

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

FAO(MV) No.34 of 2014

Reserved on: 14.09.2026

Date of decision: 01.10.2026

**Date of uploading on website:
01.10.2026**

United India Insurance Company Ltd.Appellant.

Versus

Prem Lata & othersRespondents.

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹*Whether approved for reporting?*

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma, Advocate.

For respondents No. 1 & 2: Mr. Pranshul Sharma, Advocate

For respondent No. 3. Mr. V.B. Verma, Mr. Aditya
Thakur and Mr. Mukul Sharma,
Advocates.

Respondent No. 4 *ex parte*.

Sushil Kukreja, Judge.

The instant appeal has been maintained by appellant-United India Insurance Company Ltd., who was respondent No. 3 before the learned Tribunal below (hereinafter referred to as the appellant/Insurance Company)

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') against impugned award, dated 02.08.2013, passed in MAC Petition No. 56-S/2 of 2011, whereby learned Motor Accident Claims Tribunal-I, Solan, District Solan, H.P. (hereinafter referred to as "the learned Tribunal below"), allowed the claim petition preferred by the petitioners/claimants (respondents No. 1 and 2 herein).

2. The facts giving rise to the instant appeal are that petitioners/claimants, i.e., Prem Lata and Dalip Chand preferred a claim petition under Section 166 of the Act, before the learned Tribunal below, on account of death of their son Chanchal Kumar. The petitioners averred that the deceased was aged about 28 years and was employed as Senior Business Executive in USV Ltd. at Shimla. The monthly salary of the deceased was Rs.30,958/-. On 16.09.2011 the deceased was riding on his motor cycle, bearing registration No. HP-28B-0357, from Saproon towards Ajni. Respondent No. 2-Som Dutt, who was driving offending vehicle, bearing registration No. HP-64-4193, came from Anji side in a rash and negligent manner on wrong side and struck against the motorcycle of the deceased at Rabon. The petitioners further averred that

after the accident respondent No. 2 fled away from the spot. While the deceased was being shifted to the hospital, en route he died. As per the petitioners, the accident took place due to the rash and negligent driving of respondent No. 2. The petitioners, being the parents of the deceased were wholly dependent on him and thus entitled for compensation from respondents No. 1 to 3, i.e., owner, driver and insurer of the offending vehicle.

3. Respondents No. 1 and 2 filed their replies, wherein they averred that the claim petition was not maintainable, as the petitioners had suppressed material facts and they have no locus-standi to file the claim petition. They further averred that the petition was bad in the eyes of law. On merits, it was admitted that the accident took place on 16.09.2011 near Rabon, but they denied that the accident took place due to the rash and negligent driving of respondent No. 2, rather, it was averred that due to the rash and negligent driving of the deceased himself, the accident took place. The replying respondents specifically averred that the deceased was coming from the wrong side of the road and he struck his motorcycle against the alleged offending vehicle. It was averred that in case the learned

Tribunal arrived at a conclusion that the claimants were entitled to just and reasonable compensation, then the same was liable to be paid by respondent No. 3-Insurance Company (insurer), as the offending vehicle was insured comprehensively with respondent No. 3.

4. Respondent No. 3-Insurance Company also filed its reply, wherein it was averred respondent No. 2, being driver of the offending vehicle, was not having an effective and valid driving licence and this fact was within the knowledge of respondent No. 1. It was further averred that the offending vehicle was not having valid registration certificate, goods permit and fitness certificate at the time of the accident, thus there was breach of not only the insurance policy, but breach of the provisions of the Motor Vehicles Act. As per the replying respondent, it cannot be saddled with the liability to pay compensation to the petitioners on behalf of respondents No. 1 and 2. It was also averred that the accident took place due to contributory negligence of the deceased himself, as he was driving his vehicle at a very high speed and in a rash and negligent manner. It was further averred that the amount of compensation claimed by the claimants was highly inflated and exaggerated.

5. On 02.08.2012 the learned Tribunal below had framed the following issues for consideration and adjudication:

- “1. Whether the accident was result of rash and negligent driving of the offending vehicle in question by respondent No. 2 and the deceased died in the said accident? OPP***
- 2. If issue No. 1 is proved in affirmative, whether the petitioners are entitled to compensation? If so, to what amount and from whom? OPP***
- 3. Whether the petition is not maintainable? OPR***
- 4. Whether the petitioners have no locus-standi to file the present petition? OPR***
- 5. Whether the driver of the offending vehicle in question was not having valid and effective driving licence at the time of accident? If so, its effect? OPR-2***
- 6. Whether the vehicle was being plied in violation of terms and conditions of the insurance policy? If so, its effect? OPR-3***
- 7. Whether the offending vehicle did not have valid registration certificate, route permit and fitness certificate at the time of accident? If so, its effect? OPR-3***
- 8. Whether the accident was the result of negligent of deceased himself? If so its effect?***
- 9. Relief.”***

6. After the parties led their evidence and after hearing the learned counsel for the parties, the claim petition was allowed by the learned Tribunal below and petitioners/claimants (respondents No. 1 and 2 herein) were held entitled for compensation of Rs.19,75,878/- from the

respondents, which was to be paid by respondent No. 3- Insurance Company, on behalf of respondents No. 1 and 2, being insurer of the offending vehicle alongwith costs of the petition and with pending and future interest at the rate of 7% per annum from the date of filing of the petition till the date of actual payment.

7. Feeling aggrieved and dissatisfied, appellant- Insurance Company, preferred the instant appeal against the impugned award dated 02.08.2013, with prayer to allow the instant appeal by quashing and setting-aside the impugned award.

8. Learned Counsel for the appellant contended that the learned Tribunal below has awarded exorbitant and excessive amount of compensation which cannot be sustained in law. He further contended that the learned Tribunal below has erred in increasing the annual income of the deceased by 50% for future prospects without there being any specific and definite evidence for arriving at such conclusion, as such he prayed that the instant appeal be allowed and the impugned award be quashed and set-aside.

9. Per contra, the learned counsel for the claimants contended that since the learned Tribunal below has failed to

apply the proper multiplier and also failed to award certain amounts under the conventional heads, therefore, the compensation amount deserves to be enhanced.

10. I have heard the learned counsel for the appellant-Insurance Company, learned counsel for respondents No. 1 and 2 (petitioners/claimants), learned counsel for respondent No. 3 (owner of the offending vehicle) and carefully examined the entire records.

11. It is not in dispute that deceased-Chanchal Kumar, who was the son of the petitioners, died in a motor accident due to the rash and negligent driving of respondent No. 2 (respondent No. 4 herein), driver of the offending vehicle. Now, the question which arises for consideration before this Court is to what amount of compensation the petitioners, being the parents of the deceased, are entitled to claim from the respondents.

12. In the instant case, it has come in evidence on record that the deceased was working as Senior Business Executive in USV Ltd., Shimla. Shri Parmod Kumar, Senior Business Executive of the Company, appeared in the witness-box as PW-3, and deposed that the deceased was in permanent job. He also placed on record the salary

certificate of the deceased, Ex. PW-3/A, as per which, he (deceased) was getting monthly salary of Rs.30,958/-. No evidence to the contrary has been placed on record by the respondents, therefore, the learned Tribunal below has rightly taken the monthly income of the deceased as Rs.30,958/-. The deceased, at the time of his death, was 28 years of age and was unmarried.

13. The learned Counsel representing the claimants/petitioners contended that since learned Tribunal below has failed to apply the proper multiplier and also failed to award certain amounts under the conventional heads, i.e. loss of estate and filial consortium, this Court while exercising power under Order 41 Rule 33 CPC may proceed to award the same in favour of the claimants. On the other hand, learned Senior Counsel for the appellant, while seriously opposing the aforesaid prayer made on behalf of the claimants, contended that since no cross-appeal ever came to be filed on account of claimants/petitioners No. 1 to 6, this Court has no power to award an extra amount/enhance the amount already awarded by the learned Tribunal below in the instant proceedings.

14. In ***Ningamma & anr. vs. United India Insurance Company Limited - (2009) 13 SCC 710***, the Hon'ble Supreme Court held that section 166 of the MV Act deals with "just compensation" and even if in the pleadings no specific claim was made, a party should not be deprived from getting "just compensation". The relevant para of the aforesaid judgment, for the sake of ready reference, is extracted hereunder:

"34. Undoubtedly, Section 166 of the MVA deals with "just compensation" and even if in the pleadings no specific claim was made under Section 166 of the MVA, in our considered opinion a party should not be deprived from getting "just compensation" in case the claimant is able to make out a case under any provision of law. Needless to say, the MVA is beneficial and welfare legislation. In fact, the court is duty-bound and entitled to award "just compensation" irrespective of the fact whether any plea in that behalf was raised by the claimant or not."

15. In ***National Insurance Company Limited Versus Pranay Sethi & others, (2017) 16 SCC 680***, a Constitution Bench of the Hon'ble Apex Court held that the compensation has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. Para-55 of the judgment is reproduced as under:

“55. Section 168 of the Act deals with the concept of “just compensation” and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. The conception of “just compensation” has to be viewed through the prism of fairness, reasonableness and non-violation of the principle of equitability. In a case of death, the legal heirs of the claimants cannot expect a windfall. Simultaneously, the compensation granted cannot be an apology for compensation. It cannot be a pittance. Though the discretion vested in the tribunal is quite wide, yet it is obligatory on the part of the tribunal to be guided by the expression, that is, “just compensation”. The determination has to be on the foundation of evidence brought on record as regards the age and income of the deceased and thereafter the apposite multiplier to be applied. The formula relating to multiplier has been clearly stated in Sarla Verma (supra) and it has been approved in Reshma Kumari (supra). The age and income, as stated earlier, have to be established by adducing evidence. The tribunal and the Courts have to bear in mind that the basic principle lies in pragmatic computation which is in proximity to reality. It is a well accepted norm that money cannot substitute a life lost but an effort has to be made for grant of just compensation having uniformity of approach. There has to be a balance between the two extremes, that is, a windfall and the pittance, a bonanza and the modicum. In such an adjudication, the duty of the tribunal and the Courts is difficult and hence, an endeavour has been made by this Court for standardization which in its ambit includes addition of future prospects on the proven income at present. As far as future prospects are concerned, there has been standardization keeping in view the principle of certainty, stability and consistency. We approve the principle of “standardization” so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age.”

16. In *Ranjana Prakash & Ors. vs. Divisional manager and Ors.* (2011) 14 SCC 639, it has been held that to do complete justice between the parties, the amount of compensation can be enhanced by an Appellate Court while exercising powers under Order 41 Rule 33 CPC, even if the respondent had not filed any appeal or cross-objections.

Relevant para of the aforesaid judgment reads as under:

“7. This principle also flows from Order 41 Rule 33 CPC which enables an appellate court to pass any order which ought to have been passed by the trial court and to make such further or other order as the case may require, even if the respondent had not filed any appeal or cross-objections. This power is entrusted to the appellate court to enable it to do complete justice between the parties. Order 41 Rule 33 of the Code can however be pressed into service to make the award more effective or maintain the award on other grounds or to make the other parties to litigation to share the benefits or the liability, but cannot be invoked to get a larger or higher relief. For example, where the claimants seeks compensation against the owner and the insurer of the vehicle and the Tribunal makes the award only against the owner, on an appeal by the owner challenging the quantum, the appellate court can make the insurer jointly and severally liable to pay the compensation, along with the owner, even though the claimants had not challenged the non-grant of relief against the insurer.....”

17. Thus, in view of the aforesaid judgment passed by the Hon'ble Apex Court, this Court while exercising power under Order 41 Rule 33 of CPC can proceed to make such further or other order which ought to have been passed in order to do complete justice between the parties even in those cases, where no cross appeals/cross-objections have been filed.

18. In ***Sarla Verma & others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, the Apex Court, on the question of deduction towards the personal and living expenses of the deceased held that, the personal and living expenses of the deceased should be deducted from his monthly income, to arrive at the contribution to the

dependents. Where the deceased was married, the deduction towards personal and living expenses of the deceased should be one-third where the number of dependent family members is 2 to 3; one-fourth where the number of dependent family members is 4 to 6; and one-fifth where the number of dependent family members exceeds 6. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself.

19. In the instant case, since the deceased was bachelor, therefore, 50% of his income is required to be deducted towards personal and living expenses, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's case (supra)**. However, the learned Tribunal below has erroneously increased the annual income of the deceased by 50% for future prospects as in **National Insurance Company Limited vs. Pranay Sethi & others, (2017) 16 SCC 680**, it has been held that while determining the income, in case 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 to the income of the deceased towards future prospects should be made. Paras 59.4 of the said

judgment read as follows:

“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.”

20. Therefore, while considering Rs. 30,958/- as the monthly income of the deceased and by addition of 40% as future prospects as deceased being self employed and 28 years of age, the income of the deceased comes out to Rs 43,341/- per month (Rs 30,958/- + Rs.12,383/-). Thus, after the deduction of 50% of the income towards the personal expenses of the deceased, his contribution to family comes out to Rs 21670/- per month and his annual contribution comes out to Rs.2,60,040/- (Rs. 21670/- x 12).

21. In ***Sarla Verma's case (supra)***, it has further been held by the Hon'ble Supreme Court that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40

years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years. The relevant portion of the aforesaid judgment is as under:

“42. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”

22. The learned Tribunal below has erroneously applied the multiplier of “7” by taking into consideration the age of petitioner No. 2-Shri Dalip Singh, who was the father of the deceased, whereas in view of the law laid down by the Hon’ble Supreme Court in ***Pranay Sethi’s*** case (supra), the age of the deceased should have been made basis for applying the multiplier. Para 59.7 of the said judgment reads as under:

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

23. In the case on hand, since the deceased was 28 years of age, as such by applying the multiplier of ‘17’ as per the settled law, the compensation under the head, loss of

dependency is re-fixed **as Rs 44,20,680/- (2,60,040/- x 17).**

24. Now, coming to the last aspect, i.e., the amount under conventional heads. In **Pranay Sethi's** case (supra), the Hon'ble Supreme Court has held that for the conventional heads, namely, "Loss of Estate", "Loss of Consortium" and "Funeral Expenses" amount of compensation is fixed as Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively and the aforesaid figures quantified by the Apex Court have to be enhanced on percentage basis, at the rate of 10%, in a span of every three years. The relevant portion of the aforesaid judgment is as under:

"52.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."

25. In **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & others**, reported in (2018) 18 **Supreme Court Cases 130**, the Hon'ble Supreme Court has laid down that consortium is not limited to spousal consortium and it also includes parental consortium as well as filial consortium. The relevant portion of the aforesaid judgment

reads as under:

“21. A Constitution Bench of this Court in *Pranay Sethi* dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, “consortium” is a compendious term which encompasses “spousal consortium”, “parental consortium”, and “filial consortium”. The right to consortium would include the company, care, help comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse:

21.1. Spousal consortium is general defined as rights pertaining to the relationship of a husband-wife which allows compensation o the surviving spouse for loss of “company, society, cooperation, affection, and aid of the other in every conjugal relation”.

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

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

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognized 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 love, affection, care and companionship of the deceased child.”

26. While placing reliance upon the judgment passed by the Hon'ble Apex Court in *Pranay Sethi's* case (supra), the Hon'ble Supreme Court in *Sunita & ors. vs. United India Insurance Co. Ltd. & ors.*, 2025 SCC Online SC 1464, had enhanced the compensation under the conventional heads @

10% after a span of every three years w.e.f. the year 2017 and held as follows:

“20. Regarding the monthly income of the deceased, we concur with the view taken by the Courts below in assessing the same to be Rs.12,000/- per month, for there being no error therein. Hence, in awarding compensation which is just and fair, we are inclined to increase the amount awarded under the conventional heads, namely, loss of estate, loss of consortium, and funeral expenses by 10% adverting to the settled principle of law laid down by this Court in National Insurance Co. Ltd. v. Pranay Sethi, that such amount should be revised every three years.”

27. Accordingly in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** as well as **Sunita's** case (supra), by enhancing the compensation under the conventional heads @ 10%, after every three years from the year 2017, the petitioners are entitled to loss of estate at Rs.19,965/- funeral expenses at Rs.19,965/- the petitioners, being parents of the deceased, are entitled to Rs.53,240/- each on account of loss of love and affection. Accordingly, the total amount of compensation comes out as under:

	<u>Head</u>	<u>Amount</u>
(i)	Loss of dependency	Rs.44,20,680/-
(ii)	Funeral expenses	Rs.19,965/-
(iii)	Loss of estate	Rs.19,965/-
(iv)	Love and affection	Rs.1,06,480/- (Rs.53,240/- Payable to each of the petitioners)
	Total compensation awarded	Rs.45,67,090/-

28. In view of what has been discussed hereinabove, the impugned award, passed by the learned Tribunal below,

is modified to the aforesaid extent and the instant appeal is disposed of in the above terms. The remaining terms of the impugned award, including the interest component as well as the apportionment amongst the claimants, shall remain the same.

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

(Sushil Kukreja)
Judge

1st October, 2026
(virender)