

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.2242 of 2016

JUDGMENT:

1. Heard learned counsel for both sides.
2. Respondent No.2 (Insurance Company) in M.V.O.P.No.186 of 2008 on the file of the Motor Accident Claims Tribunal-cum-Principal District Judge, Kadapa (for short “the MACT”) feeling aggrieved by the award dated 05.05.2009 passed by the learned MACT filed the present appeal invoking Section 173 of the Motor Vehicles Act, 1988. Complaining death of one Sri Chavva Jayarami Reddy (hereinafter referred to as “the deceased”) due to Motor Vehicle Accident, his wife, children and mother filed claim petition invoking Section 166 of the Motor Vehicles Act read with Section 475 of the A.P. Motor Vehicles Rules making a claim for awarding a compensation of Rs.40,00,000/- with interest and costs etc.
3. Learned MACT passed an award granting a compensation of Rs.19,50,000/- with interest at 6% per annum making owner and insurance company of offending vehicle liable to pay the compensation. Questioning imposition of liability and quantification of compensation, the appellant is before this Court.
4. Respondent No.1 to 4 herein are the claimants before the learned MACT. Respondent No.5 herein is the owner of the offending vehicle and he was

arrayed as Respondent No.1 before the learned MACT. For the sake of convenience, the parties will be hereinafter referred as and how they are arrayed before the learned MACT.

Case of the claimants:

5(i). On the fateful day i.e. 05.10.2007 when deceased was travelling on his motorcycle from Badvel to Porumamilla Main Road, at about 7.00 p.m. Jeep bearing No.PY 01D 8731 (hereinafter referred to as “the offending vehicle”) driven by its driver came from behind in rash and negligent manner at high speed and dashed the motorcycle on which the deceased was travelling, whereby the deceased fell down and sustained bleeding injuries. He was shifted to Government Hospital, Badvel and from there to SVIMS Hospital, Tirupati where on 07.10.2007, while undergoing treatment he was succumbed to injuries

5(ii). A case in Crime No.198 of 2007 was registered in Badvel Urban Police Station for the offences under Section 304-A IPC against the driver of the offending vehicle and he was subsequently charge sheeted as the accident occurred due to exclusive negligence of the driver of the offending vehicle.

5(iii). Deceased was aged about 39 years hale and healthy engaged in Contract works of internal and external decoration of buildings and also went to Kuwait during the year 2005 for attending that work. Being a contractor, he earned good quantity of money, developed properties like purchasing house site, sheep,

goats, lands and lending business etc. and also engaged in civil sub contract works of formation of roads, canals etc. He was earning Rs.5,00,000/- per annum. He was contributing for Margadarshi chit funds value of each was more than Rs.10,00,000/- with payment of Rs.20,000/- per month which reflects his earning and financial capacity. He was also contributing for LIC and other insurance company policies. He was contributing his entire income to the family. If proper multiplier with reference to the income of the deceased is applied, the claimants will be entitled for compensation of Rs.68,00,000/-. However, they are claiming only Rs.40,00,000/- and both the Respondents are liable to pay the same.

Case of Respondent No.1:

6. Respondent No.1 owner of the offending vehicle filed his counter contending that he is the owner of the offending vehicle. As per the information of his driver, deceased suddenly stopped the motor cycle in the middle of the road without giving essential indications to other vehicles, contributing for hitting of jeep from behind and that there was no negligence on part of the driver of the offending vehicle in occurrence of the accident. Further, Respondent No.1 claimed that the claimants shall prove age, occupation, income of the deceased and dependency of the claimants etc.

7. Further, it is claimed by owner of the crime vehicle that the driver is having valid driving licence and the vehicle was insured with Respondent No.2 Insurance Company. Therefore, the Insurance Company is accountable for the risk and liability against the third party. Hence he is not liable.

Case of Respondent No.2:

8. The petitioner shall prove Insurance policy, its coverage, driving licence of driver of the offending vehicle, negligence of the driver of the offending vehicle, age, occupation, income of deceased and dependency of claimants etc. The owner and insurance company of the two wheeler are also necessary parties. The deceased is not an income tax assessee, therefore, the income etc. claimed in the petition are imaginary and baseless. There are over writings in FIR, Driver of unidentified vehicle caused the accident as per recitals in FIR and inquest report. Therefore, the involvement of crime vehicle is doubtful and the quantum of compensation claimed is excessive.

9. On the strength of pleadings following issues were settled for trial by the learned MACT are:

(i). Whether the deceased Chavva Jayarami Reddy, S/o. Pedda Subba Reddy died owing to rash and negligent driving by the driver of the jeep bearing No.PY 01D 8731 owned by the Respondent No.1 on 05.10.2007 at 07.00 p.m. near Vijaya Ramapuram Village on Badvel–Porumamilla main road?

(ii). Whether the Respondent Nos.1 and 2 are jointly and severally liable for the compensation claimed by the petitioners?

(iii). Whether the petitioners are entitled for compensation as claimed by them?

(iv). To what relief?

10. Under I.A.No.76 of 2009, permission was granted to Respondent No.2 Insurance Company to avail defences and terms of Section 170 of the Motor Vehicles Act observing that, the defence of the owner of the crime vehicle is not effective.

Evidence before the learned MACT:

Oral evidence :

11. 1st claimant Chavva Rathnamma widow of the deceased was examined as PW.1 and she has stated about relationship of herself and other claimants with the deceased, earnings and savings of the deceased and about the death of deceased due to accident, loss of consortium, love and affection etc. to the claimants.

12. One Sri G. Venkata Rami Reddy said to be an eye witness to the accident was examined as PW2. He has stated about the negligence of the driver of the offending vehicle. It was suggested to him that the offending vehicle did not involve in the accident.

13. Branch Manager of the Respondent No.2 Insurance Company was examined as R.W.1. He has admitted about policy being in force while denying the absence of negligence of deceased and exclusive negligence of the driver of the offending vehicle.

14. **Documentary Evidence:-**

Sl.No.	Ex. No.	Nature of document
1.	Ex.A1	Certified copy of F.I.R.
2.	Ex.A2	Certified copy of Inquest Report
3.	Ex.A3	Certified copy of P.M. Report.
4.	Ex.A4	Certified copy of Charge Sheet
5.	Ex.A5	Ledger Extract
6.	Ex.A6	Ledger Extract
7.	Ex.A7	Ledger Extract
8.	Ex.A8	Ledger Extract
9.	Ex.A9	Premium received issued by the L.I.C.
10.	Ex.A10	Passport
11.	Ex.A11	Driving Licence
12.	Ex.A12	Form No.1
13.	Ex.A13	Sarpanch Training Certificate
14.	Ex.A14	Notarised Deposit Acknowledgment Receipts.
15.	Ex.A15	Three Lease Deeds

16.	Ex.A16	Chit reference book
17.	Ex.A17	Three Sale deeds
18.	Ex.A18	Two Pattadar passbooks
19.	P.W.1	C. Rathnamma (Claimant No.1)
20.	P.W.2	G. Venkata Rami Reddy (eye witness)
21.	Ex.B1	Policy Copy
22.	Ex.B2	Insurance company investigator report
23.	R.W.1	T.Babu Rao, Branch Manager, National Insurance Company

Findings of the learned MACT:

15. On the point of negligence, the learned MACT found that P.W.1 is not an eye witness. P.W.2 is one of the passengers in the offending vehicle stated about rash and negligent driving of the driver of the jeep despite cautioning by the passengers of the jeep. With regard to identification of the crime vehicle while referring to absence of reference to the vehicle in FIR and inquest report, by referring to the charge sheet and evidence of P.W.-2, the involvement and identification of crime vehicle are believed by the learned MACT.

16. Further, the learned MACT found that evidence of P.W.2 cannot be ignored and non-examination of the two other eye witness cited in the charge sheet does not merit consideration as PW.2 is better witness being inmate of the offending vehicle. Hence, the evidence is credible and negligence of the

offending vehicle is acceptable. Further, the evidence of Branch Manager of the Insurance Company R.W.1 version that investigator appointed and that there is discrepancy in date of accident does not merit any consideration.

17. While answering the income of the deceased with reference to the various properties movable and immovable, insurance policies and contribution to chits etc., the learned MACT accepted the income of the deceased notionally at Rs.1,80,000/- per annum. By taking dependency at 2/3rd of the same and adopting '16' multiplier, learned MACT awarded compensation of Rs.19,20,000/- under the head of loss of dependency and future expectation of life etc. Further, under the heads of loss of estate, personal expenses etc. learned MACT granted another sum of Rs.30,000/- and all together awarded Rs.19,50,000/- as compensation. Apportionment was made at the rate of Rs.3,50,000/- to mother. At the rate of Rs.6,00,000/- to the wife. Balance Rs.10,00,000/- at the rate of Rs.5,00,000/- to each child, permitting withdrawal of Rs.2,00,000/- by the 1st petitioner and deposit of minor share in Bank with permission to withdrawn interest component by the mother.

Arguments in this Appeal:-

For appellant:

18.(i) The learned MACT ought to have believed, planting of offending vehicle in the light of discrepancies in the FIR and inquest report.

(ii) Taking of income at Rs.1,80,000/- by the learned MACT is not proper and baseless.

(iii) Quantification of compensation done is irrational and liable to be scaled down.

For Respondents / claimants:

19. No steps are taken by the Insurance Company to examine anybody to vindicate the absence of negligence or non-involvement of the crime vehicle. The reasoning of learned MACT as to acceptance of income at Rs.1,80,000/- is justified. However, the learned MACT ought to have taken more income asserted by the claimants, deposited by PW-1, evidenced by the ledger extracts as well as the chit funds contributions and property documents placed by the claimants covered by Ex.A5 to A18. The compensation awarded by the learned MACT is fit to be enhanced irrespective of the presentation of cross appeal by the claimants. There is no bar for awarding more compensation than what claimed and the compensation awarded by the learned MACT is fit to be enhanced, in the light of the evidence available on record. Learned counsel for the Respondents relied upon the ratio laid down by the Division Bench of this Court in ***National Insurance Company Limited vs. E. Suseelamma and others***¹ for this proposition of law.

¹ 2023 SCC Online AP 172

20. Perused the record.
21. Thoughtful consideration given to the arguments advanced by both sides.
22. The points that arise for determination in this appeal are that:
 - (1) Whether the deceased died due to the pleaded accident dated 05.10.2007 with the involvement of offending vehicle and negligence of its driver.?
 - (2) Whether the claimants are entitled for compensation, If so, to what quantum and what is the liability of the Insurance Company.?
 - (3) What is the result of the appeal.?

Analysis of evidence & Findings:

Point No.1:

23. P.W.1 is not an eye witness to the accident. P.W.2 is an eye witness to the accident. As rightly observed by the learned MACT, P.W.2 is better witness than any other eye witness since he is coming in the offending vehicle. He has stated that inspite of request, the driver did not stop the vehicle even after hitting the motor cycle and that the driver on the crime vehicle drove it in rash and negligent manner. During cross examination, any motive to PW.2 to speak against the driver of the jeep or as to involvement of the jeep is not elicited. It is not in dispute that P.W.2 is cited as witness in the charge sheet. Allegation is

that PW.2 is planted as eye witness. To substantiate the same, no efforts were put in by the insurance company like summoning of the investigating officer etc.

24. It is pertinent to note that in the counter filed by Respondent No.1, the involvement of the jeep is not disputed and to some extent negligence is attributed to the deceased in driving the motor cycle. In the absence of convincing, rebuttal and contradictory evidence from the end of Insurance company, the excuse that the jeep is planted cannot be accepted.

25. The reasoning adopted by the learned MACT for ignoring the objection of the Insurance Company in Para Nos.10, 11, 12 of the impugned judgment is fit to be confirmed and concurred. Insurance Company tried to project that the deceased died on 01.10.2007 itself and that the date of accident is prior to 04.10.2007. As insurance policy Ex.B1 policy commenced from 04.10.2007, the accident is projected as if occurred on 05.10.2007 and delay in giving complaint on 07.10.2007 probabalise the manipulation. Learned MACT has addressed this aspect *vide* para Nos.12 to 14 of the judgment and the reasoning of the learned MACT is perfectly in agreement with the evidence. It is relevant to note that the insurance company relied on its investigators report Ex.B2 but atleast said investigator is not examined. What is the authenticity attached to the report of investigator appointed by the insurance company is a question. When the reliability on investigators report in comparison to the official record of police

investigation is examined, presumption as to genuineness will weigh more in favour of the police investigation report. The private investigation got done by the Insurance Company through its own either employee or paid agency does not overweigh the authenticity attached to the record placed by the investigating agency, that too when spoken by a competent witness like P.W-2. Therefore, the objection of the insurance company is ignored and the findings of the learned MACT on the points relating to the death of deceased due to accident, involvement of offending vehicle, negligence of its driver are accepted as a proper. There are no grounds to take contra view.

26. In this context, this Court find it relevant to refer to observations of the Hon'ble Apex Court made in ***Bimla Devi and others vs. Himachal Road Transport Corporation and others***² vide para No.11 of the judgment that, while dealing with a claim petition in terms of Section 166 of the Motor Vehicles Act, 1988, a tribunal stricto sensu is not bound by the pleadings of the parties; its function being to determine the amount of fair compensation in the event an accident has taken place by reason of negligence of that driver of a motor vehicle. Further in para No.14 of the judgment of the Hon'ble Apex Court observed that some discrepancies in the evidence of the claimant's witnesses might have occurred but the core question before the Tribunal and consequently before the High Court was as to whether the bus in question was involved in the

² (2009) 13 SCC 530

accident or not. For the purpose of determining the said issue, the Court was required to apply the principle underlying the burden of proof in terms of the provisions of Section 106 of the Evidence Act, 1872. Further, it is observed that it was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. In view of the factual and legal position discussed above, point No.1 is answered against the appellant and in favour of the claimants.

Point No.2:

27. The documentary evidence placed by the claimant covered by A5 to A18 are reflecting the social roots, status and involvement of deceased in various economic activities.

28. Learned MACT has observed in para No.15(a) & (b) as to involvement of deceased in several economic activities including travelling to Kuwait for doing work etc. passport possessed by the deceased, payment of annual premium of Rs.36,863/- for the LIC insurance purposes etc. subscription to chits for the value of Rs.5,00,000/-, the pattadar passbooks and the purchase of properties covered by sale deeds *vide* Ex.A17 and Ex.A18 are the reasonable and strong

material that indicate involvement of the deceased in various economic activities and earning. However, quantification of his earning is an important aspect.

29. P.W.1 admitted in her cross examination that deceased is not an income tax assessee. The deceased not filing returns is one side of the coin and deceased not having taxable income is another side. Learned MACT considering the evidence available on record and the involvement of the deceased in economic activities adopting the income tax rates and structures of various years observed that minimum taxable income is Rs.1,00,000/- of the relevant years. The standard deductions are 30% whereby the income can be Rs.1,30,000/- during the years 2005-2006. Further, the savings under Section 80C etc. can be upto Rs.50,000/-. Therefore, there cannot be any problem to take the income at Rs.1,80,000/- notionally even in the absence of income tax returns if possibility of such earning is shown. This reasoning of the learned MACT sounding rational. The learned MACT has rightly deducted 1/3rd of the income towards personal expenses and taken 2/3rd as contribution to family. The age of the deceased was 38 years as per Ex.A3 and Ex.A10 passport. Further, this Court also finds it proper to refer to precedential guidance in quantifying the compensation which is as follows:

Quantification:-**Precedential Guidance in quantifying the compensation in case of claims arising out of Motor Vehicles Accidents causing death:-**

30. The judgments which can be considered as locus classicus that guides the Motor Accident Claims Tribunals and the Courts concerned, in the process of quantifying the compensation mainly are as follows:

(1). **Sarla Verma (Smt.) and Ors. Vs. Delhi Transport Corporation and Anr.**³:-

The Hon'ble Apex Court, referring to relevant principles relating to assessment of compensation in cases of death, in the light of earlier judicial pronouncements, to have uniform approach and consistency in awarding compensation, felt need for the awarding 'just compensation', which is not merely the Tribunal considers it just, but it shall be just, adequate, fair, and equitable compensation with reference to facts and circumstances of each case. Accordingly, issued certain guidelines.

Relevant observations are made at Para 18 and 19 of the judgment, while observing that there shall be addition of further prospects to the income and deduction towards personal and living expenses and selection of appropriate multiplier. Finally, the Honorable Apex Court referred to multiplier that can be adopted is what mentioned in column number 4 of Table provided in the

³ 2009 (6) SCC 121

judgment as contemplated in *Trilok Chandra*⁴s case, clarified in ***New India Assurance Co. Ltd. v. Charlie***⁵.

Para Nos.18 and 19, and the table provided in **Sarla Verma's case** [cited supra]are extracted for better appreciation:--

“**18.** Basically only three facts need to be established by the claimants for assessing compensation in the case of death:

- (a) age of the deceased;
- (b) income of the deceased; and
- (c) the number of dependants.

The issues to be determined by the Tribunal to arrive at the loss of dependency are:

- (i) additions/deductions to be made for arriving at the income;
- (ii) the deduction to be made towards the personal living expenses of the deceased; and
- (iii) the multiplier to be applied with reference to the age of the deceased.

If these determinants are standardised, there will be uniformity and consistency in the decisions. There will be lesser need for detailed evidence. It will also be easier for the insurance companies to settle accident claims without delay.

19.To have uniformity and consistency, the Tribunals should determine compensation in cases of death, by the following well-settled steps:

Step 1 (Ascertaining the multiplicand)

The income of the deceased per annum should be determined. Out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of personal and living expenses.

⁴ (1996) 4 SCC 362

⁵ (2005) 10 SCC 720 : 2005 SCC (Cri) 1657

The balance, which is considered to be the contribution to the dependant family, constitutes the multiplicand.

Step 2 (Ascertaining the multiplier)

Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased.

Step 3 (Actual calculation)

The annual contribution to the family (multiplicand) when multiplied by such multiplier gives the “loss of dependency” to the family.

Thereafter, a conventional amount in the range of Rs 5000 to Rs 10,000 may be added as loss of estate. Where the deceased is survived by his widow, another conventional amount in the range of 5000 to 10,000 should be added under the head of loss of consortium. But no amount is to be awarded under the head of pain, suffering or hardship caused to the legal heirs of the deceased.

The funeral expenses, cost of transportation of the body (if incurred) and cost of any medical treatment of the deceased before death (if incurred) should also be added.

.....

40. The multipliers indicated in *Susamma Thomas* [(1994) 2 SCC 176 : 1994 SCC (Cri) 335] , *Trilok Chandra* [(1996) 4 SCC 362] and *Charlie* [(2005) 10 SCC 720 : 2005 SCC (Cri) 1657] (for claims under Section 166 of the MV Act) is given below in juxtaposition with the multiplier mentioned in the Second Schedule for claims under Section 163-A of the MV Act (with appropriate deceleration after 50 years):

Age of the deceased	Multiplier scale as envisaged in <i>Susamma Thomas</i> ⁶	Multiplier scale as adopted by <i>Trilok Chandra</i> ⁷	Multiplier scale in <i>Trilok Chandra's</i> case as clarified in <i>Charlie</i> ⁸	Multiplier specified in Second Column in the Table in Second Schedule to the MV Act	Multiplier actually used in Second Schedule to the MV Act (as seen from the quantum of compensation)
(1)	(2)	(3)	(4)	(5)	(6)
Upto 15y	-	-	-	15	20
15 to 20y	16	18	18	16	19
21 to 25y	15	17	18	17	18
26 to 30y	14	16	17	18	17
31 to 35y	13	15	16	17	16
36 to 40y	12	14	15	16	15
41 to 45y	11	13	14	15	14
46 to 50y	10	12	13	13	12
51 to 55y	9	11	11	11	10
56 to 60y	8	10	09	8	8
61 to 65y	6	08	07	5	6
Above 65	5	05	05	5	5

(2). National Insurance Company Ltd. v. Pranay Sethi and Others:-⁹

In this case, the Honorable Apex Court, after referring to the observations in **Sarla Verma's** case cited supra, issued certain guidelines, the relevant paragraphs are 59.3 to 59.8 they are:

“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

⁶ [(1994) 2 SCC 176 : 1994 SCC (Cri) 335]

⁷ [(1996) 4 SCC 362]

⁸ [(2005) 10 SCC 720 : 2005 SCC (Cri) 1657]

⁹ 2017(16) SCC 680

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 [SarlaVerma 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's case 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."*

(3). **MAGMA General Insurance Company Ltd. v. Nanu Ram and**

Others¹⁰

¹⁰ (2018) 18 SCC 130

In this case the Hon'ble Apex Court considered the point that whether loss of consortium, include "spousal consortium", "parental consortium", and "filial consortium" in a case of death. It was a case of death of Bachelor, and claim was made by father and sister, etc., relevant observations are made in Para Nos. 21-23 as to who are entitled for consortium, observations are as follows:-

"21. A Constitution Bench of this Court in *Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205]* dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse : [*Rajesh v. Rajbir Singh, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149]*

21.1. *Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation". [Black's Law Dictionary (5th Edn., 1979).]*

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

21.3. *Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest*

agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

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

23. *The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count [Rajasthan High Court in Jagmala Ram v. Sohi Ram, 2017 SCC OnLine Raj 3848 : (2017) 4 RLW 3368; Uttarakhand High Court in Rita Rana v. Pradeep Kumar, 2013 SCC OnLineUtt 2435 : (2014) 3 UC 1687; Karnataka High Court in Lakshman v. Susheela Chand Choudhary, 1996 SCC OnLineKar 74 : (1996) 3 Kant LJ 570] . However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*

31. In the light of the Precedential Guidance referred above, for considering the entitlement of claimants for compensation, the factors relevant are as follows.

1. Age of the deceased – 38 years.

2. Income of the deceased – Rs.1,80,000 per annum. Even if the same is considered as excessive for any reason the same taken as inclusive of future prospects as future prospects are not added.

Multiplicand:-

32. The income of the deceased is Rs.1,80,000/- per annum. If 1/3rd of income is deducted towards personal expenses contribution to family comes to Rs.1,20,000/-. Therefore, multiplicand is Rs.1,20,000/-.

Multiplier:

33. Learned MACT adopted '16' as Multiplier, whereas for the age group of '38' years, the multiplier applicable as per **Sarla Verma's** case is '15'.

34. **Calculation:-**

[i] Multiplicand Rs. 1,20,000/-(X) 15 is equal to Rs.18,00,000/-.

[ii] Therefore, under the head of loss of dependency, the entitlement of claimants for compensation shall be Rs.18,00,000/-. Therefore, Rs.19,20,000 awarded by the learned MACT. The same requires reduction to Rs.18,00,000/-

[iii] With regard to the funeral expenditure Rs.15,000/-, towards loss of estate Rs.15,000/-. Towards loss of consortium Rs.40,000/ - each, two children, wife and mother of deceased can be granted. 1st claimant is entitled for Spousal consortium 2nd and 3rd claimant are entitled for parental consortium and 4th claimant is entitled for filial consortium.

35. In view of the discussion made and the evidence on record, comparative details as to the entitlement of the claimants for compensation under various heads considered and granted by the learned MACT and by this Court is as follows:

	<i>Head</i>	<i>Compensation awarded by the MACT</i>	<i>Fixed by this Court</i>
(i)	Loss of Dependency	Rs.19,20,000/-	Rs.18,00,000/-
(ii)	Loss of Consortium		
(iii)	Loss of Care, Guidance, love and affection towards children	Rs.8,000/-	Rs.1,60,000/- (@ Rs.40,000/- each)
(iv)	Funeral and obsequies expenses	Rs.2,000/-	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-	Rs.15,000/-
(vii)	Attendant Charges and Transportation Expenses	Nil	Nil
(viii)	Pain and suffering	Rs.5,000/-	Nil
	Total compensation awarded	Rs.19,50,000/-	Rs.19,90,000/-

36. In the light of the analysis made Point No.2 is answered concluding that the claimants are entitled to a compensation of Rs.19,90,000/- with interest at the rate of 6% per annum and the insurance company is liable to pay the same.

37. Point No.3: What is the result of the appeal:-

In the result, the appeal is dismissed but modifying the award as follows:

- 1) The compensation awarded by the learned MACT is modified to Rs.19,90,000/- with interest at the rate of 6% per annum.

- 2) The reduced part of compensation under the head of loss of dependency shall be proportionally reduced for each claimant following the apportionment made by the learned MACT.
- 3) Claimants are entitled to receive their respective part of compensation awarded under the head of loss of Consortium.
- 4) Compensation awarded under the heads of funeral expenses and loss of estate is apportioned to the share of claimant No.1.
- 5) Calculations, apportionments and withdrawals shall take place as mentioned herein. However, as per the directions of learned MACT as to deposit of minor's share.
- 6) No costs.

As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

A. HARIHARANADHA SARMA, J

Date: 07.03.2025

Note:

L.R. Copy be marked

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THE HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.2242 of 2016

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