
(2026) 02 SC CK 1756

In the Supreme Court Of India

Case No : Civil Appeal No. 833 Of 2026 [Arising Out Of Special Leave Petition (Civil) No. 23880 Of 2022]

V. Pathmavathi & Ors

APPELLANT

Vs

Bharthi Axa General Insurance Co. Ltd & Anr

RESPONDENT

Date of Decision : 06-02-2026

Acts Referred:

Constitution of India, 1950 — Article 141
Motor Vehicles Act, 1988 — Section 166, 168, 173

Citation : (2026) 02 SC CK 1756

Hon'ble Judges : Dipankar Datta, J; Satish Chandra Sharma, J

Bench : Division Bench

Advocate : T. Harish Kumar, Sandeep Jha, Ram Ekbal Roy, Priyanka Das, Neha Das, Aman Nihal, Ravi Shankar Ravi, Binay Kumar Das

Final Decision : Disposed Of

Judgement

Dipankar Datta, J

1. Leave granted.

THE APPEAL

2. The present appeal assails the judgment and order dated 31.01.2020 'impugned order' passed by the High Court of Judicature at Madras 'High Court' in C.M.A. No. 2806 of 2013, whereby the High Court partly allowed the appeal filed by the claimants (heirs of the deceased) and modified the award dated 08.11.2012 'award', passed by the Motor Accidents Claims Tribunal, Chennai 'MACT' while deciding a claim petition under Section 166 of the Motor Vehicles Act, 1988 'Act'. It is at the instance of the claimants/appellants before the High Court 'claimants'.

FACTUAL BACKGROUND

3. Facts, in brief, are that on 09.06.2011, D. Velu 'victim', aged about 37 years

'MACT recorded the age of the victim as 36 years. As the marginal variation in age does not materially affect the computation of compensation payable to the claimants, we deem it appropriate to consider the age of the victim as 37 years, as recorded by the High Court, for the limited purpose of determining the quantum of compensation.' as noted by the High Court, was riding a two-wheeler. A tanker lorry 'offending vehicle' insured with the respondent-insurance company 'insurer', which was driven in a rash and negligent manner, hit the two-wheeler and as a result thereof the victim died instantly.

4. The claimants, viz. the widow of the victim, their two minor children and the victim's parents lodged a claim petition 'M.C.O.P. No. 4026 of 2011' before the MACT, claiming compensation of Rs. 20,00,000/- on account of loss of dependency and other conventional heads. It was claimed that the victim, employed as a driver at the material time, was earning a regular monthly income of Rs.10,000/- and since the accident occurred solely due to the rash and negligent driving of the offending vehicle, they were entitled to "just compensation". Before the MACT, the insurer contested the claim, inter alia, disputing negligence, the income of the victim, and the quantum of compensation claimed.

5. Upon appreciation of the oral and documentary evidence on record, the MACT, by its award, held that the accident occurred due to the negligence of the offending vehicle; however, in view of lack of supporting documentary evidence, the victim's monthly salary was reckoned as Rs. 6,000/-. Accordingly, the compensation payable was assessed as follows: the victim's monthly income was taken at Rs. 6,000/-; and, after deducting one-fourth towards personal expenses, i.e., Rs. 1,500/-, the notional monthly contribution to the family was calculated at Rs. 4,500/-; then, applying the multiplier of 16, the loss of income was computed at Rs. 8,64,000/- (Rs. 4,500 × 12 × 16). In addition, a sum of Rs. 2,000/- was awarded towards transport charges; Rs. 25,000/- towards loss of consortium to the widow of the victim; Rs. 5,000/- towards funeral expenses; Rs. 40,000/- towards loss of love and affection to the parents and children at Rs. 10,000/- each; and Rs. 1,000/- towards damages. No amount was awarded under the head of loss of estate. Thus, the total compensation payable was determined at Rs. 9,37,000/- with interest @7.5%.

6. Aggrieved by the quantum of compensation awarded, the claimants preferred an appeal before the High Court under Section 173 of the Act.

7. The High Court, by the impugned order, affirmed the finding on negligence; however, it modified the award by enhancing the quantum of compensation payable by the insurer from Rs. 9,37,000/- to Rs. 10,51,000/-. In computing the quantum of compensation payable, the High Court reckoned the monthly salary of the victim as Rs. 7,000/-. The insurer was directed to deposit the enhanced compensation with interest @ 7.5% per annum from the date of the claim petition till the date of payment and with proportionate cost. The following is the break-up of compensation granted by the High Court:

Serial Number

Description

Age: 37 Years

Compensation Fixed by the High Court

1.

Income	Rs. 7,000/-
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Deduction for Personal Expenses (1/4th)	Rs. 1,750-
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Notional Income	Rs. 5,250/-
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Multiplier	15
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Loss of Income	Rs. 9,45,000/-
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2

Transport Charge

Rs. 10,000/-

3

Loss of Estate

Nil

4

Loss of Consortium (widow of the victim)

Rs. 25,000/-

5

Funeral Expenses

Rs. 10,000/-

6

Loss of Love and Affection (parents - Rs. 10,000/- each) (children - Rs. 20,000/- each)

Rs. 60,000/-

7

Damages to clothing

Rs. 1,000/-

Total

Rs. 10,51,000/-

8. Dissatisfied with the minor modification of compensation and, in particular, the denial of future prospects despite the settled law laid down by this Court, the claimants are now before us seeking further enhancement.

ISSUES INVOLVED

9. While the claimants contend that the High Court erred on two counts [(i) not reckoning the victim's monthly salary as Rs.10,000/- and (ii) not awarding future prospects in line with the decision in *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680], the insurer claims that the High Court was right in not accepting the claim of Rs.10,000/- being the monthly salary of the victim in the absence of supporting evidence. However, while omission of the High Court not to grant any amount for future prospects has not been seriously contested, the insurer has claimed, relying on *Pranay Sethi* (supra), that the High Court erred in granting Rs.60,000/- on account of loss and affection for the parents and the children of the victim. Pointed reference has been made to *Pranay Sethi* (supra) overruling the decision in *Rajesh v. Rajbir* (2013) 9 SCC 54, which had provided compensation under such head.

10. We have heard learned counsel for the parties and perused the materials on record.

11. The controversy in the present appeal lies in a narrow compass and relates primarily to:

(i) the assessment of the income of the victim and the denial of any amount towards future prospects; and

(ii) the grant of compensation under the head "loss of love and affection".

ANALYSIS

12. We ought to remind ourselves, at the outset, that when an individual dies as a result of a fatal road accident and his distressed dependents apply for compensation either from the owner of the vehicle responsible for the death or the insurance company with whom such vehicle is insured, no amount of money can truly compensate for the loss. Compensation is nothing but a rough estimate, being a token attempt to ease the financial burden on the dependents. Take consortium, for example. It is impossible to put a price on the loss of a loved one's companionship. Spousal, filial or parental compensation are all about acknowledging the emotional void but the payout can never be more than a rough approximation. It is like trying to measure the immeasurable. Considering the income of the deceased, the needs of his dependents and the emotional toll of the loss, the best that can be ensured is that the compensation is fair and reasonable, without being either arbitrary or niggardly. This would be in accord with the foundational principle governing the determination of "just compensation" under Section 168 of the Act.

13. In *Reshma Kumari v. Madan Mohan* (2013) 9 SCC 65, a three-Judge Bench of this Court held that the purpose of award of compensation under section 166 read with section 168 of the Act is to place the distressed dependents of the victim of a fatal road accident, if the victim had been the sole bread earner, in almost the same position financially if he lived his natural span of life. It is obviously not intended to put such distressed dependents in a better financial position in which they would otherwise have been if the accident had not occurred. At the same time, the determination of compensation is not an exact science and the exercise involves an assessment based on estimation and conjectures, here and there, as many imponderable factors and unpredictable contingences have to be taken into consideration. Obviously, award of damages in each case would depend on the particular facts and circumstances of the case but the element of fairness in the amount of compensation so determined is the ultimate guiding factor.

14. What follows is that the amount of compensation should be "just", i.e., it implies that the determination is fair, reasonable and equitable by accepted legal standards and is not a bonanza. Though "just" compensation can never be perfect or absolute compensation, since loss of human life can never be compensated by monetary terms, the principle of awarding "just" compensation and assessing the extent of dependency would depend on examination of the unique situation of each individual case.

ISSUE 1:

15. Bearing the aforesaid well-settled principles in mind, we now move on to decide the first issue.

16. In the present case, the MACT proceeded on the premise that the monthly income of the victim was Rs. 6,000/-. This was subsequently enhanced by the High Court to Rs. 7,000/-, albeit without recording any reason. However, learned counsel appearing for the claimants has rightly drawn our attention to the salary certificate issued by the employer of the victim, marked Exhibit P-14, which unequivocally records that the victim was employed as a driver on a fixed monthly salary of Rs. 10,000/-. This documentary evidence is further corroborated by the affidavit sworn by the victim's employer (PW-3). On the face of such cogent and relevant evidence, which was not impeached by the insurer, it would be wholly impermissible to assess the income at a lower figure. The determination of income must be founded on proof placed on record and cannot rest on conjecture or assumptions divorced from evidence. Accordingly, for the purposes of re-computation, the monthly income of the victim has to be reckoned as Rs. 10,000/-.

17. Equally significant is the High Court's omission to consider grant of any amount towards future prospects. Assessment of income and the grant of future prospects are not matters of judicial discretion in the abstract but are now firmly structured by authoritative precedents. Having regard to the decision in *Pranay*

Sethi (supra), the law on this aspect is no longer *res integra*. The Constitution Bench clarified therein that the concept of future prospects is an integral component of "just compensation" and is not confined only to those in permanent government employment. While this Court in *Sarla Verma v. DTC* (2009) 6 SCC 121 adopted a structured approach, *Santosh Devi v. National Insurance Co. Ltd* (2012) 2 SCC 421 marked a jurisprudential shift by recognising the economic realities faced by self-employed persons and those on fixed salaries. Although *Santosh Devi* (supra) was later held not to be a binding precedent on account of judicial discipline, the Constitution Bench in *Pranay Sethi* (supra) itself incorporated, refined and standardised the principle of future prospects for such categories by holding as follows:

59.1. The two-Judge Bench in *Santosh Devi* [*Santosh Devi v. National Insurance Co. Ltd.*, (2012) 6 SCC 421] should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in *Sarla Verma* [*Sarla Verma v. DTC*, (2009) 6 SCC 121], a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

59.2. As *Rajesh* [*Rajesh v. Rajbir Singh*, (2013) 9 SCC 54] has not taken note of the decision in *Reshma Kumari* [*Reshma Kumari v. Madan Mohan*, (2013) 9 SCC 65], which was delivered at earlier point of time, the decision in *Rajesh* [*Rajesh v. Rajbir Singh*, (2013) 9 SCC 54] is not a binding precedent.

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] 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] 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.

18. Paragraph 59.4 of *Pranay Sethi* (supra) unequivocally mandates that where the deceased was self-employed or on a fixed salary and below the age of 40 years, an addition of 40% of the established income towards future prospects is compulsory. This is not a matter of choice, but a binding norm flowing from Article 141 of the Constitution.

19. In the present case, the victim was 37 years of age at the time of the accident and was earning a fixed monthly income. Once these foundational facts are established, the addition towards future prospects follows as a necessary consequence. The High Court, in declining such addition, failed to apply the binding precedent of this Court, thereby committing a manifest error of law.

20. Accordingly, the income of the victim being fixed at Rs. 10,000/- per month, an addition of 40% towards future prospects is warranted which brings the monthly income to Rs. 14,000/-. After deducting one-fourth towards personal and living expenses, the monthly contribution to the family would be Rs. 10,500/-. Applying the multiplier of 15, as applicable to the age group of the victim, the total loss of dependency is computed at Rs. 18,90,000/- (Rs. 10,500 × 12 × 15).

ISSUE 2: GRANT OF COMPENSATION UNDER THE HEAD "LOSS OF LOVE AND AFFECTION"

21. The second issue raises a question that lies at the intersection of judicial discipline and substantive justice.

22. In *Rajesh* (supra), this Court recognised "loss of love and affection" as a distinct head of compensation, reflecting the non-pecuniary deprivation suffered by family members upon the untimely death of a loved one. However, the Constitution Bench in *Pranay Sethi* (supra) expressly disapproved this approach holding that *Rajesh* (supra) was rendered per incuriam and that compensation should be confined to three conventional heads, i.e., loss of estate, loss of consortium and funeral expenses in order to preserve consistency and certainty in awards. Observing disagreement, *Pranay Sethi* (supra) held thus:

52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in *Rajesh* [*Rajesh v. Rajbir Singh*, (2013) 9 SCC 54]. It has granted Rs 25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though *Rajesh* [*Rajesh v. Rajbir Singh*, (2013) 9 SCC 54] refers to *Santosh Devi* [*Santosh Devi v. National Insurance Co. Ltd.*, (2012) 6 SCC 421], it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an

acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

23. There can be no quarrel with the binding nature of Pranay Sethi (supra). Judicial discipline demands that a Constitution Bench decision must prevail over a judgment of a Bench of lesser strength. Accordingly, this Court is constrained to follow the law declared therein.

24. That said, it is difficult to ignore the conceptual tension that underlies this exclusion. The head of "future prospects" itself is a creation of judicial interpretation, evolved to respond to socio-economic realities and the legitimate expectations of dependents. If the law is capable of recognising anticipated economic progression as a valid loss, it is not too clear why emotional deprivation manifested in loss of love and affection must be viewed as an impermissible head, especially when Chapter XII of the Act is a beneficial piece of legislation meant to help people in distress arising out of road accidents.

25. The concern expressed in Pranay Sethi (supra) was primarily one of consistency and avoidance of unguided discretion. However, consistency, though desirable, cannot be elevated to a point where it eclipses the core objective of awarding "just compensation". The law must remain responsive to lived human realities, especially in cases involving the sudden rupture of familial bonds.

26. It is in this context that the subsequent decision of this Court in Magma General Insurance Co. Ltd. v. Nanu Ram (2018) 18 SCC 130 assumes significance. This Court expanded the ambit of "consortium" to include parental and filial consortium, implicitly acknowledging the emotional and relational loss suffered by children and parents alike. This doctrinal expansion suggests that the distinction between "consortium" and "loss of love and affection" may be one of form rather than substance. The coordinate Bench ruled as follows:

21. A Constitution Bench of this Court in Pranay Sethi [National Insurance Co.

Ltd. v. Pranay Sethi, (2017) 16 SCC 680] 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].

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; Uttarakhand High Court in Rita Rana v. Pradeep Kumar, 2013 SCC OnLine Utt 2435; Karnataka High Court in Lakshman v. Susheela Chand Choudhary, 1996 SCC OnLine Kar 74]. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.

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

filial consortium.

27. Interestingly, we find from paragraph 25 of Magma General Insurance (supra) that apart from Rs. 80,000/- awarded on account of filial consortium, this Court awarded Rs. 1,00,000/- on account of loss and affection in addition.

28. More recently, in the case of United India Insurance Co. Ltd. v. Satinder Kaur (2021) 11 SC 780, a three-Judge Bench of this Court harmonised the principles laid down in Pranay Sethi (supra) and Magma General Insurance (supra) to ensure uniformity in the award of compensation under conventional heads. Reaffirming the binding nature of Pranay Sethi (supra), this Court held that compensation in death cases is confined to three conventional heads, i.e., loss of estate, loss of consortium and funeral expenses. At the same time, drawing upon Magma General Insurance (supra), this Court clarified that consortium is a compendious concept encompassing spousal, parental and filial consortium. It was further held that loss of love and affection is subsumed within loss of consortium and cannot be awarded as a separate head. This Court held as follows:

34. At this stage, we consider it necessary to provide uniformity with respect to the grant of consortium, and loss of love and affection. Several Tribunals and the High Courts have been awarding compensation for both loss of consortium and loss of love and affection. The Constitution Bench in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680], has recognised only three conventional heads under which compensation can be awarded viz. loss of estate, loss of consortium and funeral expenses. In Magma General [Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130], this Court gave a comprehensive interpretation to consortium to include spousal consortium, parental consortium, as well as filial consortium. Loss of love and affection is comprehended in loss of consortium.

35. The Tribunals and the High Courts are directed to award compensation for loss of consortium, which is a legitimate conventional head. There is no justification to award compensation towards loss of love and affection as a separate head.

29. Consistent with the aforesaid position but notwithstanding the reservations noted earlier, this Court is bound by the law declared by the Constitution Bench in Pranay Sethi (supra), which does not countenance "loss of love and affection" as a distinct head of compensation. As subsequently clarified in Satinder Kaur (supra), referring to both Pranay Sethi (supra) and Magma General Insurance (supra), the non-pecuniary loss arising from deprivation of love and affection is comprehended within the broader head of "consortium". Consequently, no separate award under the head of loss of love and affection is warranted.

30. In light of the aforesaid discussion, the claimants are awarded compensation as follows:

Serial Number

Description

Age: 37 Years

Compensation Fixed by the High Court

1.

Income	Rs. 10,000/-
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Addition for future prospects	Rs. 14,000/-
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(40% of the fixed monthly salary)

Deduction for Personal Expenses	Rs. 3,500/-
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(1/4th)

Notional Income	Rs. 10,500/-
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Multiplier	15
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Loss of Income	Rs. 18,90,000/-
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(10,500 x 12 x 15)

2

Transport Charge

Rs. 10,000/-

3

Loss of Estate

Nil

4

Loss of Consortium

i. Spousal Consortium

ii. Parental Consortium (Rs. 40,000/- each)

iii. Filial Consortium

Rs. 50,000/-

Rs. 80,000/-

Rs. 40,000/- ' since the father of the victim passed away on 12.11.2019, filial consortium is granted only to the mother of the victim'

5

Funeral Expenses

Rs. 1,000/-

Total

Rs. 20,80,000/-

31. If any amount on account of compensation as awarded by the MACT, since enhanced by the High Court has been paid to the claimants, the insurer is directed to pay the balance amount of compensation within a period of twelve weeks from the date of this order.

32. The victim passed away on 09.07.2011. His dependants have been pursuing legal proceedings for grant of compensation since the past 15 years. As a consequence, we deem it appropriate to direct that interest @ 9% p.a. be paid on the total compensation awarded, from the date of filing the claim petition, till realization.

33. The civil appeal, thus, stands disposed of on the aforesaid terms.

34. Connected applications, if any, shall stand closed.