



2026:DHC:1462



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on : 17<sup>th</sup> January 2026*  
*Pronounced on : 19<sup>th</sup> February 2026*  
*Uploaded on : 20<sup>th</sup> February 2026*

+ **MAC.APP. 892/2013**

IFFCO TOKIO GENERAL INSURANCE CO. LTD .....Appellant

Through: Mr. Pankaj Seth, SC for appellant  
along with Ms. Shruti Jain, Adv.

versus

ASHOK KUMAR ARORA & ORS. ....Respondents

Through: Mr. S.C. Singhal, Advocate for R-  
1 & R-2 (*through VC*).  
Mr. Suman Bagga, Ms. Mouli  
Sharma, Advocate for R-5.

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT**

**ANISH DAYAL, J.**

1. This appeal has been filed challenging the award dated 06<sup>th</sup> August 2013 passed by the Motor Accident Claims Tribunal [*“Tribunal”*], Dwarka Courts, in *Claim Petition No. 213/12/09* [*“impugned award”*]. The appeal essentially challenges the Tribunal’s conclusion/assessment of 50% contributory negligence of the deceased/driver of the car and 50% negligence on part of the truck driver [*respondent no.3*]. There are other issues relating to computation of



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compensation, including the income of the deceased, *future prospects* and other non-pecuniary elements.

### **The Incident**

2. On 13<sup>th</sup> April 2009 at 6:00 a.m., near *Hodal Toll Tax, Palwal, Haryana*, the deceased, *Shri Dishant Arora*, was seated on the back seat of an Optra car bearing registration no. *DL-4C-AD-4959* and was travelling from *Delhi to Agra*. The car was being driven by late *Shri. Dipankar Malik*. The said car met with an accident with a truck bearing registration no. *HR-47-D-6492*, which was allegedly negligently parked in the middle of the highway without any indication. As a result, fatal injuries were caused to late *Shri. Dipankar Malik* as well as to late *Shri. Dishant Arora*.

3. Two claim petitions were filed by the legal heirs of both the late *Shri. Dishant Arora* and late *Shri. Dipankar Malik*. ***Claim Petition No. 213/12/09*** was titled as “***Ashok Kumar Arora and Anr v. Shri Prakash Chand Saini and Ors***” [pertaining to present appeal], whereas the other ***Claim Petition No. 214/12/09*** was titled as “***Smt. Geeta Malik &Ors. v. Sh. Nizar Khan &Ors.***”

4. The present matter relates to the claim petition filed by *Ashok Kumar Arora*, legal heir (*father*) of late *Shri Dishant Arora*. Appellant is the insurer of the car which was being driven by late *Shri Dipankar*



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*Malik*, whereas respondent no.5 is the insurance company which had insured the truck.

5. The driver of the truck was *Shri. Prakash Chand Saini*, whereas the owner of the truck was *Nizar Khan*. The driver and the owner, in their written statement, stated that the deceased driver of the car was driving in a rash and negligent manner and had struck against a stationary vehicle [*truck*]. The driver of the truck stated that he had taken all necessary precautions after parking the vehicle, had switched on the indicators as a precautionary measure, and had also placed green tree leaves on both sides of the truck. They, therefore, denied their liability.

6. *Royal Sundaram Alliance Insurance Co. Ltd* [respondent no.5], the insurer of the truck, also raised several preliminary objections, including that the accident occurred solely due to the negligence of the deceased/driver of the car. Appellant herein [*IFFCO TOKIO General Insurance Co.Ltd*], being the insurer of the car, stated that car was not the offending vehicle, since the First Investigation Report [*'FIR'*] was registered against the driver of the truck.

### **Impugned Award**

7. *Shri. Ashok Kumar Arora*, was examined as **PW-1**, *Smt. Geeta Malik* was examined as **PW-2**, an officer from the Standard Chartered Bank was examined as **PW-3**, and eyewitness, *Shri. Neeraj Garg*, was examined as **PW-4**. Respondents did not examine any witness.



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8. After assessment of the evidence, the Tribunal concluded that the accident resulting in the death of late *Shri. Dishant Arora* and late *Dipankar Malik* had taken place due to negligence of the truck driver, but also due to contributory/composite negligence of the deceased driver, late *Shri. Dipankar Malik*, to the extent of 50%. Therefore, the compensation payable to the claimants, being the legal representatives of each of the deceased, was held to be 50% payable by the insurer of the truck [*respondent no.3*] and 50% would be paid for the insurer of the car [*appellant*].

#### **Compensation awarded**

9. The benchmark income of the deceased, late *Shri. Dishant Arora*, was taken as the salary received from *M/s Pharos Call Net* at Rs. 17,140/-. An addition of 50% was made towards *future prospects*, bringing the annual assumed income at Rs. 3,08,520/-. After deduction of tax, the net income was arrived at Rs.2,93,668/-. 50% was deducted towards *personal expenses*. A multiplier of '13' was applied on the basis of the age of the claimant, i.e. the mother of the deceased, who was 48 years of age. The dependency was, therefore, calculated accordingly.

10. The total compensation, along with other components, was arrived at Rs.19,68,842/-, along with interest at the rate of 7.5% per annum. Other components included *funeral charges* at Rs. 25,000/-, *loss of love and affection* at Rs. 25,000/-, and *loss of estate* at Rs. 10,000/-. For ease



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of reference, compensation awarded by the Tribunal is tabulated as under:

S.NO	HEADS	Amount Awarded by Tribunal
1.	Income of Deceased (Monthly)	Rs. 17,140 /-
2.	Future Prospects	50%
3.	Less Personal Expense of Deceased	½ or 50%
4.	Annual Loss of Dependency	Rs. 1,46,834/-
5.	Multiplier	13
6.	Total Loss of Dependency	Rs. 19,08,842/-
7.	Loss of Love and Affection	Rs. 25,000/-
8.	Loss of Consortium	Nil
9.	Loss of Estate	Rs. 10,000/-
10.	Funeral Expenses	Rs. 25,000/-
<b>Total Compensation</b>		<b>Rs. 19,69,842/-</b>
<b>Interest</b>		<b>7.5%</b>

### Analysis

11. *Mr. Pankaj Seth*, counsel appearing on behalf of appellant, contended that there was no statement in the FIR attributing negligence to late *Shri. Dipankar Malik*. There was neither pleading nor evidence to enable the Tribunal to hold that the driver of the car had contributed to the accident. It was submitted that the Tribunal failed to appreciate the Criminal Court Records appended to the chargesheet, which were in consonance with the decision of this Court in *National Insurance*



*Company Limited v Pushpa Rana* 2008 (101) DRJ 645, wherein it was held that the Criminal Court Records are sufficient to establish negligence of the offending vehicle. It was further contended that the truck driver failed to prove that he had been wrongly impleaded in the criminal case and had taken all precautions to avoid accident.

12. On issue of compensation, it was contended that the Tribunal had wrongly taken the income of the deceased at Rs.17,140/-, whereas he had left his job with *M/s Pharos Call Center*, and in the absence of evidence proving employment with *Hinson IT Solution Private Limited* [subsequent employer], it could not be held that deceased was fully employed. It was further contended that the Tribunal erred in granting a 50% increase towards *future prospects* without sufficient evidence. Moreover, Rs. 25,000/- awarded towards *future expenses* was not in accordance with settled principles.

13. *Ms. Suman Bagga*, counsel for *Royal Sundaram Alliance Insurance Co. Ltd* [respondent no.5], insurer of the truck, contended that no appeal had been preferred by the owner of the car, i.e., *M/s. P.Net Solutions Private Limited*, and since the driver had expired, the insurance company [appellant] could not now take the plea of no negligence on part of the car driver.

14. It was submitted that the Insurance Company was, therefore, estopped from denying the claim on the basis that there was no negligence on part of the car driver. Since the driver had died in the



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accident and could not lead any evidence, and the owner of the car neither disputed the accident/negligence nor filed any appeal, therefore the present appeal ought to be dismissed.

15. Ms. *Suman Bagga*, arguing on behalf of the respondent no.5/*Royal Sundaram Insurance Company* further invoked the principle of *res ipsa loquitur* [which means *things speaks for itself*], contending that the circumstance of collision itself established negligence on the part of the car driver, particularly as the truck was stationary.

16. It was further submitted that proceedings before the Tribunal are in the nature of an inquiry, placing reliance on the decision of the Supreme Court in *Nishan Singh & Ors v. Oriental Insurance Co. Ltd. (2018) 6 SCC 765*, wherein the Court has taken into account a rare collision case and stated that as per applicable regulations, it is the duty of the car following a vehicle to keep sufficient distance.

17. The Court has considered the submissions of the parties, perused the records and reviewed the analysis rendered by the Tribunal. The owner of the car in which the deceased was travelling was *M/s P. Net Solutions*, whereas the appellant is the insurer.

18. FIR was registered on the basis of the statement of *Neeraj Garg, PW4*, who stated that on the 13<sup>th</sup> April 2009 evening along with his friends were going in their vehicles from *Delhi to Agra*. In the *Optra car* bearing registration no. *DL-4C CA-4959*, his friends late *Shri. Dipankar Malik, Gurmeet, Dishant Arora and Bhuvan* were there and they were



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ahead of *Neeraj Garg's* car. He stated that one loaded trailer truck was standing in the middle of the road and the *Optra car* rammed into the trailer truck without any reason and due to the collision, the car turned over and was seriously damaged. They took out their friends from the *Optra car* but *Dipankar Malik and Gurneet* died on the spot whereas *Dishant and Bhuvan* were taken for in an ambulance to a hospital in Palwal. The driver of the truck, as per *Neeraj Garg*, ran away, lot of crowd collected and then he gave the statement. For ease of reference the said statement by way of an affidavit [**Exhibit PW4/A**] is extracted as under:

- “1. That on 13/04/2009. I was travelling by car Ikon from Delhi to Agra and I and Harish Malik was in one car while my other friends Dipankar, Gurmeet, Dishant and Bhuvan were in other Optra car No. DL-4CAD 4959 which car was ahead of us.*
- 2. That when about 6:00 AM we reached near toll barrier Palwal village Sarai Khatela, I saw a troller truck bearing no. HR47D6492 (In Tier Vehicle) in the middle of road which in fact was negligently parked without any indication of parking, having no light etc with the result above car No. DL4C AD 4959 driven by Dipankar struck against troller truck and was totally crushed.*
- 3. That on account of above accident Sh. Deepankar who was driving car No. DL4C AD 4959 and Sh. Gurmeet who were on front seat died on spot and Sh. Bhuvan and Sh. Dishant received serious injuries became unconscious and I with the help of passerby brought out them from car and they were then taken to OM Hospital Palwal by NH-2 ambulance where Sh. Dishant also died on 21/04/2009.*



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*4. That the above accident took place due to rash and negligent driving/ act and parking of troller truck above mentioned in the middle of road/highway having no indication of parking. Thereafter my statement was recorded by police and FIR No. 124 dated 13/04/2009 was registered and the copy of FIR is EX PW /I.”*

19. The testimony of *Neeraj Garg* would, therefore, become critical in this regard since not only was he an eyewitness but also he was a friend of the deceased.

20. He stated in his evidence filed through affidavit that he saw a trailer truck standing in the middle of the road which was negligently parked without any indication of parking, having no light, with the result that the car driven by the deceased struck against a trailer truck and was totally crushed. He blamed the trailer truck negligently parking in the middle of the road with no indicators. There's no other evidence on record which gives any other circumstance in which the truck was parked. The driver did not enter into the witness box to show that he had taken all precautions to avoid the accident by switching on the indicators or other measures.

21. In his cross-examination he stated that the *Mathura Highway* was a double road and the width of one side of the road was about 20-22 feet with a divider in the middle of the two roads. The distance between his car and the car driven by the deceased was about half a kilometre and they reached the place of the accident immediately at the time of the accident. The speed of his car would have been around 60 km per hour.



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He denied that the deceased was driving at a fast speed. The part of *Neeraj Garg's* testimony is extracted as under:

*“It is wrong to suggest that neither the truck was parked on extreme left side of the road nor its parking lights were on. It is wrong to suggest that there was no proper lighting at the place of accident. It is wrong to suggest that there was sufficient space on the right side of the parked truck to enable vehicles to pass through. It is correct that lane for the car on the road was on the right side. It is wrong to suggest that the accident took place due to negligence of the deceased himself.”*

22. Reliance placed on FIR simpliciter and the chargesheet indicating that it was complete negligence of the driver, cannot be taken as gospel truth considering the circumstances in which the truck was parked, the reasons for it being parked, the location of where it was parked and the fact that indicator lights were on or not.

23. In the written statement, the driver had stated that necessary precautions had been taken and he had switched on the indicators as a precautionary measure and also put green leafs of the tree on both sides of the truck. The assessment by the Tribunal is a process of inquiry and is based on preponderance of probability. In this case there was a truck which was stationary on the highway and *Optra car* rammed into it from the back. The time of the day was 6 a.m. and the accident occurred on 13<sup>th</sup> April 2009. Being that time of the year when at 6 a.m. there would be sufficient light to see whether that there was a truck standing in the



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middle of the road, Tribunal is not amiss to place contributory negligence also on the driver of the *Oltra car* i.e. the deceased.

24. The Courts have examined the issue of the rear collisions with a stationary vehicle in the following decisions:

- i) In *Jumani Begum v Ram Naryan*, (2020) 5 SCC 807, the Supreme Court held that where substantive evidence establishes that a trailer truck was parked on the road at night [9 p.m.] without reflectors or warning indicators, the Tribunal cannot proceed on conjecture to attribute contributory negligence to the deceased, and such a finding is unsustainable. Relevant paragraphs are extracted as under:

*“6. On the aspect of contributory negligence, MACT adverted to the statement of AW 2, who was an independent eyewitness at the spot of the accident, in the following terms:*

*“As per an eyewitness to the accident, on behalf of the applicant, the statment of AW 2 Mohd. Rafiq Qureshi has been got recorded. According to this witness, at the time of accident he was going from his house situated in Dharsiva to the dhaba situated at about 2 to 2.5 km away from Dharsivan to eat food on the Bilaspur Road and when he had reached near Sagar Family Restaurant and Dhaba then suddenly from the side of Bilaspur, Mirza Jumman Beg who was coming on his Hero Honda motorcycle from the side of Bilaspur has come and collided on the backside of the truck parked on the road on the left side which truck was of 16 tyres and he had*



*fallen with the Hero Honda motorcycle. This witness has further stated that after eating the food in the Dhaba when he was returning back, he came to know that Mirza Jumman Beg has expired. In cross-examination this witness has stated that the truck trailer was parked facing Raipur i.e. its rear was facing Bilaspur. In cross, this witness has denied that there was a radium reflector on the rear side of the truck trailer. This witness has not been given the suggestion in the cross-examination that the indicator of the truck trailer was lit. In cross-examination, this witness has denied that any bush, etc. had been put on the side of the truck trailer as indication mark.”*

*7. MACT then discussed the evidence of the driver of the truck trailer, AW 1. After analysing the evidence of the driver, MACT held that his evidence did not inspire confidence, when he stated that indicators on the truck trailer had been lit. On the contrary, the eyewitness, AW 2, in the course of his cross-examination, denied the existence of reflectors at the spot. MACT noted that it did not appear that the truck trailer had been parked outside the area of the pakka road. In spite of its analysis in the above terms, MACT surmised that if the lights of the motorcycle were lit, the deceased would have been able to avoid the accident. This part of the reasoning of MACT is purely a matter of surmise. Once the substantive evidence before MACT established that the truck trailer had been parked on the road at night without any reflectors, we are of the view that there was no reason or justification for MACT to proceed on the basis of conjecture in arriving at a finding of contributory negligence. We find from the judgment of the High Court that this aspect has not been discussed at all and the High Court simply*



*proceeded to confirm the finding of contributory negligence. Consequently, on the first limb of the submission, the learned counsel appearing on behalf of the appellant is correct and the submission requires to be accepted.”*

(emphasis added)

ii) The Supreme Court, in ***Sushma v. Nitin Ganapati Rangole & Ors.***, 2024 SCC OnLine SC 2584, has reiterated that parking a truck in the middle of a highway without any warning signs constitutes a clear violation of statutory safety norms, and in such circumstances, fastening contributory negligence on the driver of the moving vehicle by invoking the principle of last opportunity would be legally impermissible. Relevant paragraph is extracted as under:

*“40. On a holistic analysis of the material available on record, it is established beyond the pale of doubt that the offending truck was parked in the middle of the road without any parking lights being switched on and without any markers or indicators being placed around the stationary vehicle so as to warn the incoming vehicular traffic. This omission by the person in control of the said truck was in clear violation of law. The accident took place on a highway where the permissible speed limits are fairly high. In such a situation, it would be imprudent to hold that the driver of a vehicle, travelling through the highway in the dead of the night in pitch dark conditions, would be able to make out a stationary vehicle lying in the middle of the road within a reasonable distance so as to apply the brakes and avoid the collision. The situation would be*



*compounded by the headlights of the vehicles coming from the opposite direction and make the viewing of the stationary vehicle even more difficult. Thus, the conclusion drawn by the Courts below that the driver of the car could have averted the accident by applying the brakes and hence, he was equally negligent and contributed to the accident on the application of principle of last opportunity is ex-facie perverse and cannot be sustained. Hence, it is a fit case warranting exercise of this Court's powers under Article 136 of the Constitution of India to interfere with the concurrent finding of facts.”*

(emphasis added)

iii) In ***Meenu Attery & Ors. v. United India Insurance Co. Ltd. & Ors.***, 2024:DHC:9483, wherein a motorcycle collided with a stationary truck parked in middle of the road without visible indicator or blinkers. Relying on the judgment of Apex Court in ***Jumani Begum v Ram Naryan***, (2020) 5 SCC 807, the Coordinate Bench of this Court held as under:

*“11. Similar facts as in present case, were considered in the case of Jumani Begum vs Ram Narayan, (2020) 5 SCC 807, wherein the Apex court was concerned with the issue of determination of contributory negligence when the deceased victim driving a two-wheeler at night and dashed into truck trailer on road without any reflectors. The court held that once the substantive evidence of the eyewitness before the MACT established that truck trailer had been parked on road at night without any reflectors, there was no*



reason or justification for MACT to proceed on basis of conjecture in arriving at a finding of contributory negligence.

12. Further, the manner in which the accident has occurred is also corroborated by the documents filed along with the charge-sheet. The site plan clearly indicates that the truck was parked and the manner of accident fully corroborates with the testimony of PW-3.”

(emphasis supplied)

25. However, the aforesaid principles cannot be applied as an inflexible rule. Determination of negligence must necessarily turn on the specific facts and surrounding circumstances of each case, including the time of the accident, visibility conditions, location of the stationary vehicle and the conduct expected of a reasonably prudent driver. Therefore, while the legal position is well settled, its application depends upon the factual matrix of the case at hand. The decisions mentioned above relate to night time and not day time. Therefore, there is a fundamental difference in circumstances since in this case it was basis on an April morning having enough dawn light to spot a large vehicle on the road.

26. As regards the computation, considering that letter dated 11<sup>th</sup> December 2006 of *M/s Pharaoh's Call Net* was exhibited as **Exhibit PW-1/6**, the Tribunal was not amiss in considering the employment of the deceased and the income of Rs.17,140/-. In fact the Tribunal



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disregarded the witness from Standard Chartered Bank where it was stated that he was earning a salary of Rs.18,090/-, or even the salary slip of *M/s Hinson IT Solutions Private Limited* where the salary of the deceased was Rs. 23,000/-. Since no witness was examined for *M/s Hinson IT Solutions* that was not considered.

27. The estimate taken from the salary slip shows the gross salary with effect from 01<sup>st</sup> January 2007 as Rs. 19,000/- is untenable. **PW-1**, mother of the deceased stated in *paragraph 5* of her affidavit by way of evidence that he was working in a call centre, was a talented boy intermediate education acquired proficiency in the work of a *Tele Caller* and worked in various call centres; though at the time of the death he was drawing a salary of Rs.23,000/- but was working previously at *M/s Pharaoh's call centre* drawing a salary of Rs. 19,000/-. He was later working also with *M/s Nexussions* which was owned by late *Shri. Dipankar Malik*, who was driving the vehicle. Therefore no record of that firm was available.

28. As per *National Insurance Co. Ltd v. Pranay Sethi* (2017) 16 SCC 680, the deceased was 21 years of age at the time of his death, the loss of *future prospects* would be calculated at 50%, since he was in a series of jobs as a call center executive.

29. Considering he was a bachelor, the deduction of half 50% of the income was also correct. Therefore, there can be no quarrel with monthly and annual loss of dependency.



30. The multiplier as per *National Insurance Co. Ltd v. Pranay Sethi* (*supra*) for 21 years should be considered as ‘18’ as opposed to ‘13’ which was considered from the age of the mother of the deceased which is a concept now rejected by the courts as per *paragraph 59.7* of *Pranay Sethi* (*supra*). Relevant paragraph is extracted as under:

“59. In view of the aforesaid analysis, we proceed to record our conclusion.

.....

59.7. The age of the deceased should be the basis for applying the multiplier.”

31. The computation for *loss of love and affection* would be ignored in view of the judgment in *United India Insurance Co. Ltd. v. Satinder Kaur* (2021) 11 SCC 780.

32. In *Magma General Insurance Co. Ltd. v. Nanu Ram*, (2018) 18 SCC 130, the Supreme Court clarified that consortium is a comprehensive term covering spousal, parental and filial consortium, recognising the companionship, care, affection and guidance lost by the family due to the death. It emphasised that consortium reflects evolving societal values and that the loss of a child causes immeasurable agony warranting compensation beyond mere economic loss. The Supreme Court held that the Motor Vehicles Act, being a beneficial legislation, entitles parents and children to consortium in cases of such deaths, resolving earlier uncertainty in this regard. Relevant paragraphs are extracted as under:



*“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 OnLine Utt 2435 : (2014) 3 UC 1687; Karnataka High Court in Lakshman v. Susheela Chand Choudhary, 1996 SCC OnLine Kar 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.”

(emphasis added)

33. Accordingly, loss of consortium, as per **Magma General Insurance Co. Ltd v. Nanu Ram** (*supra*) and **Pranay Sethi** (*supra*)



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particularly as per *paragraph 59.8*, will be taken as *Rs.80,000/-* [*Rs.40,000/- x 2*].

34. For *loss of estate* it will be *Rs.15,000/-*; for *funeral expenses* it should be *Rs.15,000/-*.

35. As per above assessment, following is the revised computation of compensation:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	<b>Income of deceased (A)</b> (less Income Tax)	Rs. 17,140/-	Rs. 17,140/-
2	<b>Add Future Prospects (B)</b>	50%	50%
3	<b>Less Personal expenses of the deceased (C)</b>	50%	50%
4	<b>Monthly loss of dependency</b> [(A +B)-C = D]	Rs. 12,236.1/-	Rs.12,236.1 /-
5	<b>Annual loss of dependency</b> (D x12)	Rs. 1,46,834/-	Rs.1,46,834 /-
6	<b>Multiplier (E)</b>	13	18
7	<b>Total loss of dependency</b> (D x E = F)	Rs. 19,08,842/-	Rs. 26,43,012/-
8	<b>Medical expenses (G)</b>	Nil	Nil
9	<b>Compensation for loss of consortium (H) (40,000 x 2 )</b>	Nil	Rs. 80,000/-
10	<b>Compensation for loss of love and affection (I)</b>	Rs.25,000 /-	Nil



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11	<b>Compensation for loss of estate (J)</b>	Rs.10,000 /-	Rs.15,000 /-
12	<b>Compensation towards funeral expenses (K)</b>	Rs. 25,000/-	Rs.15,000 /-
<b>TOTAL COMPENSATION (F+G+H+I+J+K = L)</b>		<b>Rs.19,68,842 /-</b>	<b>Rs.27,53,012 /-</b>
<b>RATE OF INTEREST AWARDED</b>		<b>7.5%</b>	<b>7.5%</b>

### **Conclusion**

36. For the aforesaid reasons, while affirming the finding of contributory negligence as returned by the Tribunal, the impugned award is modified to the limited extent of enhancement of compensation. The compensation is enhanced by a sum of Rs. 7,84,170/-, as computed hereinabove.

37. The enhanced amount, along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realisation, shall be deposited by the appellant/Insurance Company before the Tribunal within a period of eight weeks from today.

38. Upon deposit, the disbursement of the enhanced compensation shall be as per the directions passed by the Tribunal.

39. List before Tribunal on 11<sup>th</sup> March 2026.

40. Accordingly, the appeal is partly allowed in the aforesaid terms and disposed of.

41. Pending application (if any) are rendered infructuous.



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42. Statutory deposit (if any) shall be returned to appellant.
43. Judgment be uploaded on the website of this Court.

**ANISH DAYAL  
(JUDGE)**

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