



Judgment Reserved on:11.09.2026
Judgment Delivered on:29.09.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

APPEAL FROM ORDER NO.530 OF 2012

Smt. Sharmila Sajwan and Others ...Appellants.

Versus

The New India Insurance Company Ltd. and Others
 Respondents.

Counsel for the appellants : Mr. Piyush Garg, learned counsel
 Counsel for the respondent- : Mr. P.C. Maulekhi, learned
 Insurance Company counsel.

JUDGMENT: (per Mr. Subhash Upadhyay, J.)

This appeal from order under Section 173 of the Motor Vehicle Act has been preferred against the judgment and award dated 13.07.2012 passed by the Motor Accident Claim Tribunal (MACT)/ District Judge, Dehradun in MACP Case No.47 of 2011, "*Smt. Sharmila Sajwan and Others Vs. The New India Assurance Company Ltd and Others*". The appellant no.1 is the wife of the deceased Shri Diwan Singh and the appellants no.2 and 3 are the children and appellant no.4 and 5 are the parents of the deceased.

2. The deceased was working as a constable and



was posted at Thana Vikasnagar, Police Chowki Herbertpur, Dehradun. While going for duty along with constable Shri Ajab Singh on Motorcycle No.UA 07M 5316 he was hit by a speeding Truck No.PB 10CZ 6730. The accident occurred on 08.02.2011 at 7 a.m. near Praveen Motors, Dehradun. The deceased was taken to hospital and during treatment at Lehman Hospital, Vikasnagar he succumbed to his injuries.

3. The deceased, at the time of accident, was aged about 28 years and was getting monthly salary of ₹14,671/- . The claim petition was filed before the MACT / District Judge, Dehradun by the appellants, who claimed ₹62,81,560/- as compensation along with interest @ 12% per annum.

4. Learned Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the offending vehicle and awarded compensation of ₹18,10,000/- (Rupees Eighteen Lakh Ten Thousand Only). It was held that the offending vehicle was duly ensured and, as such, the liability to pay compensation was fastened upon the Insurance Company.

5. Learned counsel for the appellants has assailed the order passed by the learned Tribunal on the following grounds:

1) The deceased, at the time of fateful incident,



was getting ₹14,671/- as monthly salary and the learned Tribunal erred in rounding off the said emoluments as ₹14,000/- per month.

2) The learned Tribunal erred in coming to the conclusion that the deductions towards the personal expenses would be $1/3^{\text{rd}}$ of the monthly income. As the number of dependent on the deceased was five, as such, in view of the judgment of the Hon'ble Apex Court in the case of **Sarla Verma**, the deduction towards the personal expenses should be $1/4^{\text{th}}$ of the monthly income.

3) The learned Tribunal erred in not awarding any amount towards the future prospects and 50% of the income of the deceased should have been awarded towards the future prospects.

4) The learned Tribunal erred in not awarding any amount towards the loss of consortium and funeral expenses. He further submits that an amount of ₹10,000/- awarded towards the loss of estate was liable to be enhanced to ₹15,000/-. Apart from it, an amount of ₹40,000/- towards consortium and ₹15,000/- towards funeral expenses ought to have been awarded.

5) Learned Tribunal erred as it has awarded



much lower amount as compensation considering the fact that the appellant no.1 was given appointment under dying in harness rules.

6) The learned Tribunal erred in directing that an amount of ₹18,10,000/- as compensation, if paid within two months, would fetch no interest and, in case of default of payment of compensation within two months, an interest @ 7% per annum would be payable. He contended that the interest ought to have been awarded from the date of filing of claim petition till the date of realization of the awarded compensation.

6. Per contra, learned counsel for the Insurance Company submitted that:

1) The claimants are not entitled to get the compensation on the basis of gross salary in which allowances are also included. Moreover, the claimants have failed to prove how much amount was deducted under the head of Income Tax in the annual salary of the deceased.

2) The compensation of ₹18,10,000/- was paid within two months, as such, the Insurance Company is not liable to pay any interest on the awarded compensation.



3) The allowance of ₹100 per month was being paid to the deceased and the said amount was liable to be deducted and the Income Tax deductions were also liable to be taken into consideration while computing the income of the deceased.

4) The amount of family pension, which appellant no.1 was receiving, was liable to be deducted, however, the claimants did not disclose the said amount.

5) The future prospects @ 40% was liable to be given, in case the person is self-employed or is on a fixed salary, when the deceased is below the age of 40 years. Thus, it was contended that even if the future prospects are to be awarded then it cannot be 50% as the claimants had stated that the deceased was getting ₹14,671/- per month as salary.

7. Heard learned counsel for the parties and perused the record.

8. Learned counsel for the parties have filed their computation sheets and have relied on various judgments of the Hon'ble High Court and the Hon'ble Supreme Court. The claim petition was filed by the claimants (the widow,



the two children and the parents), who were dependent on the deceased.

9. On the basis of the pleadings of the parties, the learned Tribunal formulated the following issues:

1) Whether on 08.02.2011 at about 7 a.m. in the morning near Praveen Motors, Sahaspur Road, Herbertpur, Dehradun, the driver of Truck No.PB 10CZ 6730 rashly and negligently driving the vehicle on the wrong side hit the Motorcycle No.UA 07 M5316 and caused the accident. In the said accident, Diwan Singh sustained serious injuries and on being taken for treatment at Lehman Hospital, the Doctors during treatment declared him dead?

2) Whether at the time of accident the driver of Truck No.PB 10CZ 6730 was not having a valid driving license?

3) Whether at the time of accident the owner of the vehicle was not having the valid fitness certificate of the vehicle and was not having the proper route permit?

4) Whether the claimants are entitled for any compensation? If yes, then what amount and from which party?



10. The claimant no.1, Smt. Sharmila Sajwan (W/o the deceased), in support of her case examined herself as PW1, Trilok Singh as PW2 and ASI, Mohd. Shakir as PW3. The respondents did not examine anybody from their side.

11. In documentary evidence, she adduced the copy of the FIR, post mortem report, *panchnama* certificate, High School Certificate, salary report, death certificate, identity card of the deceased and salary slip for the month of January, 2011.

12. The Insurance Company filed written statement and submitted the investigation report. The driver of the vehicle submitted his affidavit and registration certificate of the vehicle, national permit, insurance certificate, challan license and power of attorney.

13. Learned Tribunal after recording the evidence of the parties, decided issue no.1 in favour of the claimants and held that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. With respect to issue no.2 and 3, it was held that driver of the vehicle was having the valid driving license and the vehicle was having the valid fitness certificate and route permit. The said issue no.2 and 3 were decided against the Insurance Company.

14. As the offending vehicle was insured with the



New India Assurance Company Limited, as such, the liability to pay the compensation was fastened upon the Insurance Company.

15. As except the claimants/appellants, no appeal has been preferred by any of the respondents against the judgment and award, as such, the findings recorded by the learned Tribunal with respect to issue nos.1 to 3 has attained finality and the same is affirmed.

16. The sole controversy before this Court is whether the learned Tribunal has awarded appropriate compensation / just compensation to the claimants.

17. The first issue, which the Court has to consider, is as to whether the multiplier of 18 and the deductions of $1/3^{\text{rd}}$ applied by the learned Tribunal was justified.

18. Admittedly, the age of the deceased, at the time of accident, was 28 years, as such, the learned Tribunal erred in applying the multiplier of 18. Instead, the multiplier of 17 was to be applied in view of paragraph no.42 of the judgment of the Hon'ble Apex Court in the case of **Sarla Verma & Ors Vs. Delhi Transport Corp.& Anr. 2009 (6) SCC 121.**

19. Learned counsel for the appellants fairly concedes that the multiplier of 17 was to be applied. Thus,



it is held that multiplier of 17 shall be applicable in the present case. So far as the deductions for personal expenses and living expenses is concerned, as per paragraph no.30 of the judgment in **Sarla Verma's case (*supra*)**, as the number of dependents on the deceased were five, as such, learned Tribunal erred in applying the deductions as $1/3^{\text{rd}}$ and instead it should be $1/4^{\text{th}}$ towards the deductions on personal and living expenses.

20. Learned counsel for the respondents has filed a computation sheet in which it has been admitted that deductions ought to have been $1/4^{\text{th}}$ and, as such, it is held that learned Tribunal erred in applying the deductions of $1/3^{\text{rd}}$ towards personal expenses and the said deductions should be $1/4^{\text{th}}$ looking into the number of dependents.

21. The next question, which falls for consideration before the Court, is as to whether the learned Tribunal was justified in recording the salary of the deceased as ₹14,000/- per month when the salary slip for the month of January, 2011 disclosed monthly salary of the deceased as ₹14,671/- per month.

22. The submissions made by learned counsel for the respondents that the salary of ₹14,671/- should be calculated without allowances is an argument which is also to be dealt along with the fact that as to whether any



deductions towards income tax was to be made while coming to a conclusion with respect to salary of the deceased.

23. A perusal of the record reveals that at no point of time respondent-Insurance Company has taken a stand that the deceased was receiving salary in the taxable range and the salary slip of January, 2011 reveals that the deceased was receiving salary of ₹14,671/- per month with allowances.

24. Though learned counsel for the respondent-Insurance Company in its computation chart has not disputed the monthly income of the deceased to be ₹14,671/- per month, however, has contended that income tax and allowances were to be deducted. The Hon'ble Apex Court in the case of ***Manorama Sinha & Anr. Vs. The Divisional Manager, Oriental Insurance Company Limited & Anr. 2025 INSC 1237*** has held that allowances form part of the income for computing loss of dependency. In paragraph no.12 of the judgment, it was held as hereunder:

"12. Now, the next question is whether allowances are to be added to the salary for determining the multiplicand. In National Insurance Co. Ltd. v. Indira Srivastava & Ors. 6 it was held that "the term income has different connotations for different purposes. A court of law, having regard to the change in societal conditions consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the



members of the entire family". In Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation⁷ a three-Judge Bench of this court noticing earlier decisions on the point observed that "the income should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may not be taxable due to exemption conferred thereupon under the statute." Following the decision in Vijay Kumar Rastogi (supra) in National Insurance Company Ltd. v. Nalini & Ors.⁸ it was held by this Court that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, ought to be included irrespective of whether they are taxable or not. Thus, in our view, the High Court erred in excluding the allowances from the computation to arrive at the multiplicand. Hence, the total monthly income was rightly computed by the Tribunal at Rs.53,367."

25. The learned Tribunal has not given any cogent reason as to how the monthly income of ₹14,671/- was reduced to ₹14,000/- per month.

26. Thus, this Court is of the view that the deceased was getting the monthly income of ₹14,671/- and the learned Tribunal erred in reducing the said income to ₹14,000/- per month. So far as the deductions of income tax from the yearly income in concerned, the same was to be made in view of the decision of the Hon'ble Apex Court in the case of **Ranjana Prakash and Others Vs. Divisional Manager and Another (2011) 14 SCC 639**. As per Income Tax slab for the financial years 2009-10 and 2010-11, the income upto ₹1,60,000/- was tax free and 10% of Income Tax was to be deducted on the income of above 1,60,000/- upto ₹3,00,000/-.

27. Thus, taking into consideration the monthly



income of the deceased to be ₹14,671/- per month the yearly income would be ₹1,76,052/- and the income tax deductions as applicable in the financial year would be applicable. Income tax till 1,60,000/- was 'nil' and 10% of income tax on ₹16,052/- (₹1,76,052 – ₹1,60,000) i.e. ₹1,605/- was liable to be deducted from the yearly income of the deceased.

28. As the deceased was aged 28 years, as such, as per paragraph no.24 of the judgment of the Hon'ble Apex Court in **Sarla Verma's** case as the deceased was in permanent job and was below 40 years, as such, an addition of 50% of actual salary towards future prospects was to be awarded to the claimants.

29. The learned Tribunal erred in not awarding any amount towards future prospects on the ground that the wife of the deceased (appellant no.1) was given compassionate appointment. The Hon'ble Apex Court in the case of **Vimal Kanwar Vs. Kishore Dan (2013) 7 SCC 476** and in the case of **National Insurance Co. Ltd. Vs. Rekhaben & Ors. (2017) 13 SCC 547** had considered the aspect of compassionate appointment given to the dependent of deceased and has held that compassionate appointment cannot be termed as a "pecuniary advantage" that comes under the periphery of Motor Vehicle Act and any amount received on such appointment is not liable for



deductions for determination of compensation under the Motor Vehicle Act. Paragraph no.18 and 23 of the judgment in the case of ***National Insurance Company Limited (Supra)*** reads as under:

18. The facts of the case in *Vimal Kanwar v. Kishore Dan* [*Vimal Kanwar v. Kishore Dan*, (2013) 7 SCC 476 : (2013) 3 SCC (Civ) 564 : (2013) 3 SCC (Cri) 583 : (2013) 2 SCC (L&S) 759] are similar to the facts of the cases in hand. The contention in the said case was that the amount of salary receivable by the claimant appointed on compassionate ground was deductible from the amount of compensation which the claimant was entitled to receive under Section 168 of the Motor Vehicles Act, 1988. This Court rejected the said contention and observed as follows: (SCC p. 485, para 21)

“21. “Compassionate appointment” can be one of the conditions of service of an employee, if a scheme to that effect is framed by the employer. In case, the employee dies in harness i.e. while in service leaving behind the dependants, one of the dependants may request for compassionate appointment to maintain the family of the deceased employee who dies in harness. This cannot be stated to be an advantage receivable by the heirs on account of one's death and has no correlation with the amount receivable under a statute occasioned on account of accidental death. Compassionate appointment may have nexus with the death of an employee while in service but it is not necessary that it should have a correlation with the accidental death. An employee dies in harness even in normal course, due to illness and to maintain the family of the deceased one of the dependants may be entitled for compassionate appointment but that cannot be termed as “pecuniary advantage” that comes under the periphery of the Motor Vehicles Act and any amount received on such appointment is not liable for deduction for determination of compensation under the Motor Vehicles Act.”

23. In the cases before us, compensation is claimed from the owner of the offending vehicle who is different from the employer who has offered employment on compassionate grounds to the dependants of the deceased/injured. The source from which compensation on account of the accident is claimed and the source from which the compassionate employment is offered, are completely separate and there is no co-relation between these two sources. Since the tortfeasor has not offered the compassionate appointment, we are of the view that an



amount which a claimant earns by his labour or by offering his services, whether by reason of compassionate appointment or otherwise is not liable to be deducted from the compensation which the claimant is entitled to receive from a tortfeasor under the Act. In such a situation, we are of the view that the financial benefit of the compassionate employment is not liable to be deducted at all from the compensation amount which is liable to be paid either by the owner/the driver of the offending vehicle or the insurer.

30. Thus, the Court is of the view that the claimants were entitled for 50% towards future prospects.

31. The contention of learned counsel for the respondents that as the deceased was on a fixed salary, as such, he was entitled to only 40% future prospects, is bereft of any merits as admittedly the deceased was in regular job working as constable at Herbertpur, Dehradun.

32. The learned Tribunal has awarded ₹10,000/- towards loss of consortium and mental agony but the Tribunal has not awarded any compensation towards loss of estate, loss of consortium and funeral expenses separately.

33. The Hon'ble Apex Court in the case of ***National Insurance Co. Ltd Vs. Pranay Sethi, 2017 (16) SCC 680*** in paragraph no.59.3 to 59.8 has held as under:

“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 [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] which we have reproduced hereinbefore.*

59.6. *The selection of multiplier shall be as indicated in the Table in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] 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."*

34. The Hon'ble Apex Court further in the case of ***New India Assurance Company Ltd. Vs. Somwati and Others (2020) 9 SCC 644*** has considered the judgment of **Pranay Sethi** with regard to the issue as to whether it is only the wife who is entitled for consortium or consortium can be awarded to children and parents also while considering as to whether the compensation can be awarded under the two heads i.e. loss of consortium and loss of love and affection.

35. The Hon'ble Apex Court in the case of **National Insurance Company (Supra)** considered the term 'consortium' and held in paragraph nos.35 to 45 as hereunder:



“35. The word “consortium” has been defined in Black’s Law Dictionary, 10th Edn. The Black’s Law Dictionary also, simultaneously, notices the filial consortium, parental consortium and spousal consortium in the following manner:

“Consortium1. The benefits that one person, esp. A spouse, is entitled to receive from another, including companionship, cooperation, affection, aid, financial support, and (between spouses) sexual relations a claim for loss of consortium.

- Filial consortium A child’s society, affection, and companionship given to a parent.
- Parental consortium A parent’s society, affection and companionship given to a child.
- Spousal consortium A spouse’s society, affection and companionship given to the other spouse.”

36. In Magma General Insurance Co. Ltd. [Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130 : (2019) 3 SCC (Civ) 146 : (2019) 3 SCC (Cri) 153] as well as United India Insurance Co. Ltd. [United India Insurance Co. Ltd. v. Satinder Kaur, (2021) 11 SCC 780 : 2020 SCC OnLine SC 410] , the three-Judge Bench laid down that the consortium is not limited to spousal consortium and it also includes parental consortium as well as filial consortium. In para 87 of United India Insurance Co. Ltd. [United India Insurance Co. Ltd. v. Satinder Kaur, (2021) 11 SCC 780 : 2020 SCC OnLine SC 410] , “consortium” to all the three claimants was thus awarded. Para 87 is quoted below:

“87. Insofar as the conventional heads are concerned, the deceased Satpal Singh left behind a widow and three children as his dependants. On the basis of the judgments in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] and Magma General [Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130 : (2019) 3 SCC (Civ) 146 : (2019) 3 SCC (Cri) 153] , the following amounts are awarded under the conventional heads:

(i) Loss of estate : Rs 15,000

(ii) Loss of consortium:

(a) Spousal consortium : Rs 40,000

(b) Parental consortium : $40,000 \times 3 = \text{Rs } 1,20,000$

(iii) Funeral expenses : Rs 15,000”

37. The learned counsel for the appellant has submitted that Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] has only referred to spousal consortium and no other consortium was referred to in the judgment of Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] , hence, there is no justification for allowing the parental consortium and filial



consortium. The Constitution Bench in *Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205]* has referred to amount of Rs 40,000 to the “loss of consortium” but the Constitution Bench had not addressed the issue as to whether consortium of Rs 40,000 is only payable as spousal consortium. The judgment of *Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205]* cannot be read to mean that it lays down the proposition that the consortium is payable only to the wife.

38. The three-Judge Bench in *United India Insurance Co. Ltd. [United India Insurance Co. Ltd. v. Satinder Kaur, (2021) 11 SCC 780 : 2020 SCC OnLine SC 410]* has categorically laid down that apart from spousal consortium, parental and filial consortium is payable. We feel ourselves bound by the above judgment of the three-Judge Bench. We, thus, cannot accept the submission of the learned counsel for the appellant that the amount of consortium awarded to each of the claimants is not sustainable.

39. We, thus, found the impugned judgments [*Somwati v. Dharmendra Kumar, 2019 SCC OnLine All 3897*] ‘ [*Sangita Devi v. New India Assurance Ltd., 2019 SCC OnLine Del 10877*] ‘ [*New India Assurance Co. Ltd. v. Azmati Khatoon, 2019 SCC OnLine Del 10530*] ‘ [*Cholamandalam MS General Insurance Co. Ltd. v. Umarani, 2019 SCC OnLine Mad 29630*] ‘ [*Pinki v. Rajeev, 2019 SCC OnLine Del 11882*] ‘ [*Nanak Chand v. New India Assurance Co. Ltd., 2020 SCC OnLine Del 62*] ‘ [*Oriental Insurance Co. Ltd. v. Rinku Devi, 2019 SCC OnLine Del 10493*] of the High Court awarding consortium to each of the claimants in accordance with law which does not warrant any interference in this appeal. We, however, accept the submissions of the learned counsel for the appellant that there is no justification for award of compensation under separate head “loss of love and affection”. The appeal filed by the appellant deserves to be allowed insofar as the award of compensation under the head “loss of love and affection”.

40. We may also notice the three-Judge Bench judgment of this Court relied upon by the learned counsel for the appellant i.e. *Sangita Arya v. Oriental Insurance Co. Ltd. [Sangita Arya v. Oriental Insurance Co. Ltd., (2020) 5 SCC 327 : (2020) 3 SCC (Civ) 254 : (2020) 2 SCC (Cri) 905]* The counsel for the appellant submits that this Court has granted only Rs 40,000 towards “loss of consortium” which is an indication that “consortium” cannot be granted to children. In the above case, Motor Accidents Claims Tribunal has awarded Rs 20,000 to the widow towards loss of consortium and Rs 10,000 to the minor daughter towards “loss of love and affection”. The High Court has reduced [*Oriental Insurance Company Ltd. v. Sangita Arya, 2016 SCC OnLine Utt 970*] the amount of



consortium from Rs 20,000 to Rs 10,000. Para 16 of the judgment is to the following effect : (Sangita Arya case [Sangita Arya v. Oriental Insurance Co. Ltd., (2020) 5 SCC 327 : (2020) 3 SCC (Civ) 254 : (2020) 2 SCC (Cri) 905] , SCC p. 330, para 10)

“10. The consortium payable to the widow was reduced [Oriental Insurance Company Ltd. v. Sangita Arya, 2016 SCC OnLine Utt 970] by the High Court from Rs 20,000 (as awarded by MACT) to Rs 10,000; the amount awarded towards loss of love and affection to the minor daughters was reduced from Rs 10,000 to Rs 5000. However, the amount of Rs 5000 awarded by MACT towards funeral expenses was maintained.”

41. This Court in the above case confined its consideration towards the income of the deceased and there was neither any claim nor any consideration that the consortium should have been paid to other legal heirs also. There being no claim for payment of consortium to other legal heirs, this Court awarded Rs 40,000 towards consortium. No such ratio can be deciphered from the above judgment that this Court held that consortium is only payable as a spousal consortium and consortium is not payable to children and parents.

42. It is relevant to notice the judgment of this Court in United India Insurance Co. Ltd. [United India Insurance Co. Ltd. v. Satinder Kaur, (2021) 11 SCC 780 : 2020 SCC OnLine SC 410] which was delivered shortly after the above three-Judge Bench judgment of Sangeeta Arya [Sangita Arya v. Oriental Insurance Co. Ltd., (2020) 5 SCC 327 : (2020) 3 SCC (Civ) 254 : (2020) 2 SCC (Cri) 905] specifically laid down that both spousal and parental consortium are payable which judgment we have already noticed above.

43. We may also notice one more three-Judge Bench judgment of this Court in M.H. Uma Maheshwari v. United India Insurance Co. Ltd. [M.H. Uma Maheshwari v. United India Insurance Co. Ltd., (2020) 6 SCC 400 : (2020) 3 SCC (Cri) 274 : (2020) 3 SCC (Civ) 744] decided on 12-6-2020. In the above case, the Tribunal had granted the amount of rupees one lakh towards loss of consortium to the wife and rupees three lakhs for all the appellants towards loss of love and affection. The High Court in the above case had reduced the amount of compensation in the appeal filed by the insurance company. The High Court held [United India Insurance Co. Ltd. v. M.H. Uma Maheshwari, 2017 SCC OnLine Kar 6258] that by awarding the amount of rupees one lakh towards loss of consortium to the wife, the Tribunal had committed error while awarding rupees one lakh to the first appellant towards the head of “loss of love and affection”. Allowing the appeal filed by the claimant, this Court maintained the order of MACT.

44. In the above judgment although rendered by the three-Judge Bench, there was no challenge to award



of compensation of rupees one lakh towards the consortium and rupees three lakhs towards the loss of love and affection. The appeal was filed only by the claimants and not by the insurance company. The Court did not pronounce on the correctness of the amount awarded under the head "loss of love and affection".

45. We may also notice the additional submission advanced in Civil Appeal No. 3099 of 2020 [arising out of SLP (C) No. 8250 of 2020], *Oriental Insurance Co. Ltd. v. Rinku Devi & Others*. As noted above, we have taken the view that the order [*Oriental Insurance Co. Ltd. v. Rinku Devi*, 2019 SCC OnLine Del 10493] of the High Court awarding compensation towards "loss of love and affection" @ Rs 50,000 to each of the claimants is unjustified which is being set aside in this appeal. We, further, in the above appeal also set aside the directions of the High Court in para 9 by which statutory amount along with interest accrued thereon was directed to be deposited in AASRA fund."

36. The said view was reiterated by the Hon'ble Apex Court in the case of ***Neelam and Others Vs. Ganga Singh and Others*** 2026 SCC OnLine SC 888. Thus, the claimants are entitled for ₹40,000/- towards loss of consortium and ₹15,000/- towards loss of estate.

37. Learned Tribunal has calculated the amount of compensation, which was to be paid to the claimants, as under:

“मृतक की जगह उसकी पत्नी याची संख्या 1 को नियुक्ति दे दी गई है। इसलिए पद पर नियुक्त रहते हुए याची संख्या 1 पदोन्नति और वेतनवृद्धि को भविष्य में प्राप्त करेगी केवल याची संख्या 1 ही मृतक की आश्रित नहीं थी। अपितु दो नाबालिग बच्चे व मृतक के माता पिता भी उस पर आश्रित रहे हैं। मृतक का मृत्यु के समय वेतन 14,000/- रुपये के लगभग बताया गया है। जीवित रहने की दशा में मृतक अपने वेतन का 1/3 अपने उपर खर्च करता और शेष अपने परिवार को अदा करता । इन परिस्थितियों में मृतक अपनी मासिक आमदनी में से लगभग 5,000/- रुपये अपने उपर खर्च करता और शेष लगभग 9,000/- अपने परिवार को देता । इस आधार पर मृतक की वार्षिक आमदनी जो उसके परिवार को प्राप्त होती अर्थात् आश्रित हानि (round figure) पूर्णांक रूप से 1,00,000/- रुपये आंकी जा सकती है। मृतक की आयु को देखते हुए प्रस्तुत केस में 18 का गुणांक प्रभावी होगा । तदनुसार आश्रित हानि के रूप में याचीगण 18,00,000/- रुपये प्राप्त करने के अधिकारी माने जा सकते हैं। इसके अतिरिक्त याचीगण को मानसिक पीड़ा हेतु तथा पति व पिता के प्यार स्नेह से वंचित होने की क्षति हेतु एकमुश्त 10,000/- रुपये अदा किये जा सकते हैं।



तदनुसार कुल आश्रित धनराशि 18,00,000/- + 10,000/- = 18,10,000/- रुपये आंकी जा सकती है। तदनुसार उक्त धनराशि प्रतिकर के रूप में याचीगण प्राप्त करने के अधिकारी माने जा सकते हैं।”

38. The learned Tribunal thus, ordered for payment of ₹18,10,000/- as follows:

“याचीगण की याचिका अंकन 18,10,000/- रुपये (अट्ठारह लाख दस हजार रुपये) रुपये प्रतिकर के लिए विपक्षीगण के विरुद्ध संयुक्त व पृथक रूप से स्वीकार की जाती है। विपक्षी संख्या 1 बीमा कम्पनी को आदेशित किया जाता है कि वह प्रतिकर की उक्त धनराशि याचीगण को इस आदेश की तिथि से दो माह के अन्दर अदा करे अन्यथा याचीगण याचिका प्रस्तुत करने की तिथि से भुगतान की तिथि तक प्रतिकर की रकम पर 7 प्रतिशत वार्षिक की दर से साधारण ब्याज भी पाने के अधिकारी होंगे।

प्रतिकर की उक्त धनराशि में से याची संख्या 4 व 5 प्रत्येक 2,50,000/- (दो लाख पचास हजार रुपये) रुपये प्राप्त करने के अधिकारी होंगे। याची संख्या 2 व 3 जो कि अवयस्क हैं, प्रत्येक के पक्ष में 5,00,000/- (पाँच लाख रुपये) रुपये की धनराशि उनके वयस्क होने तक की अवधि के लिए किसी राष्ट्रीयकृत बैंक में सावधि योजना में निवेशित की जायें। प्रतिकर की शेष धनराशि याची संख्या 1 प्राप्त करने की अधिकारिणी होगी।”

39. Learned Tribunal erred in calculating the correct amount as monthly salary was reduced from ₹14,671/- to ₹14,000/- and, thereafter, applying the deductions of 1/4th the amount would be ₹4,666/- (1/3rd of ₹ 14,000/-) but the learned Tribunal observed that the deceased would have been spending ₹5,000/- towards personal expenses.

40. The multiplier of 18 was wrongly applied whereas it ought to have been 17 and as the number of dependents were five, therefore, deductions would be 1/4th instead of 1/3rd. No compensation as provided in **Sarla Verma's** case has been awarded towards loss of consortium and funeral expenses and only ₹10,000/- has been awarded towards loss of consortium and mental agony.



41. The learned Tribunal has also erred in awarding conditional interest whereas the claimants were entitled for interest from the date of filing of the petition.

42. In view of the above, the Court is of the view that the learned Tribunal erred in awarding the just compensation to the claimants. The appeal deserves to be allowed and the same is allowed. Thus, the claimants would be entitled for the compensation under the following heads:

S.No.	Compensation Heads	Amount Awarded
1.	Monthly Income	₹14,671/-
2.	Yearly Income	₹1,76,052/-
3.	Yearly income after income tax deductions	₹1,76,052/- – ₹1,605/- = ₹1,74,447/-
4.	Future Prospects @ 50%	1,74,447/- + 87,223.50 = ₹2,61,670.50
5.	Multiplier	2,61,670.50 x 17 = ₹44,48,398.50
6.	Deductions 1/4 th	44,48,398.50 ÷ 1/4 = 11,12,099.62, 44,48,398.50 - 11,12,099.62 = ₹33,36,298.87 say ₹33,36,299/-
7.	Loss of Consortium	40,000 x 5 = ₹2,00,000
8.	Funeral Expenses	₹15,000/-
9.	Loss of Estate	₹15,000/-
10.	Total Compensation	33,36,299 + 2,00,000 + 15,000 + 15,000 = ₹35,66,299/-

43. The above amount shall be paid to the appellants along with interest @ 7% per annum from the date of filing of claim petition after deducting what has already been paid within a period of two months from today. Appellant no.1 (wife of the deceased) would be entitled to 50% of the awarded compensation with interest. Appellant nos.2 and 3



(children of the deceased) would be entitled to 25% of the amount of compensation with interest and appellant nos.4 and 5 (parents of the deceased) shall be entitled to the remaining 25% of the amount of compensation with interest. Further, if the children of the deceased have attained the age of majority, then there is no need to deposit the amount in the fixed deposit as directed by the learned Tribunal.

44. Pending application, if any, also stands disposed of.

SUBHASH UPADHYAY, J.

Dt:29.09.2026
Sukhbant