IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-8506-2017 (O&M) &
XOBJC-48-2023
Reserved on : 19.12.2025
Date of Pronouncement: 09.02.2026
Uploaded on : 09.02.2026

Cholamandlam MS General Insurance Company Ltd. ....Appellant

Vs.

Surender and others ....Respondents

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. Punit Jain, Advocate
for the appellant-Insurance Company.

Mr. Subhash Chander, Advocate, for
Mr. Sumit Gupta, Advocate,
for respondents No.1 and 2 (in FAO-8506-2017)
for the cross-objector/respondent No.1 (in XOBJC-48-2023).

Ms. Inderpal Kaur, Advocate, for
Mr. Ajay Ghangas, Advocate,
for respondent No.3.

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SUDEEPTI SHARMA, J.

FAO-8506-2017 (O&M)

1. The present appeal has been preferred by the appellant-Insurance Company for setting aside the award dated 28.02.2017 passed by the learned Tribunal under Section 166 of the Motor Vehicles Act, 1988, whereby, the claimants/respondents No.1 and 2 were awarded a compensation of Rs.10,22,000/- along with interest @ 7.5% per annum on

account of death of Rohan Kumar and the appellant-Insurance Company was held liable to pay the compensation.

XOBJC-48-2023

2. The present cross-objections have been preferred against the award dated 28.02.2017 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Tribunal, for enhancement of compensation, granted to the cross-objectors/claimants to the tune of Rs.10,22,000/- along with interest @ 7.5% per annum on account of death of Rohan Kumar.

3. Since the appeal filed by the Insurance Company and the cross-objections filed by the claimants/cross-objectors are arising out of the same award dated 28.02.2017 passed by the learned Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal'), therefore, **FAO-8506-2017** and **XOBJC-48-2023** are decided vide this common judgment.

FACTS NOT IN DISPUTE

4. Brief facts of the case are that on 10.11.2015, respondent No.1 Dharambir Singh took Surender Kumar and Rohan Kumar (since deceased) for the work assigned and they reached the fields of village Babepur. It is alleged that Surender Kumar and Rohan Kumar (since deceased) loaded a trolley attached to the tractor bearing registration No. HR-14L-3613 with bundles of rice straw and thereafter proceeded from the fields. It is further alleged that Rohan Kumar, in the course of discharging his duties, sat on the bundles of rice straw loaded in the trolley, while Surender Kumar sat behind

the driver Dharambir Singh on the tractor. During the journey, Surender Kumar repeatedly requested Dharambir Singh (respondent No.1) to drive the tractor at a slow speed; however, he allegedly drove the tractor in a rash and negligent manner and at a high speed. As a result, Rohan Kumar fell down on the road and sustained fatal injuries, leading to his death at the spot.

5. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

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

> *"1. Whether the accident, resulting into the death of Rohan Kumar son of Sh.Surender had taken place due to rash and negligent driving of vehicle i.e. tractor bearing registration no.HR-14L-3613 by respondent no.1? OPP.*
>
> *2. If issue no. 1 is proved in affirmative, whether the petitioners are entitled to compensation, if so, to what amount and from whom? OPP.*
>
> *3. Whether the respondent no.1 was not holding valid driving license on the date of alleged accident and whether respondent no.2 has contravened the terms and conditions of the Insurance policy, if so its effect? OPR-3.*
>
> *4. Relief."*

7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal has awarded compensation to the tune of Rs.10,22,000/- along with interest at the rate of 7.5% per annum on account of death of Rohan Kumar and the appellant-Insurance Company as well as respondents No.3 and 4 were held liable to pay the compensation jointly and

severally. Hence, the Insurance Company filed the present appeal challenging the award dated 28.02.2017 passed by the learned Tribunal.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

8. Learned counsel for the appellant-Insurance Company contends

i) that the learned Tribunal has committed a manifest error in holding that the accident in question occurred due to the rash and negligent driving of the offending vehicle bearing registration No. HR-14L-3613.

ii) that the said finding is perverse and not borne out from the evidence available on record.

iii) that, as per the First Information Report, the registration number of the offending vehicle was recorded as HR-14L-2513, and that the registration number HR-14L-3613 was subsequently introduced by the claimants at a later stage with a view to falsely implicate the insured vehicle and fasten liability upon the appellant–insurance company. According to learned counsel, such material discrepancy goes to the root of the matter and renders the claim itself doubtful.

iv) that the deceased was travelling while seated on the mudguard of the tractor, which is in clear contravention of the terms and conditions of the insurance policy as well as the statutory provisions governing use of motor

vehicles. On this ground also, it is contended that the appellant-Insurance Company cannot be held liable to indemnify the insured.

v) that the deceased was a gratuitous passenger on the tractor, which is not a vehicle meant for carrying passengers, and that the tractor was being used for a non-agricultural purpose at the time of the accident. Such use, according to learned counsel, constitutes fundamental breach of the policy conditions, thereby absolving the appellant-Insurance Company of any liability to pay compensation.

On the aforesaid grounds, learned counsel prays that the present appeal be allowed and the impugned award passed by the learned Tribunal be set aside.

9. *Per contra,* learned counsel for the cross-objectors/respondents No.1 and 2 contends the learned Tribunal has rightly held the appellant-Insurance Company liable to pay the compensation. He further contends that the amount of compensation is on lower side and deserves to be enhanced, as per settled law. Therefore, he prays that the cross-objections be allowed and the compensation awarded by the learned Tribunal be enhanced as per the latest law.

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

11. It would be apposite to reproduce relevant portion of the award. The same is reproduced as under:-

> *"**ISSUE NO. 1:-***
>
> *7. For the sake of convenience, the issue no.1 is reproduced as under:-*
>
> > *"Whether the accident, resulting into the death of Rohan Kumar son of Sh.Surender had taken place due to rash and negligent driving of vehicle i.e. tractor bearing registration no.HR-14L-3613 by respondent no.1? OPP"*
>
> *8. To prove their case, petitioner no.1 Surender has examined himself as PW1 and testified through his affidavit Ex.PW1/A and deposed on the lines of his petition. He deposed that on 10.11.2015 he along-with his son Rohan loaded the rice straw in the tractor and trolley driven by Dharambir in his fields at Babepur. He further deposed that thereafter, they moved towards village Subana while Dharambir was driving the tractor and his son Rohan was sitting in the trolley on the bundles of rice straw and he himself was sitting on the tractor. He further deposed that Dharambir was driving the tractor at a very high speed and in rash and negligent manner, to which he objected and asked him to drive in proper manner but of no avail. He further deposed that due to rash and negligent driving of Dharambir, his son fell from the trolley and received grievous injuries. He also placed on record copy of FIR Ex.PA, postmortem of Rohan as Ex.PB, copy of death certificate of Rohan as Ex.PC, copy of aadhar card of Rohan as Ex.PD. In his cross-examination he stated that while his son was in*

trolley he was sitting on the mudguard of tractor. He further conceded that initially he mentioned the number of tractor in FIR as HR-14L-2513 whereas lateron he rectified as HR-14L3613. He stated that he was in state of shock at that time.

9. Learned counsel for the petitioner tendered certified copy of charge-sheet framed by the court as Ex.PE and final report under Section 173 Cr.P.C. as Ex.PF.

10. Petitioners have further examined PW2 HC Rambir who deposed that he is the IO in the present case FIR and on 10.11.2015 he was posted at police station Salhawas and on that day, he received a wireless message that one Rohan son of Sh.Surender resident of Subana has died in a road accident. He further deposed that he along-with Constable Anil reached at the spot and found Surender son of Sh.Hoshiar present there. He recorded his statement and got the present case FIR registered against accused Dharambir son of Sh.Sat Narain. He further deposed about investigation including postmortem of deceased and examination of witness Ravi and Sombir, who disclosed the number of tractor as HR-14L-3613 and he also recorded supplementary statement of complainant Surender on 18.11.2015. He further deposed about other investigation work including seizure of documents, offending vehicle, arrest of accused etc.

11. PW3 is Shamsher Singh who deposed that on 10.11.2015 he has went to the house of Surender to ask him to do some labour work but Surender replied that he along-with his son Rohan are going with Dharambir for

lifting the rice straw in the fields of Babepur.

12. PW4 is Ravi son of Sh.Jai Pal who also corroborated the version of the petitioner being an eye-witness of the accident and disclosed the correct number of offending vehicle as HR-14-3613.

13. Per contra, respondents examined RW1 Satish Kumar, Registration Clerk, Transport Authority, Jhajjar who deposed that the tractor bearing registration no.HR-14L-3613 is registered in the name of Sanjay Kumar son of Sh.Ramphal. He further conceded in the crossexamination that trolley, cultivator, jet pump, leveller, etc. are common agricultural equipments which are attached with the tractor but are not registered.

14. RW2 is Ravi, Criminal Ahlmad in the court of Sh.Jogender Singh, Ld. JMIC Jhajjar who deposed that he has brought the summoned record of case FIR no.364 dated 10.11.2015, Police Station Salhawas. He placed on record copy of site plan Ex.RW2/A. He further deposed that as per his record, the witnesses have been repeatedly summoned and even warrants have been issued but they have not appeared for their deposition.

15. I have heard both the sides and have gone through the case file carefully.

16. One of the issues in the present matter is regarding the number of offending vehicle being mentioned wrongly as HR-14L-2513 in the FIR by the complainant instead of alleged correct number i.e. HR14L-3613. It is pertinent to mention here that the complainant is the father of the deceased/victim i.e. one who has lost his young son in the accident. Thus, his contention that he was in state of

panic at that time is not unreliable. It is further to be seen that the complainant has mentioned the name of the offending driver as Dharambir son of Sh.Satya Narain, thus, qua the identity of accused driver, there is no confusion. Furthermore, even the number of tractor is correct to a large extent. Moreover, respondents have not deposed anything to prove anything otherwise. The FIR has been lodged on the same day. The postmortem report and the death certificate are corroborating the contentions of petitioner. Furthermore, the police in its investigation has concluded the name of the offending driver as Dharambir and offending vehicle as tractor bearing registration no.HR-14L-3613. The another eye-witness Ravi has told the correct number.

17. Therefore, in view of the testimony of eye-witness Surender and above-discussed documents, it is prima-facie proved that the victim Rohan has died due to rash and negligent driving of respondent no.1 Dharambir of tractor bearing registration no.HR-14L-3613. In view of all above, this issue is decided in favour of plaintiffs and against the respondents.

ISSUE NO. 2.

18. For the sake of clarity issue no. 2 is reproduced as under:-

> *"If issue no. 1 is proved in affirmative, whether the petitioners are entitled to compensation, if so, to what amount and from whom? OPP".*

19. The petitioners have claimed for the compensation of Rs.50,00,000/- on account of death of Sh.Rohan Kumar, who is son of petitioner no.1 & 2.

20. It is claimed by the petitioners that the deceased was earning Rs.12,000/- per month while working with his father as a labour. However they have failed to produce any documentary proof in the form of Income Tax Returns, bank accounts etc., of the deceased showing his income. In absence of any authentic documentary proof, the claim of petitioners qua his income is not inspiring. However, as per aadhar card Ex.PD, the deceased was above 17 ½ years of age at the time of his death. Though no specific documentary proof qua the income has been placed on record. However, considering the facts that the deceased was prima-facie an able-bodied person, it can be presumed that he must be earning Rs.6000/- per month which is roughly equivalent to minimum wages prevalent in the area, to support his family i.e. the petitioners. Considering his age of 17 ½ years, a multiplier of 18 will be applicable in the present matter. Furthermore, as per the guidelines issued in Sarla Verma's case, the petitioner being unmarried one half (50%) is to be deducted on account of his personal expenses. Hon'ble Supreme Court of India in case titled "Rajesh and others Versus Rajbir Singh and others, 2013(4), Latest Judicial Reports, 367", has held that in case the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Hon'ble Supreme court of India in said case has also held that it would only be just and reasonable that the courts award at least Rupees 25,000/- as funeral expenses.

21. In view of the above facts a total loss of income will amount to Rs.6000/- x 1.5 x 1/2 x 12 x 18 =

9,72,000/-. Thus, the petitioners are entitled to a sum of Rs.9,72,000/-, on account of loss of income. In the present matter petitioner nos.1 & 2 have lost their son. It is impossible to quantify such loss in terms of money. However, I deem it fit to allow a compensation of Rs.25,000/- on account of loss of love and affection, to the petitioners. Besides, petitioners are also entitled to an amount of Rs.25,000/- on account of funeral and transportation expenses. Accordingly, the total compensation payable to the petitioners comes to Rs.10,22,000/- (Rupees Ten Lakh Twenty Two Thousand only).

Sr.No.	*Heads*	*Calculation*
(i)	Salary/income	Rs.6000/0 per month
(ii)	After adding 50% of (i) above (to be added as future prospects).	Rs.6000+3000=9000/-
(iii)	After deducting 1/2 of (ii) (deducted as personal expenses of the deceased)=	Rs.9000 x 1/2 = 4500/- per month i.e. 4500 x 12 = 54,000/- annually
(iv)	Compensation after multiplier of 18 is applied.	Rs.54,000 x 18=9,72,000/-
(v)	Loss of love and affection =	Rs.25,000/-
(vi)	Funeral and transportation expenses =	Rs.25,000/-
	Total Compensation Awarded = (iv+v+vi)	Rs.10,22,000/-

Accordingly, this issue is decided in favour of petitioners and against the respondents.

ISSUES NO. 3.

22. For the sake of clarity issue no. 3 is reproduced as under:-

> *"Whether the respondent no.1 was not holding valid driving license on the date of alleged accident and whether respondent no.2 has contravened the terms and conditions of the Insurance policy, if so its effect? OPR-3".*

23. The onus to prove this issue was on respondent no. 3 i.e. Insurance company. The respondent no.3 has examined RW1 Satish Kumar, Registration Clerk, Transport Authority Jhajjar who brought the record pertaining to the tractor bearing registration no.HR-14L-3613 and placed the same as Ex.RW1/A. He further deposed that as per same, the tractor was having a sitting capacity of one person only.

24. Per contra, learned counsel for respondent nos.1 & 2 has placed on record copy of driving licence of accused Dharambir as Ex.RW1, as per which he is entitled to drive tractor from 2012 to 2032. He also placed on record copy of RC Ex.RW2, as per which Sanjay Kumar son of Sh.Ramphal is owner of tractor bearing registration no.HR14L-3613. He further placed on record Ex.RW3, the proposal form which shows respondent no.3 as the insurer of the above-mentioned tractor (chasis no.14405145402) from 18.08.2015 to 17.08.2016. Same is also corroborated by insurance policy Ex.RW4 placed on record by learned counsel for respondent no.3.

25. Learned counsel for respondent no.3 has argued

that insurance company is not liable in the present matter as the vehicle was not used for agricultural purpose and a trolley was used. He further submitted that the sitting capacity of the tractor is only one and therefore, sitting of victim's father on mudguard and of the victim in the trolley amounts to violation of terms and conditions of insurance policy. He relied upon the case laws titled New India Assurance Company vs. Mazo etc. II (2016) ACC 495 (Uttrakhand High Court); National Insurance Company Ltd. vs. Chandramma etc., IV (2016) ACC 293 (Kar.); New India Assurance Company Ltd. vs. Thotapalle etc., III (2015) ACC 23 (AP); Daulat Ram vs. Rameshwar Sharma and others IV (2014) ACC 871 (MP) National Insurance Company Ltd. vs. Cholleti Bharatamma & others, Civil Appeal nos.4845-4847 of 2017 (SC) and; New India Assurance Company Ltd. vs. Vedwati and others, Civil appeal no.860 of 2007 (SC).

26. Per contra, learned counsel for respondent nos.1 & 2 has relied upon the Fahim Ahmad and others versus United India Insurance Company Ltd. And other 2014(2) RCR (Civil) 470 (SC) wherein Hon'ble Supreme Court has held that :-

> *"5. A perusal of the records shows, that at the time of the accident, a trolley was attached with the tractor, which was carrying sand for the purpose of construction of underground tank near the farm land for irrigation purpose(s). However, merely because it was carrying sand would not mean that the tractor was being used for commercial purpose and consequently, there was a breach of the condition of policy on the party of*

the insured. There is nothing on record to show that the tractor was being used for commercial purpose(s) or purpose(s) other than agricultural purpose(s), i.e. for hire or reward, as contemplated under Section 149(2)(a) (i) (a) of the said Act.....

7. We may also notice that this court in National Insurance Co. Ltd. vs. V.Chinnamma & others 2004(4) RCR (Civil) 300:JT 2004(7) SC 167, held that carriage of vegetables being agricultural produce would lead to an inference that the tractor was being used for agricultural purposes, but the same itself would not be constructed to mean that the tractor and trailer can be used for carriage of goods by another person for his business activities. Thus, a tractor fitted with a trailer may or may not answer the definition of 'goods carriage' contained in Section 2(14) of the said Act.

8. In view of above, we are of the view that, in the facts and circumstances of the case, the High Court has not justified in transferring the burden of paying the amount of compensation from respondent no.1-Insurance Company to the appellants herein."

27. In the present matter, it is not the case that the victim himself was sitting on the mudguard of the tractor, rather he was sitting in the trolley which was used for the agricultural purpose as they were carrying the rice straw etc., from the fields. The present policy is a package

> *policy. It was the natural and probable use of a tractor as an agriculturist. Thus, in view of all above, the contention of the respondent no.3 that they shall be absolved from the liability is not acceptable. Te respondent no.1 was having a valid DL to drive tractor at the time of accident. Accordingly, this issue is decided in favour of petitioners and respondent no.1 & 2 and against the respondent no.3."*

12. Upon perusal of the award this Court finds no infirmity in the findings recorded by the learned Tribunal holding that the accident occurred due to the rash and negligent driving of the offending tractor. The learned Tribunal has rightly appreciated both the oral and documentary evidence on record and has returned a well-reasoned finding on the issue of negligence.

13. A perusal of the evidence shows that petitioner No.1, Surender (PW1), who is the father of the deceased, appeared in the witness box and categorically deposed that the tractor was being driven at a high speed and in a rash and negligent manner by respondent No.1, despite his objection. His testimony has remained consistent on material particulars and has not been dislodged in cross-examination.

14. The testimony of PW1 stands duly corroborated by PW4 Ravi, an independent eye-witness, who supported the version of the petitioners and specifically disclosed the correct registration number of the offending tractor as HR-14L-3613. Further corroboration is forthcoming from PW2 HC Rambir, the Investigating Officer, who deposed that during investigation the correct number of the offending vehicle was ascertained, supplementary statement of the complainant was recorded, and the charge-sheet was filed against the driver Dharambir in respect of the said tractor.

15. As regards the discrepancy in the registration number of the offending vehicle mentioned in the FIR is concerned, learned Tribunal has rightly held that the same does not go to the root of the matter. The FIR was lodged on the very date of the accident by the father of the deceased, who had lost his young son and was evidently in a state of shock and mental distress. The explanation furnished by him for the initial incorrect mention of the registration number is natural and believable. Significantly, there has never been any confusion with regard to the identity of the driver, who was consistently named as Dharambir, nor with regard to the involvement of the tractor, which stood duly established during police investigation.

16. The post-mortem report, death certificate, charge-sheet, and final report under Section 173 Cr.P.C. further lend support to the case of the claimants. The respondents have failed to lead any cogent evidence to discredit the eye-witness account or to establish that the offending vehicle was falsely implicated.

17. In view of the consistent and credible testimony of the eye-witnesses and the documentary evidence on record, this Court concurs with the finding of the learned Tribunal that the deceased Rohan died as a result of rash and negligent driving of tractor bearing registration No. HR-14L-3613 by respondent No.1. The said finding calls for no interference.

18. Adverting now to the submission that the deceased was travelling on the mudguard of the tractor or was a gratuitous passenger, this Court finds that the said contention is not borne out from the record and is wholly devoid of merit. A careful scrutiny of the evidence establishes beyond any pale of doubt that the deceased was not seated on the mudguard of the tractor; rather, he was travelling in the trolley attached thereto.

19. The record further reveals that the tractor and trolley were being used for an agricultural purpose, namely, for transporting rice straw from the

fields. Such use constitutes the normal, natural, and intended use of a tractor by an agriculturist and cannot be construed as a non-agricultural or unauthorized use of the vehicle. The presence of the deceased in the trolley, in the course of agricultural operations, cannot, in the facts of the present case, be equated with that of a gratuitous passenger.

20. In view of the aforesaid factual and legal position, the contention raised by the appellant–insurance company that it stands absolved of liability on account of breach of policy conditions is untenable and is accordingly rejected.

Cross-Objections No.48-2023

21. So far as the cross-objections are concerned, a perusal of the impugned award reveals that the deceased was claimed to be working as a labourer and earning a sum of Rs.12,000/- per month. It further transpires that no documentary evidence whatsoever was produced by the claimants to substantiate the said assertion regarding income.

22. It is also evident that the learned Tribunal, despite the absence of proof of income, proceeded to assess the monthly income of the deceased at Rs.6,000/- by placing reliance upon the minimum wages. The said approach, however, suffers from material infirmity.

23. It is a settled position of law, as laid down by the Hon'ble Supreme Court in **Chandra @ Chanda @ Chandraram v. Mukesh Kumar Yadav & Ors., reported as (2022) 1 SCC 198**, that in cases where there is no documentary evidence of income, the minimum wages notification may be adopted as a guiding factor, but the same cannot be treated as an inflexible or absolute standard. The Court has further held that a reasonable amount of guesswork, based on the facts and circumstances of

each case, is permissible and indeed necessary while assessing the income of the deceased.

24. In view of the aforesaid settled legal position, and keeping in mind the nature of employment, age of the deceased, and the overall facts and circumstances of the present case, it would be just, fair, and reasonable to assess the monthly income of the deceased at Rs.8,000 for the purpose of determining compensation.

25. A perusal of the award reveals that the learned Tribunal has erred in awarding 50% for future prospects instead of 40% as per settled law. Furthermore, it is transpired that no amount has been awarded for loss of estate and amount awarded for loss of consortium is on lower side. Therefore, the award requires indulgence of this Court.

SETTLED LAW ON COMPENSATION

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

> "***30****. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family*

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

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

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

** * * * * **

***42.** We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas[3], Trilok Chandra and Charlie),*

which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.

27. 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 Verma 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."*

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

> *"**21**. A Constitution Bench of this Court in Pranay Sethi[2] dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.*
>
> *21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*
>
> *21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid,*

protection, affection, society, discipline, guidance and training".

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

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

***23**. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which*

compensation could be awarded on loss of filial consortium.

24*. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi[2]. In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.*

CONCLUSION

29. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the appeal filed by the Insurance Company is **dismissed** being devoid of any merits, whereas cross-objections filed by the cross-objectors/respondents No.1 and 2 are **allowed**. The award dated 28.02.2017 is modified accordingly. The cross-objectors/respondents No.1 and 2 are held entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.8,000/-
2	Future prospects @ 40%	Rs.3,200/- (40% of 8,000)
3	Deduction towards personal expenditure 1/2	Rs.5,600/- {(8,000 + 3,200) X 1/2}
4	Total Income	Rs.5,600/- (11,200 – 5,600)
5	Multiplier	18
6	Annual Dependency	Rs.12,09,600/- (5,600 X 12 X 18)
7	Loss of Estate	Rs.15,000/-
8	Funeral Expenses	Rs.25,000/-

9	Loss of Consortium Filial : Rs. 40,000 x 2	Rs.80,000/-
	Total Compensation	**Rs.13,29,600/-**
	Amount Awarded by the Tribunal	**Rs.10,22,000/-**
	Enhanced amount	**Rs.3,07,600/-** **(Rs.13,29,600 - 10,22,000)**

30. 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 cross-objectors/ claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

31. The Insurance Company is directed to deposit the enhanced amount of compensation with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the amount of compensation along with interest in the account of cross-objectors/respondents No.1 and 2 as per award. The cross-objectors/ respondents No.1 and 2 are directed to furnish their bank account details to the Tribunal.

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

09.02.2026 **(SUDEEPTI SHARMA)**
Virender **JUDGE**

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