|   | <b>Total Compensation</b>                         | <b>Rs.5,25,120/-</b> |

25. 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 amount of compensation from the date of filing of claim petition till the date of its realization.

26. The Insurance Company-respondent No. 3 is directed to deposit the amount of compensation along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is further directed to disburse the amount of compensation along with interest in the accounts of the claimants/appellants. The claimants/appellants are directed to furnish their bank accounts details to the learned Tribunal.

27. Respondent No.3-Insurance Company is hereby directed to disburse the current scheduled fees to Mr. Vinod Gupta, Advocate, within a period of 20 days from the date of receipt of the copy of this judgment.

28. Pending applications, if any, stand disposed of.

(SUDEEPTI SHARMA)  
JUDGE

30.01.2025

Virrendra

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No