2026:HHC:49849

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

**FAO (MV) No.113 of 2026**
**Reserved on: 03.11.2026**
**Date of decision: 18.11.2026**
**Uploaded on : 18.11.2026**

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Om Parkash and another

...Appellants

Versus

Anita and others

…Respondents

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*Coram*

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

[1] *Whether approved for reporting?* Yes.

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For the appellants: Mr. Mohinder Verma & Mr. Sumit Sharma, Advocates.

For the respondents: Mr. Vinod Chauhan & Ms. Nandita, Advocates.

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**Sushil Kukreja, Judge**

The instant appeal is maintained by the appellant under Section 173 of the Motor Vehicles Act (for short “MV Act”), against the impugned award dated 07.11.2025, passed by the learned Motor Accident Claims Tribunal, Paonta Sahib, District Sirmaur, HP, in Claim Petition No.42-N/2 of 2021, with a prayer to quash and set-aside the impugned award. The parties shall be referred to as they were before the learned Tribunal below.

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

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2. Briefly stated the facts, giving rise to the present appeal, are that the petitioners had filed a claim petition under Section 166 of MV Act, whereby they sought compensation to the tune of Rs.25,00,000/- on account of death of Shri Mohit, who was son of petitioners No.1 & 2 and brother of petitioners No.3 & 4. It was averred by the petitioners that on 25.11.2020, while driving his motorcycle bearing registration No.HP-17F-4490 and when Mohit reached near Village Khodri, a Car bearing registration No. HP-17F-3081, being driven by respondent No.1 Rinku Ram in a rash and negligent manner, hit the motorcycle from behind, as a result of which, he fell down and sustained head injuries as well as multiple fractures, which had resulted into his death.

3. As per the petitioners, at the time of his death, deceased Mohit was 22 years old and he was working as Munshi with Shri Ranvir Singh and was earning Rs.15,000/- per month. The deceased was unmarried and the petitioners were dependent upon him. The car in question was owned by respondent No.2-Om Parkash.

4. Respondents No.1 & 2, in their joint reply, averred that three passengers were riding upon the motorcycle bearing No.HP-17F-4490, who were in a drunken condition and the motorcycle

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was being driven by a minor, whereas the deceased was sitting in the middle. It was further averred that as the motorcycle was being driven in a rash and negligent manner, due to which, the riders skidded from the motorcycle and hit against the car by the rear portion of the motorcycle. It was alleged that the death of deceased was caused due to rash and negligent driving of one of the minors, out of three persons riding on the said motorcycle.

5. On the basis of the pleadings of the parties, the learned Tribunal below framed the following issues on 12.05.2022:-

> ***"1. Whether on dated 25.11.2020 at about 2:00 PM place Khodri, Tehsil Paonta Sahib, deceased died due to rash and negligent driving of the vehicle No.HP-17F-3081 by its driver (Rinku Ram) respondent No.1, as alleged? ….OPP***
>
> ***2. If issue No.1 above is proved in affirmative, whether the petitioners are entitled for the grant of compensation, if so, to what amount and from which of the respondents? ….OPP***
>
> ***3. Whether the accident took place due to own negligence of the deceased/motorcyclist himself? ...OPR-1& 2***
>
> ***4. Relief."***

6. After parties led their evidence, the claim petition was allowed and the petitioners were awarded a sum of Rs.17,20,400/- with costs assessed as Rs.3,000/- as compensation alongwith interest of 7.5% per annum from the date of filing of the petition till

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realization and the respondents were held jointly and severally liable to make payment of the compensation to the petitioners.

7. Feeling aggrieved and dissatisfied, the appellants-respondents preferred the instant appeal against the impugned award dated 07.11.2025, with a prayer to quash and set-aside the impugned award.

8. Learned counsel for the appellants contended that in the absence of any evidence on record, the learned Tribunal below had erred in taking notional income of the deceased as Rs.8,275/- per month. He further contended that petitioner No.2, being the father and petitioners No.3 & 4, being sisters of the deceased, were not entitled to any compensation as they were not dependent upon the income of the deceased.

9. On the other hand, learned counsel for respondents supported the impugned award and prayed for dismissal of the instant appeal.

10. I have heard the learned counsel for the appellants as well as the learned counsel for respondents and also carefully examined the entire record.

11. The first question, which arises for consideration before this Court, is as to whether the learned Tribunal below had

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correctly assessed the income of the deceased at Rs.8,275/- per month or not. 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*

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> *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."*

12. To prove the income of the deceased, petitioner No.1 Anita, while appearing in the witness-box as PW-1 and tendered in evidence her affidavit Ext. PW1/A by way of examination-in-chief, wherein she stated that her son was working with Ranbir as Munshi, who was drawing salary of Rs.15,000/- per month. She further deposed that all the petitioners were dependent upon the deceased. However, in her cross-examination, she admitted that no proof was placed on record regarding income of the deceased. Therefore, in the absence of any documentary evidence, in the opinion of this Court, considering the year of accident and the

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avocation of the deceased, his notional monthly income of Rs.8,250/-, i.e. Rs.275/- per day, as assessed by the learned Tribunal below, appears to be appropriate in the facts and circumstances of the instant case.

13. Now, the next question, which arises for consideration before this Court is as to whether petitioner No.2, being the father of deceased and petitioners No.3 & 4, being his sisters, could have filed claim petition for compensation against the respondents. It is an admitted case of the petitioners that deceased Mohit was a bachelor.

14. In ***Sarla Verma and others*** Versus ***Delhi Transport Corporation and another, (2009) 6 SCC 121***, the Apex Court held that in the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependent on the father. Thus, even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependent. The relevant portion of the aforesaid judgment reads as under:-

> *"31.Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed*

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> *that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependant on the father." (Emphasis supplied)*

15. Thus, in view of the aforesaid enunciation of law by the Hon'ble Supreme Court, petitioner No.2, being the father and petitioners No.3 & 4, being the sisters of the deceased, cannot be considered as his dependents and only petitioner No.1 alone being his mother, will be considered as dependent on the earnings of the deceased. The learned Tribunal below has erroneously held petitioner No.2, being the father of the deceased and petitioners No.3 & 4, being his sisters, were dependents on his earnings and, as such, held them entitled for compensation.

16. It has further been held in ***Pranay Sethi's*** case (supra) 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 59.3 and 59.4 of the said judgment read as follows:-

> *"59.3 .While determining the income, an addition of 50% of actual salary to the income of the deceased towards*

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*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."*

17. In the instant case, at the time of accident, the deceased was aged about 31 years of age and in view of the law laid down by the Apex Court in ***Pranay Sethi's*** case (supra), an addition of 40% of the notional monthly income of the deceased, in this appeal, can be made towards future prospects, since the deceased was aged below 40 years.

18. In ***Sarla Verma's*** case (supra), it has been further held by the Hon'ble Supreme Court that the multiplier to be used should be 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."*

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19. In the case on hand, the deceased was a bachelor and as discussed earlier, only his mother, i.e. petitioner No.1, was his dependent family member, as such, 50% of the amount from the total income has to be deducted towards personal and living expenses of the deceased. Since the deceased was 31 years of age at the time of his death, therefore, as per the judgment of the Hon'ble Supreme Court in ***Sarla Verma's*** case (supra), the appropriate multiplier would be '16', which has rightly been applied by the learned Tribunal below.

20. Thus, after fixing the notional monthly income of the deceased at Rs.8,250/- and by adding 40% of the monthly income towards future prospects, the amount comes to Rs.11,550/- (8250+3300) and after deducting 50% share from the income of the deceased for his own use, the total dependency comes to Rs.5,775/- per month. By applying the multiplier of '16' as per the settled law, the compensation under the head loss of dependency is re-fixed as Rs.11,08,800/- (5,775/- x 12 x 16).

21. 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,

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"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. 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."*

22. Accordingly in view of the law laid down by the Hon'ble Supreme Court in ***Pranay Sethi's*** *(supra),* petitioner No.1 is entitled to loss of estate @ Rs.15,000/-, funeral expenses @ Rs.15,000/- and she being mother of the deceased is also entitled to filial consortium of Rs.40,000/-. Accordingly, the total amount of compensation comes out as under:-

| | ***Head*** | ***Amount*** |
|---|---|---|
| ***(i)*** | ***Loss of dependency*** | ***Rs.11,08,800/-*** |
| ***(ii)*** | ***Funeral expenses*** | ***Rs.15,000/-*** |
| ***(iii)*** | ***Loss of estate*** | ***Rs.15,000/-*** |
| ***(iv)*** | ***Filial consortium*** | ***Rs.40,000/- (payable to petitioner No.1)*** |

***Total compensation awarded is Rs.11,78,800/-.***

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23. Consequently, in view of detailed discussion made here-in-above and the law laid down by the Hon'ble Apex Court, the impugned award dated 07.11.2025 stands modified. Petitioner No.1, being mother of the deceased, alone is entitled to compensation in the sum of Rs.11,78,800/-. The remaining terms of the impugned award, including the interest component shall remain the same.

The appeal stands disposed of in the above terms, so also the pending application(s), if any.

**( Sushil Kukreja )**
**Judge**

**November 18, 2026**
*(V. Himalvi)*

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