



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO(MV) No. 259 of 2016 with FAO(MV) Nos. 147, 166 to 176, 204 to 209, 228, 280, 282 to 286, 288 to 293, 325 to 330, 352 to 354, 372, 373, 375 of 2015, FAO(MV) Nos. 190, 201 to 203, 205, 212, 233 to 237, 255 to 258, 260, 262, 263, 342, 343, 365, 366, 375, 411, 425 to 430, 443, 444, 460 to 471, 478, 479, 586, 587, 604 of 2016, FAO(MV) Nos. 145, 174, 307, 540 of 2017, FAO(MV) Nos. 203 to 205, 231, 289, 611, 614 of 2018, FAO(MV) No. 133 of 2019, 162, 163, 334 of 2019, FAO (MV) No.220 of 2026.

**Reserved on : 14.09.2026/
21.09.2026/25.09.2026**

Decided on : 30.09.2026

Uploaded on : 30.09.2026

1. FAO (MV) No.259 of 2016

Oriental Insurance Company Appellant

Versus

Punni & Others ...Respondents

2. FAO (MV) No.147 of 2015

Oriental Insurance Company Appellant

Versus

Geeta Devi & Others ...Respondents

3. FAO (MV) No.166 of 2015

Oriental Insurance Company Appellant

Versus

Akshu & Another ...Respondents

4. FAO (MV) No.167 of 2015

Oriental Insurance Company Appellant

Versus

Kalu & Others ...Respondents

5. FAO (MV) No.168 of 2015

Oriental Insurance Company Appellant

Versus

Anju & Others ...Respondents

6. FAO (MV) No.169 of 2015

Oriental Insurance Company Appellant

Versus

Mahinder & Another ...Respondents

7. FAO (MV) No.170 of 2015

Oriental Insurance Company Appellant

Versus

Bimlo Devi & Others ...Respondents

8. FAO (MV) No.171 of 2015

Oriental Insurance Company Appellant

Versus

Deepu @ Kuldeep & Others ...Respondents

9. FAO (MV) No.172 of 2015

Oriental Insurance Company Appellant

Versus

Tripta Devi & Others ...Respondents

10. FAO (MV) No.173 of 2015

Oriental Insurance Company Appellant

Versus

Kisso & Others ...Respondents

11. FAO (MV) No.174 of 2015

Oriental Insurance Company Appellant

Versus

Sachu & Another ...Respondents

12. FAO (MV) No.175 of 2015

Oriental Insurance Company Appellant

Versus

Manoj Kumari & Others ...Respondents

13. FAO (MV) No.176 of 2015

Oriental Insurance Company Appellant

Versus

Ghimo Devi & Others ...Respondents

14. FAO (MV) No.204 of 2015

Oriental Insurance Company Appellant

Versus

Pawan Kumar & Others ...Respondents

15. FAO (MV) No.205 of 2015

Oriental Insurance Company Appellant

Versus

Punnu Ram & Others ...Respondents

16. FAO (MV) No.206 of 2015

Oriental Insurance Company Appellant

Versus

Prabhu Ram & Others ...Respondents

17. FAO (MV) No.207 of 2015

Oriental Insurance Company Appellant

Versus

Tulso & Another ...Respondents

18. FAO (MV) No.208 of 2015

Oriental Insurance Company Appellant

Versus

Jamila & Others ...Respondents

19. FAO (MV) No.209 of 2015

Oriental Insurance Company Appellant

Versus

Jamila & Others ...Respondents

20. FAO (MV) No.228 of 2015

Oriental Insurance Company Appellant

Versus

Munshi & Others ...Respondents

21. FAO (MV) No.280 of 2015

Oriental Insurance Company Appellant

Versus

Dharmo & Others ...Respondents

22. FAO (MV) No.282 of 2015

Oriental Insurance Company Appellant

Versus

Geeta Devi & Others ...Respondents

23. FAO (MV) No.283 of 2015

Oriental Insurance Company Appellant

Versus

Bittu Ram & Others ...Respondents

24. FAO (MV) No.284 of 2015

Oriental Insurance Company Appellant

Versus

Risho @ Ramesh & Others ...Respondents

25. FAO (MV) No.285 of 2015

Oriental Insurance Company Appellant

Versus

Nirmala Devi & Others ...Respondents

26. FAO (MV) No.286 of 2015

Oriental Insurance Company Appellant

Versus

Kamla Devi & Others ...Respondents

27. FAO (MV) No.288 of 2015

Oriental Insurance Company Appellant

Versus

Garibo & Others ...Respondents

28. FAO (MV) No.289 of 2015

Oriental Insurance Company Appellant

Versus

Dharmi Devi & Others ...Respondents

29. FAO (MV) No.290 of 2015

Oriental Insurance Company Appellant

Versus

Tek Chand & Others ...Respondents

30. FAO (MV) No.291 of 2015

Oriental Insurance Company Appellant

Versus

Bimla Devi & Another ...Respondents

31. FAO (MV) No.292 of 2015

Oriental Insurance Company Appellant

Versus

Neelam & Others ...Respondents

32. FAO (MV) No.293 of 2015

Oriental Insurance Company Appellant

Versus

Bindu & Another ...Respondents

33. FAO (MV) No.325 of 2015

Oriental Insurance Company Appellant

Versus

Subhdra & Another ...Respondents

34. FAO (MV) No.326 of 2015

Oriental Insurance Company Appellant

Versus

Bindu & Another ...Respondents

35. FAO (MV) No.327 of 2015

Oriental Insurance Company Appellant

Versus

Kisho Devi & Another ...Respondents

36. FAO (MV) No.328 of 2015

Oriental Insurance Company Appellant

Versus

Ashok & Others ...Respondents

37. FAO (MV) No.329 of 2015

Oriental Insurance Company Appellant

Versus

Guro & Others ...Respondents

38. FAO (MV) No.330 of 2015

Oriental Insurance Company Appellant

Versus

Tek Chand & Others ...Respondents

39. FAO (MV) No.352 of 2015

Oriental Insurance Company Appellant

Versus

Babli Devi & Others ...Respondents

40. FAO (MV) No.353 of 2015

Oriental Insurance Company Appellant

Versus

Tripta Devi @ Pushpa & Others ...Respondents

41. FAO (MV) No.354 of 2015

Oriental Insurance Company Appellant

Versus

Gulam Rasul & Another ...Respondents

42. FAO (MV) No.372 of 2015

Oriental Insurance Company Appellant

Versus

Mariya & Others ...Respondents

43. FAO (MV) No.373 of 2015

Oriental Insurance Company Appellant

Versus

Lalu & Another ...Respondents

44. FAO (MV) No.375 of 2015

Oriental Insurance Company Appellant

Versus

Sobha & Others ...Respondents

45. FAO (MV) No.190 of 2016

Oriental Insurance Company Appellant

Versus

Meena & Others ...Respondents

46. FAO (MV) No.201 of 2016

Oriental Insurance Company Appellant

Versus

Sonu & Another ...Respondents

47. FAO (MV) No.202 of 2016

Oriental Insurance Company Appellant

Versus

Balkrishan & Another ...Respondents

48. FAO (MV) No.203 of 2016

Oriental Insurance Company Appellant

Versus

Ibrahim & Others ...Respondents

49. FAO (MV) No.205 of 2016

Oriental Insurance Company Appellant

Versus

Dhaniala & Others ...Respondents

50. FAO (MV) No.212 of 2016

Oriental Insurance Company Appellant

Versus

Hem Raj @ Hemu & Others ...Respondents

51. FAO (MV) No.233 of 2016

Oriental Insurance Company Appellant

Versus

Guddu & Another ...Respondents

52. FAO (MV) No.234 of 2016

Oriental Insurance Company Appellant

Versus

Davinder Kumar @ Ravinder Kumar & Anr. ...Respondents

53. FAO (MV) No.235 of 2016

Oriental Insurance Company Appellant

Versus

Chanco Ram & Others ...Respondents

54. FAO (MV) No.236 of 2016

Oriental Insurance Company Appellant

Versus

Kamal Kumar & Others ...Respondents

55. FAO (MV) No.237 of 2016

Oriental Insurance Company Appellant

Versus

Isrile & Another ...Respondents

56. FAO (MV) No.255 of 2016

Oriental Insurance Company Appellant

Versus

Bano @ Sharmkho & Others ...Respondents

57. FAO (MV) No.256 of 2016

Oriental Insurance Company Appellant

Versus

Subhdra & Others ...Respondents

58. FAO (MV) No.257 of 2016

Oriental Insurance Company Appellant

Versus

Rekha & Others ...Respondents

59. FAO (MV) No.258 of 2016

Oriental Insurance Company Appellant

Versus

Jodha & Others ...Respondents

60. FAO (MV) No.260 of 2016

Oriental Insurance Company Appellant

Versus

Nikko Devi & Another ...Respondents

61. FAO (MV) No.262 of 2016

Oriental Insurance Company Appellant

Versus

Masum & Another ...Respondents

62. FAO (MV) No.263 of 2016

Oriental Insurance Company Appellant

Versus

Pooja & Another ...Respondents

63. FAO (MV) No.342 of 2016

Oriental Insurance Company Appellant

Versus

Doholo @ Haisali Devi & Others ...Respondents

64. FAO (MV) No.343 of 2016

Oriental Insurance Company Appellant

Versus

Hitender Kumar & Another ...Respondents

65. FAO (MV) No.365 of 2016

Oriental Insurance Company Appellant

Versus

Kanta Devi & Others ...Respondents

66. FAO (MV) No.366 of 2016

Oriental Insurance Company Appellant

Versus

Chain Lal, (deceased) LRs & Another ...Respondents

67. FAO (MV) No.375 of 2016

Oriental Insurance Company Appellant

Versus

Phula Devi & Others ...Respondents

68. FAO (MV) No.411 of 2016

Oriental Insurance Company Appellant

Versus

Ashwani Kumar & Another ...Respondents

69. FAO (MV) No.425 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Chain Lal (deceased)
through LRs & Others ...Respondents

70. FAO (MV) No.426 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Phula Devi & Others ...Respondents

71. FAO (MV) No.427 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Koshalya & Another ...Respondents

72. FAO (MV) No.428 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Kanta Devi & Others ...Respondents

73. FAO (MV) No.429 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Rattan Chand & Others ...Respondents

74. FAO (MV) No.430 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Ashwani Kumar & Another ...Respondents

75. FAO (MV) No.443 of 2016

Oriental Insurance Company Appellant

Versus

Aimna & Another ...Respondents

76. FAO (MV) No.444 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Seema & Another ...Respondents

77. FAO (MV) No.460 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Subhdra & Others ...Respondents

78. FAO (MV) No.461 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Doholo @ Haisali Devi & Others ...Respondents

79. FAO (MV) No.462 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Dhaniala & Others ...Respondents

80. FAO (MV) No.463 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Chanchu Ram & Others ...Respondents

81. FAO (MV) No.464 of 2016

Ravi Kant@ Lucky Bhardwaj Appellant

Versus

Sohnu & Others ...Respondents

82. FAO (MV) No.465 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Guddu & Another ...Respondents

83. FAO (MV) No.466 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Chain Lal (deceased) through
LR Nikko Devi & Another ...Respondents

84. FAO (MV) No.467 of 2016

Ravi Kant Bhardwaj Appellant

Versus

Ibrahim & Others ...Respondents

85. FAO (MV) No.468 of 2016

Ravi Kant @ Lucky Bhardwaj Appellant

Versus

Meena & Others ...Respondents

86. FAO (MV) No.469 of 2016

Ravi Kant @ Lucky Bhardwaj Appellant

Versus

Hem Raj @ Hemu & Others ...Respondents

87. FAO (MV) No.470 of 2016

Ravi Kant @ Lucky Bhardwaj Appellant

Versus

Rekha & Others ...Respondents

88. FAO (MV) No.471 of 2016

Ravi Kant @ Lucky Bhardwaj Appellant

Versus

Kamal Kumar & Others ...Respondents

89. FAO (MV) No.478 of 2016

Oriental Insurance Company Appellant

Versus

Koshalya & Another ...Respondents

90. FAO (MV) No.479 of 2016

Oriental Insurance Company Appellant

Versus

Rattan Chand & Others ...Respondents

91. FAO (MV) No.586 of 2016

Oriental Insurance Company Appellant

Versus

Makhan & Another ...Respondents

92. FAO (MV) No.587 of 2016

Oriental Insurance Company Appellant

Versus

Shaffi & Another ...Respondents

93. FAO (MV) No.604 of 2016

Oriental Insurance Company Appellant

Versus

Babloo & Another ...Respondents

94. FAO (MV) No.145 of 2017

Ravi Kant @ Lucky Bhardwaj Appellant

Versus

Punni & Others ...Respondents

95. FAO (MV) No.174 of 2017

Guddu Appellant

Versus

Oriental Insurance Company & Another ...Respondents

96. FAO (MV) No.307 of 2017

Oriental Insurance Company Appellant

Versus

Hitesh Kumar & Another ...Respondents

97. FAO (MV) No.540 of 2017

Oriental Insurance Company Appellant

Versus

Raj Kumar & Another ...Respondents

98. FAO (MV) No.203 of 2018

Ravi Kant Bhardwaj Appellant

Versus

Balkrishan & Another ...Respondents

99. FAO (MV) No.204 of 2018

Ravi Kant Bhardwaj Appellant

Versus

Hitender Kumar & Another ...Respondents

100. FAO (MV) No.205 of 2018

Ravi Kant Bhardwaj @ Lucky Bhardwaj Appellant

Versus

Babloo & Another ...Respondents

101. FAO (MV) No.231 of 2018

Ravi Kant Bhardwaj Appellant

Versus

Pawan Kumar & Another ...Respondents

102. FAO (MV) No.289 of 2018

Ravi Kant Bhardwaj Appellant

Versus

Makhan & Another ...Respondents

103. FAO (MV) No.611 of 2018

Ravi Kant Bhardwaj Appellant

Versus

Pooja & Another ...Respondents

104. FAO (MV) No.614 of 2018

Ravi Kant Bhardwaj Appellant

Versus

Sonu & Another ...Respondents

105. FAO (MV) No.133 of 2019

Ravi Kant Bhardwaj Appellant

Versus

Shaffi & Another ...Respondents

106. FAO (MV) No.162 of 2019

Ravi Kant Bhardwaj Appellant

Versus

Aimna & Another ...Respondents

107. FAO (MV) No.163 of 2019

Ravi Kant Bhardwaj Appellant

Versus

Isrile & Another ...Respondents

108. FAO (MV) No.334 of 2019

Ravi Kant Bhardwaj

.....Appellant

Versus

Masum & Another

...Respondents

109. FAO (MV) No.220 of 2026

Ravi Kant Bhardwaj

.....Appellant

Versus

Davinder Kumar @ Ravinder & Another

...Respondents

*Coram****The Hon'ble Mr. Justice Virender Singh, Judge.******Whether approved for reporting? Yes.***

1. FAO No. 259 of 2016**For the appellant:**

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

Mr. Naveen K. Bhardwaj, Advocate, for respondents No.1 to 6.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.7.

2. FAO No. 147 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Surinder K. Sharma, Advocate, for respondents No. 1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.5.

3. FAO No. 166 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

4. FAO No. 167 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. H.S. Rangra, Advocate, for respondents No.1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.5.

5. FAO No. 168 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

Mr. Harshit Sharma, Advocate, vice Mr. Janesh Gupta, Advocate, for respondents No.1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.5.

6. FAO No. 169 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

Mr. Shashi Bhushan, Advocate, for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.2.

7. FAO No. 170 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Harshit Sharma, Advocate, vice Mr. Janesh Gupta, Advocate, for respondents No.1 to 5 & 7.

None for respondent No.6.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.8.

8. FAO No. 171 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Harshit Sharma, Advocate, vice Mr. Janesh Gupta, Advocate, for respondents No.1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.5.

9. FAO No. 172 of 2015

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

Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. H.S. Rangra, Advocate, for
respondents No.1 to 4.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.5.

10. FAO No. 173 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. Harshit Sharma, Advocate,
vice Mr. Janesh Gupta,
Advocate, for respondents No.1
and 2.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.3.

11. FAO No. 174 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

None for respondent No.1.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh

Thakur, Advocate, for
respondent No.2.

12. FAO No. 175 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: Mr. H.S. Rangra, Advocate, for
respondents No.1 to 4.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.5.

13. FAO No. 176 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: None for respondents No. 1 to 6.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.7.

14. FAO No. 204 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: None for respondents No. 1 to 3.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 4.

15. FAO No. 205 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondents No.1 and 2.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.3.

16. FAO No. 206 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Ms. Veena Sharma & Abhishek Sharma, Advocate, for respondent No.1 and 2.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.3.

17. FAO No. 207 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

18. FAO No. 208 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondents No. 1 to 3.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.4.

19. FAO No. 209 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondents No. 1 to 3.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh

Thakur, Advocate, for
respondent No. 4.

20. FAO No. 228 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Ms. Veena Sharma & Mr. Abhishek Sharma, Advocates, for respondents No.1 to 3.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.4.

21. FAO No. 280 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Ms. Veena Sharma & Mr. Abhishek Sharma, Advocates, for respondents No.1 to 3.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.4.

22. FAO No. 282 of 2015

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

Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. Praveen Chauhan, Advocate,
for respondents No.1 to 3.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.4.

23. FAO No. 283 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. Praveen Chauhan, Advocate,
for respondents No. 1 to 5.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No. 6.

24. FAO No. 284 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. Surender K. Sharma,
Advocate, for respondents No.1
to 3.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh

Thakur, Advocate, for
respondent No.4.

25. FAO No. 285 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: Mr. Praveen Chauhan, Advocate,
for respondents No.1 to 5.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No. 6.

26. FAO No. 286 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: Mr. Surender K. Sharma,
Advocate, for respondents No.1
to 6.
Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No. 7.

27. FAO No. 288 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. H.S. Rangra, Advocate, for respondents No.1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 5.

28. FAO No. 289 of 2015**For the appellant:**

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

Mr. Praveen Chauhan, Advocate, for respondents No.1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 5.

29. FAO No. 290 of 2015**For the appellant:**

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

Mr. H.S. Rangra, Advocate, for respondents No.1 to 5.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 6.

30. FAO No. 291 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No. 1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.2.

31. FAO No. 292 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. H.S. Rangra, Advocate, for respondents No. 1 to 5.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.6.

32. FAO No. 293 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.2.

33. FAO No. 325 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

Mr. H.S. Rangra, Advocate, for respondent No. 1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

34. FAO No. 326 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

Mr. Praveen Chauhan, Advocate, for respondent No. 1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

35. FAO No. 327 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan

Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. H.S. Rangra, Advocate, for
respondent No.1.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No. 2.

36. FAO No. 328 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. H.S. Rangra, Advocate, for
respondents No. 1 and 2.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No. 3.

37. FAO No. 329 of 2015

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

None for respondents No.1 and
2.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.3.

38. FAO No. 330 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondents No. 1 to 5.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 6.

39. FAO No. 352 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Ms. Veena Sharma & Mr. Abhishek Sharma, Advocates, for respondents No.1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 6.

40. FAO No. 353 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Harshit Sharma, Advocate vice Mr. Janesh Gupta,

Advocate, for respondents No.1 to 5.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 6.

41. FAO No. 354 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

42. FAO No. 372 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Surender K. Sharma, Advocate, for respondents No. 1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 7.

43. FAO No. 373 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

44. FAO No. 375 of 2015

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Vijay Kumar Verma Advocate, for respondents No.1 to 7.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.8.

45. FAO No. 190 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondents No.1 to 3.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 4.

46. FAO No. 201 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No. 1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

47. FAO No. 202 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Praveen Chauhan, Advocate, for respondent No.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

48. FAO No. 203 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Surender K. Sharma,
Advocate, for respondents No.1
to 6.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No. 10.

49. FAO No. 205 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: None for respondent No.1 to 4.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.5.

50. FAO No. 212 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: Ms. Veena Sharma & Mr.
Abhishek Sharma, Advocates,
for respondents No.1 to 4.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.5.

51. FAO No. 233 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Vivek Singh Thakur, Advocate, for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

52. FAO No. 234 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Praveen Chauhan, Advocate, for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

53. FAO No. 235 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Ms. Veena Sharma & Mr. Abhishek Sharma, Advocates, for respondents No.2.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.3.

54. FAO No. 236 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Ms. Veena Sharma & Mr. Abhishek Sharma, Advocates, for respondents No.1 to 3.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.4.

55. FAO No. 237 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No. 2.

56. FAO No. 255 of 2016

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

Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. Surender K. Sharma,
Advocate, for respondents No. 1
to 4.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No. 5.

57. FAO No. 256 of 2016

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

None for respondents No. 1 to 4.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.4.

58. FAO No. 257 of 2016

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents:

Mr. Surender K. Sharma,
Advocate, for respondent No. 1
to 4.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh

Thakur, Advocate, for
respondent No.5.

59. FAO No. 258 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: None for respondents No. 2 to 5.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.6.

60. FAO No. 260 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate, for
respondent No.2.

61. FAO No. 262 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta
Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.2.

62. FAO No. 263 of 2016

For the appellant:

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.2.

63. FAO No. 342 of 2016

For the appellant:

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents:

None for respondents No.1 to 4.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.5.

64. FAO No. 343 of 2016

For the appellant:

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.2.

65. FAO No. 365 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Ms. Rajni Gandhi, Advocate vice Mr. Rajiv Rai, Advocate, for respondents No.1 to 3.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.5.

66. FAO No. 366 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: None for respondents No.1(a) to 1(f).

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.2.

67. FAO No. 375 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Mr. Avinash Jaryal, Advocate, for respondent No.3,

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.4.

68. FAO No. 411 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta Advocates.

For the respondents: Ms. Veena Sharma & Mr. Abhishek Sharma, Advocates, for respondent No.1.

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate, for respondent No.2.

69. FAO No. 425 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondents No.1 to 6.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.7.

70. FAO No. 426 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. Avinash Jaryal, Advocate, for respondents No.1 and 2.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.3.

71. FAO No. 427 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. N.K. Thakur, Senior Advocate with Mr. Divya Raj Singh, Advocate, for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

72. FAO No. 428 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents:

None for respondents No.1 to 4.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.5.

73. FAO No. 429 of 2016**For the appellant:**

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents:

None for respondents No. 1 to 3.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.4.

74. FAO No. 430 of 2016**For the appellant:**

Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents:

Ms. Veena Sharma & Mr. Abhishek Sharma, Advocates, for respondents No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

75. FAO No. 443 of 2016**For the appellant:**

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan

Sharma & Ms. Mamta,
Advocates.

For the respondents:

None for respondent No.1.

Mr. Vikas Rathore, Senior
Advocate, with Mr. Rakesh
Thakur, Advocate, for
respondent No.2.

76. FAO No. 444 of 2016

For the appellant:

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta,
Advocates.

For the respondents:

Ms. Veena Sharma & Mr.
Abhishek Sharma, Advocates,
for respondent No.1.

Mr. Vikas Rathore, Senior
Advocate, with Mr. Rakesh
Thakur, Advocate, for
respondent No.2.

77. FAO No. 460 of 2016

For the appellant:

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate.

For the respondents:

None for respondents No.1 to 3.

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta,
Advocates for respondent No.4.

78. FAO No. 461 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondents No.1 to 4.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates, for respondent No.5.

79. FAO No. 462 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondents No.1 & 4.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates, for respondent No.5.

80. FAO No. 463 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondents No.1 and 2.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.3.

81. FAO No. 464 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Ms. Ritta Goswami, Senior Advocate with Ms. Bhawna Dhiman, Advocate, for respondent No.2 to 5.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.6.

82. FAO No. 465 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

83. FAO No. 466 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan

Sharma & Ms. Mamta,
Advocates for respondent No.2.

84. FAO No. 467 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. Vijay Chaudhary & Mr. Vijay Mokta, Advocates, for respondents No.1 and 2.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.10.

85. FAO No. 468 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondents No.1 to 3.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.4.

86. FAO No. 469 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondents No.1 to 4.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.5.

87. FAO No. 470 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. Vijay Chaudhary & Mr. Vijay Mokta, Advocates, for respondent No. 1 to 4.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.5.

88. FAO No. 471 of 2016

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.4.

89. FAO No. 478 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates.

For the respondents:

Mr. N.K. Thakur, Senior Advocate with Mr. Divya Raj Singh, Advocate, for respondent No.1.

Mr. Vikas Rathore, Senior Advocate, with Mr. Rakesh Thakur, Advocate, for respondent No.2.

90. FAO No. 479 of 2016**For the appellant:**

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates.

For the respondents:

Mr. Vijay Chaudhary & Mr. Vijay Mokta, Advocates, for respondents No.1 to 3.

Mr. Vikas Rathore, Senior Advocate, with Mr. Rakesh Thakur, Advocate, for respondent No. 4.

91. FAO No. 586 of 2016**For the appellant:**

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates.

For the respondents:

Mr. Vijay Chaudhary & Mr. Vijay Mokta, Advocates, for respondent No.1.

Mr. Vikas Rathore, Senior Advocate, with Mr. Rakesh

Thakur, Advocate, for
respondent No. 2.

92. FAO No. 587 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta,
Advocates.

For the respondents: Mr. Surender K. Sharma,
Advocate, for respondent No.1.

Mr. Vikas Rathore, Senior
Advocate, with Mr. Rakesh
Thakur, Advocate, for
respondent No.2.

93. FAO No. 604 of 2016

For the appellant: Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta,
Advocates.

For the respondents: None for respondent No.1.

Mr. Vikas Rathore, Senior
Advocate, with Mr. Rakesh
Thakur, Advocate, for
respondent No.2.

94. FAO No. 145 of 2017

For the appellant: Mr. Vikas Rathore, Senior
Advocate, with Mr. Rakesh
Thakur, Advocate.

For the respondents: Mr. Naveen K. Bhardwaj,
Advocate, for respondents No.1
to 6.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates, for respondent No.7.

95. FAO No. 174 of 2017

For the appellant: Mr. Vivek Singh Thakur, Advocate.

For the respondents: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates, for respondent No.1.

Mr. Vikas Rathore, Senior Advocate, with Mr. Rakesh Thakur, Advocate, for respondent No.2.

96. FAO No. 307 of 2017

For the appellant: Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates.

For the respondents: Mr. Ajeet Singh Saklani, Advocate, for respondent No.1

Mr. Vikas Rathore, Senior Advocate, with Mr. Rakesh Thakur, Advocate, for respondent No.2.

97. FAO No. 540 of 2017

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

Sharma & Ms. Mamta,
Advocates.

For the respondents:

None for respondent No.1.

Mr. Vikas Rathore, Senior
Advocate, with Mr. Rakesh
Thakur, Advocate, for
respondent No.2.

98. FAO No. 203 of 2018

For the appellant:

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate.

For the respondents:

Mr. Praveen Chauhan, Advocate,
for respondent No.1.

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta,
Advocates for respondent No.2.

99. FAO No. 204 of 2018

For the appellant:

Mr. Vikas Rathore, Senior
Advocate with Mr. Rakesh
Thakur, Advocate.

For the respondents:

Mr. Ajeet Singh Saklani,
Advocate, for respondent No.1

Mr. Ashwani K. Sharma, Senior
Advocate, with Mr. Ishan
Sharma & Ms. Mamta,
Advocates for respondent No.2.

100. FAO No. 205 of 2018

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

101. FAO No. 231 of 2018

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. Ajeet Singh Saklani, Advocate, for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

102. FAO No. 289 of 2018

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. Vijay Chaudhary & Mr. Vijay Mokta, Advocates, for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan

Sharma & Ms. Mamta,
Advocates for respondent No.2.

103. FAO No. 611 of 2018

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

104. FAO No. 614 of 2018

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None Advocate, for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

105. FAO No. 133 of 2019

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. Surender K. Sharma, Advocate, for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

106. FAO No. 162 of 2019

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondent No. 1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

107. FAO No. 163 of 2019

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

108. FAO No. 334 of 2019

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: None for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

109. FAO No. 220 of 2026

For the appellant: Mr. Vikas Rathore, Senior Advocate with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. Praveen Chauhan, Advocate, for respondent No.1.

Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Ishan Sharma & Ms. Mamta, Advocates for respondent No.2.

Virender Singh, Judge

The above-titled appeals are being disposed of by the common judgment, since all these appeals have arisen out of the accident, which had taken place on 11.08.2012, involving passenger bus, bearing registration No.HP-68-4949 (hereinafter referred to as 'the offending vehicle').

2. These appeals are being segregated in three different categories, i.e., **Category-I** will contain 79 appeals, preferred by the Oriental Insurance Company Limited; **Category-II** will contain 30 appeals preferred by the owner,

assailing the awards, to the extent, whereby, the liability was fastened upon him to pay the amount of compensation; and **Category-III** will contain one appeal, filed for enhancement of the compensation amount.

3. The Insurance Company has filed 79 appeals, under Section 173 of Motor Vehicles Act (hereinafter referred to as the M.V. Act) against the awards, passed by the Court of learned Motor Accidents Claims Tribunal (II), Chamba, (hereinafter referred to as 'the Tribunal'), whereby, the liability to pay the compensation has been fastened upon the Insurance Company.

4. This Court would first decide the appeals preferred by the Insurance Company, by taking FAO No.259 of 2016 as lead case.

CATEGORY-I

FAO No.259 of 2016

5. This appeal has been preferred by the Insurance Company, against the award dated 8.4.2016 passed by the learned Tribunal, in MACT Petition No.140/12, titled as

'Punni and Others vs. Shri Ravi Kant alias Lucky Bhardwaj and Another'.

6. By way of the award dated 8.4.2016, the learned Tribunal has allowed the claim petition filed by respondents No.1 to 6 by awarding compensation to the tune of Rs.11,02,600/-, with interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the amount with up-to-date interest. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$.

7. For the sake of convenience, the parties to the *lis*, are hereinafter referred to, in the same manner, in which, they were referred to, by the learned Tribunal.

8. Brief facts, leading to the filing of the present appeal, before this Court, as borne out from the record, may be summed up, as under:

8.1. Petitioners-claimants, being widow, daughters, sons, and mother of Shri Mankho, have filed the claim petition, under Section 166 of M.V. Act, seeking compensation, on account of death of Shri Mankho, in a roadside accident involving the offending vehicle, which had taken place on 11.8.2012 at a place known as Magazine Mod, Rajera, Tehsil and District Chamba, H.P. (hereinafter referred to as 'the accident in question'), against the respondents being owner and insurer of the offending vehicle, since, according to the petitioners, the accident had taken place due to the rash and negligent driving of the offending vehicle by its driver who, unfortunately died in the said accident. According to the claimants, when the offending vehicle reached at Magazine Mod, the driver could not control the same and ultimately, the offending vehicle went off the road and rolled down in 250-300 feet deep gorge. Resultantly, Shri Mankho sustained fatal injuries and expired. The information regarding the accident was given to police of Police Station Chamba, where, FIR No.186 of 2012 was registered on 11.8.2012.

8.2. According to the claimants, Shri Mankho was about 34 years of age at the time of his accident and was earning Rs.12,000/- per month, by working as painter and also following the agriculture pursuits. They have bifurcated his income by pleading that he was earning Rs.9,000/- per month by working as painter and also contributing Rs.3,000/- per month by way of agriculture pursuits.

8.3. The claimants have also pleaded about their bright past and bleak future. Since, the accident, in question, has solely been attributed to the rash and negligent driving of the driver of the offending vehicle, as such, the claimants have sought the compensation from the respondents.

9. When put to notice, the claim petition has been contested by the respondents.

9.1. Respondent No.1-owner has filed the reply by admitting the factum of accident, as well as, registration of the FIR, but, according to him, the FIR has been lodged on twisted and distorted facts. Elaborating his stand, he has

pleaded that the road, where, the accident took place, was U-shaped, and a number of persons were walking on the road, at the time of accident, as, they were on their way to participate in '*Minjar Fair*'.

9.2. As per the stand of respondent No.1-owner, when, the offending vehicle went off the road, it broke into pieces and its parts hit a number of persons walking below the road. Elaborating his stand, he has further pleaded that there was no rashness and negligence on the part of the driver, as, the accident, in question, had taken place due to the sudden mechanical fault, which had occurred in the offending vehicle.

10. Insurance Company, respondent No.2, has filed its reply, by taking the preliminary objections that the claim petition is not maintainable; the offending vehicle was overloaded, as, according to respondent No.2-insurer, 94 persons were traveling in the offending vehicle against the seating capacity of $42+2=44$ persons. Highlighting the overloading of the vehicle, it has been pleaded that respondent No.1 has permitted to ply the offending vehicle,

in violation of the terms and conditions of the insurance policy; the driver of the offending vehicle was not having a valid and effective driving license to drive the offending vehicle at the time of accident; the offending vehicle was being permitted to ply without a valid route permit; and the claim petition is bad for non-joinder of necessary parties.

10.1. On merits, the contents of the claim petition have been denied mainly for want of knowledge. Thus, the respondents have prayed for the dismissal of the claim petition.

11. From the pleadings of the parties, the learned Tribunal has framed the following issues vide order dated 24.8.2013:-

1. *Whether the deceased Mankho died on account of accident of vehicle No. HP-68-4949 due to rash or negligent driving of driver Narinder Kumar who also perished in the accident which took place on 11-8-2012 around 8.43 AM at the place Magzine Mor, Rajera Tehsil & District Chamba, HP, as alleged?*
OPP
2. *If issue No.1 is proved in affirmative, whether the petitioners are entitled for the grant of compensation, if so, to what amount and which of the respondents is liable to pay the same?*

OPP

3. Whether the petition is not maintainable?

OPR-2

4. Whether on the date of accident the offending vehicle was being plied according to the terms and conditions of insurance policy and permit?

OPR-2

5. Whether the offending vehicle was not having valid registration certificate, route permit and valid fitness certificate as alleged?

OPR-2

6. Whether the vehicle was being driven in violation of the provisions of Motor Vehicle Act and terms and conditions of Insurance Policy as alleged?

OPR-2

7. Whether the offending vehicle was fully overloaded with passengers against the permissible limit of 44 including driver and conductor at the time of accident?

OPR-2

8. Whether offending vehicle was comprehensively insured with the respondent No 2/Oriental Insurance Company including third party risk?

OPR-1

9. Whether the road where accident took place was in the form of U Turns and number of persons were going to attend the Minjar fair and were walking on the said road when the offending vehicle went off the road and rolled down and broken into pieces and the deceased might have died?

OPR-1

10. Relief.

12. In this case, the application, under Section 170 of MV Act, moved by the Insurance Company, has been allowed by the learned Tribunal, vide order dated 24.5.2013.

13. After the closure of the evidence and after hearing the learned counsel appearing for the parties, the learned Tribunal has allowed the claim petition, as referred to above.

14. Feeling aggrieved from the said award, the Insurance Company has assailed the award by way of the present appeal, mainly on the ground that the learned Tribunal has wrongly fastened the liability to pay the amount of compensation to the petitioners, in the present case, as, according to the Insurance Company, the offending vehicle, was being plied in violation of the terms and conditions of the insurance policy.

15. Highlighting the fact that the seating capacity of the offending vehicle was 44, including driver and conductor, according to the Insurance Company, 93 persons were travelling in the offending vehicle, which had met with an accident, out of which, 53 persons expired and 40 persons sustained injuries. In this regard, the Insurance Company has relied upon the inquiry report, Ex. RW-2/A.

16. According to the Insurance Company, it was the stand of the persons, who had sought claim arising out of the accident, in question, involving the offending vehicle, that they were traveling in the bus.

17. All these facts have been highlighted to demonstrate that the offending vehicle, was being permitted to ply in violation of the terms and conditions of the insurance policy.

18. The award has further been assailed on the ground that the learned Tribunal has fallen into error while passing the award by holding that the Insurance Company is only liable to pay the compensation to the extent of its 44 passengers including driver and conductor, and it is not liable to pay the compensation not covered by the policy, but, has directed the Insurance Company to pay the amount of compensation.

19. The award has also been assailed on the ground of quantum of compensation by pleading that the learned Tribunal has wrongly assessed the income of deceased as

₹5,400/- per month on the basis of MGNREGA scheme and similarly, the learned Tribunal has wrongly awarded a sum of ₹1,00,000/-, each under the heads 'loss of estate', 'loss of expectation of life', for which, they are not entitled for.

20. On the basis of the above facts, a prayer has been made by Shri Ashwani K. Sharma, learned Senior Advocate, assisted by Mr. Ishan Sharma & Ms. Mamta, Advocates, for the appellant-Insurance Company that the present appeal may kindly be allowed, by exonerating the Insurance Company from paying the amount of compensation and also prayed that amount of compensation may kindly be reduced accordingly.

21. Per contra, Mr. Naveen K. Bhardwaj, learned counsel appearing for the petitioners/claimants have supported the award passed by the learned Tribunal, but, prayed that the amount of compensation may kindly be enhanced, as, the learned Tribunal has not given the addition, on account of the future prospects of Shri Mankho. As such, a prayer has been made to enhance the amount of compensation.

22. Mr. Vikas Rathore, learned Senior Advocate assisted by Mr. Rakesh Thakur, Advocate, appearing for the owner, has argued that there is no violation of the terms and conditions of the Insurance Policy, on the part of the owner of the offending vehicle, as such, he may be exonerated from the liability to pay the compensation.

23. In the present case, factum of accident has not been disputed. The learned Tribunal has fastened the liability to pay the amount of compensation, along with interest, upon the Insurance Company, to the extent of 42 + 2 persons.

24. In order to decide the present appeal, it would be just and appropriate for this Court to discuss the oral, as well as, documentary evidence led by the parties before the learned Tribunal, as the Appeal is in continuation of the original proceedings and being First Appeal, the factual position is also liable to be discussed by this Court.

25. After framing of issues, petitioner No.1 Punni stepped into the witness box as PW-1 and deposed about the

factual position, as mentioned in the claim petition. During her cross-examination, she has deposed that the road from Village Dalgaon to Magazine Mod was a descent, followed by U-shaped curves. She had also admitted that where the offending vehicle had rolled down from the road, there were chances of a pedestrian sustaining injuries. As regards the income of her husband, she has denied the suggestion, put to her, by the learned counsel appearing for respondent No.1-owner, that her husband was neither working as painter, nor, earning Rs. 9,000 per month. She could not produce the documentary proof with regard to the earnings of her husband.

26. PW-2, Dr. Padma Aggarwal conducted the postmortem examination and has proved the copy of the postmortem report of the deceased as Ex.PW2/A.

27. PW-3, HC Neeraj Kumar, No.93, MHC Police Station Sadar, proved the copy of FIR Ex. PW3/A. According to his cross-examination, apart from the provisions of Sections 279, 336, 337, 304A IPC, Section 338 IPC, and Section 101 of MV Act, were also added, in this case. He has

also admitted that as per the record, the offending vehicle was overloaded and the cause of accident was overloading of the vehicle. The charge-sheet, in the present case, has been filed against the conductor and owner of the bus. The driver of the vehicle had expired in the accident.

28. In order to rebut this evidence, the insurance company has examined, RW-1, Kulvinder Kumar from office of RTO Chamba, who has proved the registration certificate of the offending vehicle as Ex.RW-1/A, route permit Ex. RW-1/B. He has deposed that as per the route permit, vehicle was permitted to carry 42+2 passengers, including driver and conductor, and the said permit was valid up to 29.3.2014 with effect from 2.7.2009. As per the RC, seating capacity of the offending vehicle is stated to be 42+2.

29. RW-2, Abnesh Kumar, Clerk from SDM Office, Chamba has proved the copy of the inquiry report Ex.RW-2/A, record pertaining to the gratuitous relief fund Ex.RW-2/B. This witness has not conducted the inquiry, nor, the inquiry report was prepared in his presence.

30. RW-3, Surjit Singh, Civil Ahlmad, from the Court of learned MACT-II, Chamba, deposed that, total 77 petitions had been filed, arising out of the accident, in question, and all the petitions were ordered to be consolidated by the learned MACT-II, Chamba.

31. RW-4, Jagjeet Khanna, proved the copy of the insurance policy of the offending vehicle Ex. RW-4/A, which is a package policy, which covers, *bona fide* passengers, as well as, third party. This witness has voluntarily stated that the liability of the insurance company is limited to pay the amount of compensation to $42 + 2 = 44$ persons, including driver and conductor.

32. RW-1 Anil Kumar, examined by respondent No.1-owner, deposed that in the year 2012, after 3-4 days from the Minjar fair, he was on the way to Chamba. When, he reached near Magazine curve, he noticed the offending vehicle. At that time, number of persons were going towards Chamba side. The offending vehicle met with accident, and fell down into 250/350 feet deep gorge. Bus had broken into pieces. Consequently, men, women, children were hit by the

bus, some got injured and some died due to broken pieces of bus. However, he could not disclose about the exact date, when the accident, in question, had taken place, but, according to him, the same had taken place in the year 2012. He has also deposed that his statement was not recorded by the police. However, SDM Chamba has visited the spot, but, this witness has not made any statement to him.

33. RW-5, Rohit Rathour, Sub-Divisional Magistrate, has conducted the inquiry and he has proved the same as Exhibit RW-2/A. According to this witness, the accident had taken place due to the overloading of the offending vehicle.

34. This is the entire evidence adduced by the parties to the lis, before the learned Tribunal.

35. From the evidence, so adduced, by the parties to the lis, especially, the respondents, it is proved that the offending vehicle was authorized to carry 42+2 passengers, including the driver and conductor. The offending vehicle was having the route permit Ex.RW-1/B, which has been

proved by respondent No.1-owner, by categorically stating that the route permit Ex. RW-1/B was issued for 42 + 2 passengers, which was valid up to 29.3.2014 with effect from 2.7.2009, whereas, the accident in question, had taken place on 11.8.2012. As such, the offending vehicle was having a valid route permit.

36. Admittedly, the offending vehicle was authorized to carry 42 + 2 persons, including driver and conductor, whereas, in this case, it has been proved that at the time of accident, more than 44 persons, were travelling in the offending vehicle, as, according to the inquiry report, relied upon by the Insurance Company, 53 persons had expired; 21 persons were seriously injured and 19 persons had sustained minor injuries.

37. The report has been relied upon by the Insurance Company, as such, the same can be taken into consideration to decide the liability of the Insurance Company. The reason for the accident has been given in the inquiry report as, overloading of the passengers.

38. It has vehemently been argued by the learned Senior Counsel appearing for the Insurance Company that the offending vehicle was overloaded, as such, the Insurance Company is not liable to pay the amount of compensation, as respondent No.1 permitted to ply the offending vehicle in violation of the terms and conditions of the insurance policy.

39. The above submission of the learned Senior Counsel appearing for the Insurance Company is not liable to be accepted, as, Hon'ble Supreme Court in a case reported as, **Lakhmi Chand versus Reliance General Insurance Company Limited, (2016) 3 SCC 100**, has held that mere factum of carrying more passengers, than the permitted seating capacity, in the vehicle does not amount to fundamental breach of the terms and conditions of the insurance policy. Relevant paragraph 14 of the judgment, is reproduced, as under:

"14. The National Commission upheld the order of dismissal of the complaint of the appellant passed by the State Commission. The National Commission however, did not consider the judgment of this Court in the case of B.V. Nagaraju v. Oriental Insurance Co. Ltd Divisional Officer, Hassan, 1996 4 SCC 647. In that case,

the insurance company had taken the defence that the vehicle in question was carrying more passengers than the permitted capacity in terms of the policy at the time of the accident. The said plea of the insurance company was rejected. This Court held that the mere factum of carrying more passengers than the permitted seating capacity in the goods carrying vehicle by the insured does not amount to a fundamental breach of the terms and conditions of the policy so as to allow the insurer to eschew its liability towards the damage caused to the vehicle. This Court in the said case has held as under:-

"It is plain from the terms of the Insurance Policy that the insured vehicle was entitled to carry six workmen, excluding the driver. If those six workmen when travelling in the vehicle, are assumed not to have increased risk from the point of view of the Insurance Company on occurring of an accident, how could those added persons be said to have contributed to the causing of it is the pose, keeping apart the load it was carrying.

In the present case the driver of the vehicle was not responsible for the accident. Merely by lifting a person or two, or even three, by the driver or the cleaner of the vehicle, without the knowledge of the owner, cannot be said to be such a fundamental breach that the owner should, in all events, be denied indemnification. The misuse of the vehicle was somewhat irregular though, but not so fundamental in nature so as to put an end to the contract, unless some factors existed which by themselves, had gone to contribute to the causing of the accident."

40. Hence, in this case, the learned Tribunal, has rightly fastened the liability to pay the amount of compensation upon the Insurance Company, to the extent of

which, the vehicle was authorized to carry passengers, i.e.,
42 + 2=44.

41. Hon'ble Supreme Court in ***National Insurance Company vs. Anjana Shyam, AIR 2007 Supreme Court 2870***, has held that the Insurance Company would be bound to cover the higher of the awards and will deposit the higher of the amounts of compensation awarded to the extent of the number of passengers covered by the insurance policy. Relevant paras 22 and 23 of the judgment, are reproduced as under:

"22. Then arises the question, how to determine the compensation payable or how to quantify the compensation since there is no means of ascertaining who out of the overloaded passengers constitute the passengers covered by the insurance policy as permitted to be carried by the permit itself. As this Court has indicated, the purpose of the Act is to bring benefit to the third parties who are either injured or dead in an accident. It serves a social purpose. Keeping that in mind, we think that the practical and proper course would be to hold that the insurance company, in such a case, would be bound to cover the higher of the various awards and will be compelled to deposit the higher of the amounts of compensation awarded to the extent of the number of passengers covered by the insurance policy.

23. Illustratively, we may put it like this. In the case on hand, 42 passengers were the permitted passengers and they are the ones who have been insured by the insurance company. 90 persons have either died or got injured in the accident. Awards have been passed for varied sums. The Tribunal should take into account, the higher of the 42 awards made, add them up and direct the insurance company to deposit that lump sum. Thus, the liability of the insurance company would be to pay the compensation awarded to 42 out of the 90 passengers. It is to ensure that the maximum benefit is derived by the insurance taken for the passengers of the vehicle, that we hold that the 42 awards to be satisfied by the insurance company would be the 42 awards in the descending order starting from the highest of the awards. In other words, the higher of the 42 awards will be taken into account and it would be the sum total of those higher 42 awards that would be the amount that the insurance company would be liable to deposit. It will be for the Tribunal thereafter to direct distribution of the money so deposited by the insurance company proportionately to all the claimants, here all the 90, and leave all the claimants to recover the balance from the owner of the vehicle. In such cases, it will be necessary for the Tribunal, even at the initial stage, to make appropriate orders to ensure that the amount could be recovered from the owner by ordering attachment or by passing other restrictive orders against the owner so as to ensure the satisfaction in full of the awards that may be passed ultimately."

(self emphasis supplied)

42. The said view has again been elaborated/ clarified, by the Hon'ble Supreme Court in **United India Insurance Company Limited** versus **K.M. Poonam and**

Others, (2015) 15 SCC 297. Relevant paragraphs 38 to 40,

of the judgment, are reproduced, as under:-

“38. Having arrived at the conclusion that the liability of the Insurance Company to pay compensation was limited to six persons travelling inside the vehicle only and that the liability to pay the others was that of the owner, we, in this case, are faced with the same problem as had surfaced in [Anjana Shyam's case](#) (supra).

39. The number of persons to be compensated being in excess of the number of persons who could validly be carried in the vehicle, the question which arises is one of apportionment of the amounts to be paid. Since there can be no pick and choose method to identify the five passengers, excluding the driver, in respect of whom compensation would be payable by the Insurance Company, to meet the ends of justice we may apply the procedure adopted in [Baljit Kaur's case](#) (supra) and direct that the Insurance Company should deposit the total amount of compensation awarded to all the claimants and the amounts so deposited be disbursed to the claimants in respect to their claims, with liberty to the Insurance Company to recover the amounts paid by it over and above the compensation amounts payable in respect of the persons covered by the Insurance Policy from the owner of the vehicle, as was directed in [Baljit Kaur's case](#).

40. In other words, the Appellant Insurance Company shall deposit with the Tribunal the total amount of the amounts awarded in favour of the awardees within two months from the date of this order and the same is to be utilized to satisfy the claims of those claimants not covered by the Insurance Policy along with the persons so covered. The Insurance Company will be entitled to recover the amounts paid by it, in excess of its liability, from the owner of the vehicle, by putting the decree into execution. For the aforesaid purpose, the total amount of the six Awards which are the highest shall be construed as the liability of the Insurance Company. After deducting the said amount from the

total amount of all the Awards deposited in terms of this order, the Insurance Company will be entitled to recover the balance amount from the owner of the vehicle as if it is an amount decreed by the Tribunal in favour of the Insurance Company. The Insurance Company will not be required to file a separate suit in this regard in order to recover the amounts paid in excess of its liability from the owner of the vehicle."

(self emphasis supplied)

43. Being guided by the aforesaid decisions, this Court has no hesitation to hold that the Insurance Company is liable to satisfy the highest awards, to the extent of 42 passengers, and in rest of the awards, the Insurance Company shall, at the first instance, pay the compensation amount along with interest, with a right to recover the same from the owner of the offending vehicle.

44. As such, the appeals preferred by the Insurance Company, as well as, by the owner of the offending vehicle, involved in the accident in question, are to be disposed of, in the aforesaid terms.

45. In this case, amount of compensation has also been sought to be reduced by the insurance company,

whereas, the learned counsel appearing for the petitioners has sought the enhancement of the compensation amount.

46. It is no longer *res integra* that the endeavor of the Court/Tribunal is to grant the '*just compensation*', as, the provisions of MV Act are beneficial piece of legislation.

47. In order to achieve the above legislative intent, now, this Court would proceed further to determine the fact whether the amount of compensation, which has been awarded by the learned Tribunal, falls within the definition of '*just compensation*' or not.

48. In the present case, the claimants are son and daughters, widow and parents of Shri Mankho, who expired in the said accident.

49. The learned Tribunal has taken the age of deceased Mankho, as 34 years. The same has been pleaded in the claim petition. As per the copy of Parivar register, his date of birth was 04.08.1978. As such, his age has rightly been taken by the learned Tribunal.

50. The learned Tribunal has taken the income of Shri Mankho, as Rs. 5400/- per month. This Court is fully satisfied with the reasons given by the learned Tribunal for assessing the income of deceased Mankho. However, the learned Tribunal has not given the increase, as per the mandate of Hon'ble Supreme Court, in **National Insurance Co. Ltd. versus Pranay Sethi, (2017) 16 SCC 680.**

Relevant paragraphs 59 and 60, are reproduced, as under:-

59. In view of the aforesaid analysis, we proceed to record our conclusions:-

(i) The two-Judge Bench in Santosh Devi 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, 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.

(ii) As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.

(iii) 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.

(iv) 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.

(v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of *Sarla Verma* which we have reproduced hereinbefore.

(vi) The selection of multiplier shall be as indicated in the Table in *Sarla Verma* read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) 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.

60. The reference is answered accordingly. Matters be placed before the appropriate Bench.

51. Admittedly, Mankho was working in unorganized sector and his age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his

monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

52. The Hon'ble Supreme Court in **Sarla Verma (Smt) and others versus Delhi Transport Corporation and another, (2009) 6 Supreme Court Cases 121**, has mandated that out of the total amount of the earning of the deceased, some amount is required to be deducted, had the person, whose LRs have approached the Court for compensation, been alive. Relevant paragraphs 30 and 31 of the judgment, are reproduced, as under:-

30. *Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceed six.*

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 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.

53. As such, keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

54. Learned Tribunal has applied the multiplier of '16', which is the appropriate multiplier. Thus, the loss of contribution comes to Rs.5,670/-x12 x 16 = Rs.10,88,640/-.

55. The learned Tribunal has awarded a sum of Rs.1,00,000/- on account of consortium, Rs.1,00,000/- towards 'loss of estate' and Rs.1,00,000/- towards 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held

entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

56. However, Hon'ble Supreme Court in ***Magma General Insurance Company Limited versus Nanu Ram @ Chuhru Ram and others, (2018) 18 SCC 130***, has mandated that each claimant is entitled to the amount of compensation under the head 'loss of consortium'. Relevant paragraphs 21 to 24 of the judgment, are reproduced, 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 generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, co-operation, 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 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. 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 (supra)*. 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.

57. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs. 10,88,640/-
2. Loss of consortium	=	Rs.2,40,000/- (Rs.40,000 x 6)
3. Loss of estate	=	Rs. 15,000/-
4. Funeral Expenses	=	Rs. 15,000/-
Total	=	Rs.13,58,640/-.

58. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

59. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.11,02,600/- to Rs.13,58,640/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 147 of 2015

60. This appeal has been preferred by the Insurance Company against the award dated 09.01.2015 passed by the learned Tribunal, in MAC Petition No. 314/2013, titled as 'Geeta Devi & Ors. versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.10,79,000/-, along with interest, at the rate of 9% per annum, has been awarded to the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

61. The petitioners, being widow, daughter and sons of Shri Devi Singh, who expired, in the accident, in question, involving the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.12,00,000/-.

62. As per the claimants, Shri Devi Singh had sustained fatal injuries, in the accident, in question, and at the time of his death, his age has been pleaded as 38 years

of age. According to the claimants, he was a mason by profession, and earning Rs.10,000/- per month.

63. The learned Tribunal has taken the age of Shri Devi Singh, at the time of his death as 38 years, on the basis of copy of Parivar Register Ex.PW1/C, in which, the year of birth of Devi Singh has been recorded as 1974. As such, the said findings which are based upon documentary evidence do not require any interference, by this Court.

64. So far as the income of Shri Devi Singh is concerned, as per the petitioners, he was mason by profession and earning Rs.10,000/- per month. The learned Tribunal has taken the income of Shri Devi Singh, as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs. 5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

65. Admittedly, Devi Singh was working in unorganized sector and his age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had he been alive. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

66. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

67. Learned Tribunal has applied the multiplier of '15', which is the appropriate multiplier. Thus, the loss of contribution comes to Rs.5,670/-x12 x 15 = Rs.10,20,600/-.

68. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- on account of consortium, Rs.1,00,000/- towards 'loss of estate' and Rs.1,00,000/- towards 'expectation of life'. The

said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

69. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

70. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs. 10,20,600/-
2. Loss of consortium	=	Rs. 1,60,000/- (Rs. 40,000/- x 4)
3. Loss of estate	=	Rs. 15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.12,10,600/-.

71. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is liable to be interfered with, keeping in view the rate

of interest being awarded by the nationalized banks on fixed deposits. Hence, it would be just and appropriate for this Court to reduce the same from 9% to 7.5%. Ordered accordingly.

72. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.10,79,000/- to Rs.12,10,600/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No.167 of 2015

73. The instant appeal has been preferred by the Insurance Company against the award dated 21.02.2015, passed by the learned Tribunal, in MAC Petition No. 233/2012, titled as 'Kalu & Ors. versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.10,24,800/-, along with interest, at the rate of 9% per annum, has been awarded to the petitioners-claimants, from the date of filing of the petition, till realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

74. The petitioners-claimants, being husband and daughters of Smt Reenu, who expired, in the accident, in question, involving the offending vehicle, has filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

75. As per the claimants, Smt. Reenu had sustained fatal injuries, in the accident, in question, and at the time of death, her age has been pleaded to be 30 years of age. According to the claimants, she was house-wife and earning Rs.20,000/- per month, from agriculture pursuits and by tailoring work.

76. Learned Tribunal has taken the age of deceased Reenu as 23 years, on the basis of the Parivar register (Ex. PW1/C), ignoring the age recorded in the postmortem report, Ex. PW2/A, as 30 years. The said findings of the learned Tribunal require interference by this Court, as, when, the petitioners themselves have pleaded the age of deceased Reenu as 30 years, then, the said age would be appropriate to be taken into consideration to determine the amount of

compensation. Hence, the age of Smt. Reenu is proved to be 30 years at the time of her death.

77. As regards, the contribution towards her family by Smt. Reenu, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court, while considering its decision in ***Kirti & Others versus Oriental Insurance Company Ltd, 2021 (1) ACJ 1***, has held in ***Shishu Pal @ Shish Ram & Others versus Surjeet & Others***, reported in **2026 INSC 634**, that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month. Relevant paragraphs 15 to 20, of the judgment, are reproduced, as under :-

Quantifying The Contribution-of a Nation Builder
15. In usual circumstances this Court would not have ventured further than taking note of the fact that the incident and judgment in *Lata Wadhwa (supra)* was contemporaneous to the unfortunate accident in this case and as such compensation could be calculated using the Rs.3000/- per month metric applied therein however, in our considered view that would not be justified. It has to be observed that to measure the contributions of a homemaker and mother as in this case in strictly monetary terms is a task of

considerable difficulty for each and every aspect of the day, month and year of such a homemaker's family members is informed, shaped by her sometimes acknowledged, but most often unacknowledged or taken for granted, efforts. If compensation is to be calculated in the present day while accounting for the egregious delay, to do so in terms that were frozen on the day of the death of the deceased would be grossly undervaluing the silent strength of homemakers.

16. That being said, even when it comes to computation for damages under non-pecuniary heads, the loss still does require the recognition of such heads before compensation can be awarded. The first of them being the loss of the homemaker's dexterous ability to manage all the chores of the household. Granted, that in the increasingly modern urban centres of the country it may not be the case that a homemaker stands in front of the gas stove bright and early in the morning or late at night or even that she walks around, slouched, running the broom throughout the house, but, the fact of the matter is that in smaller cities, towns and villages, even today, such tasks assumedly and invariably fall on the homemaker, without as much as a second thought. The second head pertain to the children of the house. They have lost their mother, the source of never-ending love, comfort and affection, the person who they could run to with all their problems, questions and concerns and heartbreaks. She is also their first point of contact with the ways of the world, silently and subtly teaching them skills of survival, perseverance and excellence shaping them into well rounded human beings capable of being functioning contributors to the economy of the nation. This, in our view, is somewhat different from emotional support or dependence for primary skills necessary for everyday functioning that are imbibed by the children from their

mother. This has a distinctly economic angle while also being partly an emotional aspect perfectly fitting into the non-categorizable roles played by homemaker. How does one calculate this? The third is equally troubling. A husband has, no longer, the support of his life partner, someone he depends on entirely to run smoothly, an entire part of his life, his home, family, children, relatives. Even in conservative settings where patriarchy looms large, the sense of dependency that obtains, if taken away, greatly challenges the man for he is now directionless and suddenly responsible for a lot more than he is used to. When the efforts of the homemaker towards the husband and children are taken on the whole it cannot be disputed that although her labour be at emotional or physical is within the four walls of the home, its impact is much wider. In enabling the direct contribution today of their husbands and tomorrow of their children, they are the building blocks for the nation's road to holistic progress.[See: *Kalukutty v. P.M. John*¹², *Bhuvaneswari v. Mani*¹³] We may also 2023 SCC OnLine Ker 964 2020 SCC OnLine Mad 2163 observe that in a recent order of this Court in *Arvind Kumar Pandey v. Girish Pandey*, also made similar observations to the following effect:

“7. It goes without saying that the role of a homemaker is as important as that of a family member whose income is tangible as a source of livelihood for the family. The activities performed by a homemaker, if counted one by one, there will hardly be any doubt that the contribution of a homemaker is of a high order and invaluable. In fact, it is difficult to assess such a contribution in monetary terms.”

Any computation made as a result of injury suffered or death, should be aware of this larger role and not be myopic in its view.

The loss of a homemaker however is not limited to husband and children. It also directly impacts the women's own parents who have been deprived of the love and company of their child, who have lost the support and comfort of this person and are left alone with this boundless grief. Still further, the loss is acutely felt by her in-laws who are more often than not members of the same household and therefore are dependent on the love, labour and dedication of this person, for food for medicines and doctor's visit or for even the regular company over a morning tea. Strict arithmetic calculation does not lend its services to any of these scenarios.

17. It is settled law by virtue of [National Insurance Co. Ltd. v. Pranay Sethi](#), that in all cases that have resulted in death, loss of consortium is to be paid to the claimants at the rate of Rs.40,000/- per dependant along with 10% increase on the said amount every three years, so in 2026 the compensation awarded under this head is Rs.48,400/-. This we may note is irrespective of whether the deceased is a male/female/child/retired/working or whatever else. We are of the considered view, in such situations the computation of compensation upon the death of a homemaker suffers from an inherent (2025) 2 SCC 145 (2017) 16 SCC 680 disadvantage. The amount awarded under the same is over and above what is calculated on the basis of the earnings/salaries/pension/notional income for certain categories of claimants. In view of the fact that there is no standard income on the basis of which compensation can be calculated and a figure is taken for the purposes of calculation on guesswork, the true worth of the homemaker is missed out, in as much as it is amenable to calculation in monetary terms.

18. Future prospects when calculated on the basis of the above judgment in [Lata Wadhwa](#) (supra) would also be calculated on the

comparative lower notional income (Rs.3000/-per month) given that, both the fire incident and the accident forming the basis of this appeal are from the year 2001.

19. When such conservative figures are used to build up compensation, the amount arrived at is paltry, and not even close, as much as monetary terms can be, to the loss endured by the claimants. Notional income is intended to approximate the economic value of in the case of homemaker, services rendered by them. However, for whatever reason, judicial notice of this issue is usually overly conservative, without due acknowledgment of the fact that the role of the homemaker is neither entirely economic nor entirely non-economic and blends the factors of economy with emotional and managerial contributions and as such fixed compensation in terms of loss of consortium does not cover the entire gamut of their contribution.

Loss Of Domestic Care: An Additional Head

20. It is in these circumstances, that we deem it appropriate to direct that when a Motor Accidents Claim Tribunal or the High Court or this Court is concerned with or a case involving the death of a homemaker, in order to overcome the inherent disadvantage accrued against the homemaker on a calculation of compensation on the basis of conservatively computed notional income and while being acutely aware of the dictum in [Pranay Sethi](#) (supra) regarding loss of consortium as also the disposition towards uniformity, that for the three major heads (the homemaker's contribution towards smooth functioning of the household, the loss of maternal support for children and loss of spousal support/the support and care of their child who is an adult, for the parents of the deceased) discussed in the foregoing paragraphs, a composite sum of Rs.30,000/- shall be added under the head of

'loss of domestic care', provided that all three of these heads are met in the given case. This determination shall be revised by 10%, cumulatively, every three years. It may be clearly stated that this amount of Rs.30,000/- i.e., loss of domestic care is to be taken as a 'stand-in' (basic minimum monthly income) for monthly income in those cases where the homemaker does not have an input into the house, in strictly conventional, monetary terms. In those cases where the homemaker is part of the workforce, the component of loss of domestic care shall be in addition to the monthly income as may be proved before the Tribunal/Courts.'

78. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired in the accident as Rs.5400/- per month, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** case (supra), ends of justice would be met, if the contribution of Smt. Reenu, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male has been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her

contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/- as the same would amount to double enrichment, which is not permissible under the law.

79. The learned Tribunal has not given the increase, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

80. Admittedly, Smt. Reenu was working in unorganized sector and her age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 40% of his monthly income, the same comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/-).

81. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of her personal expenses, is required to

be deducted, had she been alive. Thus, her monthly income comes to Rs.10,500/- (Rs.14,000/- minus Rs.3,500/-).

82. Learned Tribunal has applied the multiplier of '18', which is liable to be interfered with, by this Court as, the age of the deceased has been held to be as 30 years, as such, multiplier of '17' is required to be applied, in the present case. Thus, the loss of contribution comes to Rs.10,500/-x12 x 17 = Rs.21,42,000/-.

83. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses and Rs.1,00,000/-, on account of consortium. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

84. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is

entitled to the amount of compensation under the head 'loss of consortium'.

85. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs. 21,42,000/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000 x 4)
3. Loss of estate	=	Rs. 15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.23,32,000/-.

86. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposit and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

87. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.10,24,800/- to Rs.23,32,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 168 of 2015

88. This appeal has been preferred by the Insurance Company against the award dated 14.01.2015 passed by the learned Tribunal, in MAC Petition No. 311/2013, titled as 'Anju & Ors. versus Oriental Insurance Company Ltd. & Another', whereby, a sum of Rs.11,76,200/, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

89. The petitioners, being widow, daughters, and mother of Shri Vipin Kumar, who expired, in the accident, in question, involving the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.18,00,000/-.

90. As per the claimants, Shri Vipin Kumar had sustained fatal injuries, in the accident, in question, and died. At the time of death, his age has been pleaded as 27

years of age. According to the claimants, he was a mason by profession, and earning Rs.12,000/- per month. Apart from this, he was also earning Rs.3,000/- from the agricultural pursuits.

91. The learned Tribunal has taken the age of Shri Vipin Kumar, at the time of his death as 27 years, on the basis of copy of Parivar Register Ex.PW1/C, as well as, on the basis of postmortem report Ex.PW3/A. As such, the said findings do not require any interference, by this Court.

92. So far as the income of Shri Vipin Kumar, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings also do not require any interference by this Court. However, the learned Tribunal has not given the increase, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

93. Admittedly, Vipin Kumar was working in unorganized sector and his age is below 40 years, as such,

in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40% of his monthly income, the same comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

94. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

95. Learned Tribunal has applied the multiplier of '17', which is the appropriate multiplier. Thus, the loss of contribution comes to Rs.5,670/- x 12 x 17 = Rs.11,56,680/-.

96. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- on account of consortium, Rs.1,00,000/- towards 'loss of estate' and Rs.1,00,000/- towards 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by

this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

97. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram**'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

98. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.11,56,680/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs. 15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.13,46,680/-.

99. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on

fixed deposit and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

100. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.11,76,200/- to Rs.13,46,680/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 170 of 2015

101. This appeal has been preferred by the Insurance Company against the award dated 14.01.2015 passed by the learned Tribunal, in MAC Petition No.305/2013, titled as 'Bimlo Devi & Others versus Oriental Insurance Company & Another', wherein, a sum of Rs.20,24,972/-, along with interest, at the rate of 9% per annum, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

The petitioners, being widow, daughters, and son of Shri Premo, who expired, in the accident, in question, involving the offending vehicle, have filed the above noted

petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

102. As per the claimants, Shri Premo was working as Beldar and at the time of death his salary was Rs.13,422/- per month. Apart from this, he was earning Rs.5,000/- per month, from the agricultural pursuits. His age at the time of his death has been pleaded as 50 years.

103. First of all, coming to the question of age of Shri Premo, at the time of his death, as per the postmortem report Ex.PW-2/A, his age has been mentioned as 50 years and as per the copy of Parivar Register Ex.PW5/C, his date of birth has been mentioned as 16.04.62. As such, his age, at the time of his death was 50 years. The said findings do not require any interference, by this Court.

104. So far as the income of Shri Premo is concerned, as per the salary certificate Ex.PW-4/A, his salary has been proved to be Rs.13,422/- per month. However, the learned Tribunal has not given the increase, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

105. Admittedly, Premo was working in government sector and his date of birth is 16.04.1962, as such, he is above 50 years. In view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 15% increase is required to be given, towards his future prospects, had he been alive. Thus, by adding 15% of his monthly income, the same comes to Rs.15,435/- (Rs.13422/- + Rs.2013/-).

106. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/5th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.12,348/- (Rs.15,435/- minus Rs.3,087/-).

107. Learned Tribunal has applied the multiplier of '13', which is the appropriate multiplier. Thus, the loss of contribution comes to Rs. 12,348/- x 12 x 13 = Rs.19,26,288/-.

108. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- on account of consortium, Rs.1,00,000/- towards 'loss of

estate’ and Rs.1,00,000/- towards ‘expectation of life’. The said findings, as per the mandate of the Hon’ble Supreme Court in **Pranay Sethi’s** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head ‘loss of estate’, Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

109. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram’s** case supra, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

110. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs. 19,26,288/-
2. Loss of consortium	=	Rs.2,80,000/- (Rs.40,000/-x 7)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.22,36,288/-.

111. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%,

which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposit and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

112. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.20,24,972/- to Rs.22,36,288/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 171 of 2015

113. The present appeal has been preferred by the Insurance Company against the award dated 14.01.2015 passed by the learned Tribunal, in MAC Petition No. 310/2013, titled as 'Deepu @ Kuldeep & Ors. versus Oriental Insurance Company & Another', wherein, a sum of Rs.10,76,200/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount

of compensation has been fastened upon the Insurance Company.

114. The petitioners, being husband, daughters, and son of Smt. Leela, who expired, in the accident, in question, involving the offending vehicle, have filed the above-noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

115. As per the claimants, the age of Smt. Leela, at the time of her death, was 26 years of age. According to the claimants, she was Anganwari helper, from where, she was earning Rs.1800/- per month and from agriculture pursuits, she was earning Rs.5000/- per month. As such, according to the claimants, Smt. Leela was earning Rs.6,800/- per month.

116. The learned Tribunal has taken the age of Smt. Leela, at the time of his death as 26 years, on the basis of copy of Parivar Register Ex.PW4/A, in which, the date of birth of Smt. Leela has been recorded as 01.06.1986. As such, the said findings do not require any interference, by this Court.

117. So far as her contribution towards the family of Smt. Leela, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

118. Since, the accident had taken place in the year 2012, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment supra, ends of justice would be met, if the contribution of Smt. Leela, towards her family during her lifetime is taken as Rs.10,000/- per month.

119. The learned Tribunal has also not given the increase, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra. Admittedly, Smt. Leela was working in unorganized sector and her age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had she

been alive. Thus, by adding 40% of his monthly income, the same comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/-).

120. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.10,500/- (Rs.14,000/- minus Rs.3,500/-).

121. Learned Tribunal has applied the multiplier of '17', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.10,500/- x 12 x 17 = Rs.21,42,000/-.

122. The learned Tribunal has awarded a sum of Rs.50,000/-, on account of funeral expenses, Rs.1,00,000/-, on account of consortium and Rs.1,00,000/- on account of expectation of life. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate',

Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

123. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram**’s case *supra*, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

124. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.21,42,000/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.23,32,000/-.

125. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposit and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

126. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.10,76,200/- to Rs.23,32,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 172 of 2015

127. This appeal has been preferred by the Insurance Company against the award dated 21.02.2015 passed by the learned Tribunal, in MAC Petition No. 239/12, titled as 'Tripta Devi & Ors. versus Ravi Kant & Another', whereby, a sum of Rs.7,33,200/-, along with interest, at the rate of 9% per annum, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

128. The petitioners, being parents, brother and sister of Shri Pardeep Kumar, who expired, in the accident, in question, involving the offending vehicle, have filed the above

noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

129. As per the claimants, Shri Pardeep Kumar was a student, agriculturist and also doing a private job. His income, from all sources, has been pleaded as Rs.20,000/-. His age, at the time of his death, has been pleaded as 22 years.

130. The learned Tribunal has taken the age of deceased Pardeep Kumar as 20 years, on the basis of the copy of Parivar Register Ex.PW-1/C, as well as, copy of matriculation certificate Ex.PW-1/E. As such, his age, at the time of his death, was proved to be 20 years. The said findings do not require any interference, by this Court.

131. So far as the income of Shri Pardeep Kumar is concerned, the learned Tribunal has taken the income of Shri Pardeep Kumar, as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The petitioners are residents of a remote village in Chamba District and in the rural areas,

grown up children used to help their parents in agricultural pursuits. As such, the findings recorded by the learned Tribunal, do not require any interference by this Court.

132. However, the learned Tribunal has not given the increase, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra. Admittedly, Pradeep Kumar was working in unorganized sector and his age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had he been alive. Thus, by adding 40%, his monthly income, the same comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

133. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the fact that the deceased was bachelor at the time of his death, 50% amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.3,780/- (Rs.7,560/- minus Rs.3,780/-).

134. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier, in the present case. The said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.3,780/- x $12 \times 18 = \text{Rs.}8,16,480/-$.

135. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, and Rs.1,00,000/- towards 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

136. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

137. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs. 8,16,480/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/- x 4)
3. Loss of estate	=	Rs. 15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.10,06,480/-.

138. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

139. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs. 7,33,200/- to Rs.10,06,480/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 173 of 2015

140. This appeal has been preferred by the Insurance Company against the award dated 14.01.2015 passed by the learned Tribunal, in MAC Petition No. 309/2013, titled as

'Kisso & Another versus Oriental Insurance Company & Another', whereby, a sum of Rs.4,70,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

141. The petitioners, being parents of Ms. Sumana, who expired, in the accident, in question, involving the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.15,00,000/-.

142. As per the claimants, age of Ms. Sumana was 16 years and she was a student of 8th class. Her contribution towards the family has been mentioned as Rs.5,000/- per month.

143. Learned Tribunal has taken the age of Ms. Sumana, at the time of her death, as 16 years, on the basis of copy of Parivar Register Ex.PW-4/A, her date of birth has

been mentioned as 05.01.1996. The said findings do not require any interference, by this Court.

144. So far as the income of Ms. Sumana, during her lifetime is concerned, the learned Tribunal has taken the notional income of Ms. Sumana as Rs.30,000/- per annum. The said findings do not require any interference by this Court.

145. Learned Tribunal has wrongly applied the multiplier of '14', keeping in view the age of petitioner No.1. The said findings needs interference by this Court, as, it has been held by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, that the age of the deceased should be the basis for applying the multiplier. Thus, multiplier of '18' is the appropriate multiplier, in the present case. Hence, the loss of contribution comes to Rs.30,000/- x 18 = Rs.5,40,000/-.

146. The learned Tribunal has awarded a sum of Rs.50,000/- on account of 'funeral expenses'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/-

under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

147. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram**'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

148. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.5,40,000/-
2. Loss of consortium	=	Rs.80,000/- (Rs.40,000/- x 2)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.6,50,000/-.

149. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

150. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.4,70,000/- to Rs.6,50,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 176 of 2015

151. The present appeal has been preferred by the Insurance Company against the award dated 14.01.2015 passed by the learned Tribunal, in MAC Petition No. 335/2013, titled as 'Ghimo Devi & Ors. versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.12,24,800/-, along with interest, at the rate of 9% per annum, in favour the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

152. The petitioners, being widow, daughters, son and parents of Shri Pappu, who expired, in the accident, in question, involving the offending vehicle, have filed the above

noted petition, before the learned Tribunal, seeking compensation of Rs.25,00,000/-.

153. As per the claimants, Shri Pappu was agriculturist by profession and earning Rs.20,000/- per month. Column No.4, qua the age of the deceased person, in the claim petition has been left blank.

154. Learned Tribunal has taken the age of Shri Pappu as 20 years, at the time of his death. As per the documentary evidence, i.e., extract of Parivar Register, Mark-A, the date of birth of Shri Pappu has been mentioned as 10.04.1992 and the accident had taken place in the year 2012. Meaning thereby, he is 20 years of age, at the time of his death. Moreover, in the postmortem report Ex.PW-2/A, his age has been mentioned as 20 years. As such, the said findings do not require any interference, by this Court.

155. So far as the income of Shri Pappu, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, the minimum wages, prevalent in the year 2012, and his income has been taken as

Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

156. Admittedly, Vipin Kumar was working in unorganized sector and his age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40% of his monthly income, the same comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

157. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

158. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier. Thus, the loss of contribution comes to Rs.5,670/-x12 x 18 = Rs.12,24,720/-.

159. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- on account of consortium, Rs.1,00,000/- towards 'loss of estate' and Rs.1,00,000/- towards 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

160. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

161. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.12,24,720/-
2. Loss of consortium	=	Rs.2,40,000/- (Rs.40,000/-x6)
3. Loss of estate	=	Rs. 15,000/-
4. Funeral Expenses	=	Rs.15,000/-

Total	=	Rs.14,94,720/-.
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162. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

163. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.12,24,800/- to Rs.14,94,720/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 204 of 2015

164. This appeal has been preferred by the Insurance Company against the award dated 20.03.2015 passed by the learned Tribunal, in MAC Petition No. 221/12, titled as 'Pawan Kumar & Ors. versus Oriental Insurance Company Ltd. & Another', whereby, a sum of Rs.5,90,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The

ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

165. The petitioners, being parents, and sister of Ms. Kavita, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.5,00,000/-.

166. So far as the income of Kavita is concerned, the learned Tribunal has taken the notional income of Ms. Kavita as Rs.30,000/- per annum. The said findings do not require any interference by this Court.

167. Learned Tribunal has wrongly applied the multiplier of '18', which is the appropriate multiplier, in the present case. Thus, the loss of contribution comes to Rs.30,000/- x 18 = Rs. 5,40,000/-.

168. The learned Tribunal has awarded a sum of Rs.50,000/- on account of 'funeral expenses'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this

Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

169. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram**'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

170. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.5,40,000/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.6,90,000/-.

171. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on

fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

172. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.5,90,000/- to Rs.6,90,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 205 of 2015

173. This appeal has been preferred by the Insurance Company against the award dated 20.03.2015 passed by the learned Tribunal, in MAC Petition No. 219/12, titled as 'Punnu Ram & Another versus Oriental Insurance Company & Another', whereby, a sum of Rs.5,38,800/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

174. The petitioners, being husband and son of Smt. Vimla Devi, who expired, in the accident, in question, having

taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

175. As per the petitioners, the age of Smt. Vimla Devi, at the time of her death, was 45 years of age and her contribution towards her family has been pleaded as Rs.25,000/- per month.

176. The learned Tribunal has taken the age of Smt. Vimla Devi, at the time of her death, as 58 years, on the basis of copy of Parivar Register Mark-X, in which, the year of birth of Smt. Vimla has been recorded as 1954. The document mark-X has been produced by the petitioners, as such, the same can be considered to the disadvantage to the petitioners, at the instance of the respondents.

177. So far as the income of Smt. Vimla Devi, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5,400/- per month. The said findings are not sustainable in the eyes of law, as, the

Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/-, per month.

178. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be

taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

179. Admittedly, Smt. Vimla Devi was working in unorganized sector and her age is above 50 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 10% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 10% of her monthly income, the same comes to Rs.11,000/- (Rs.10,000/- + Rs.1,000/-).

180. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.7,334/- (Rs.11,000/- minus Rs.3,666/-).

181. Learned Tribunal has applied the multiplier of '9', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.7334/-x12 x 9 = Rs.7,92,072/-.

182. The learned Tribunal has awarded a sum of Rs.50,000/-, on account of funeral expenses and Rs.1,00,000/-, on account of consortium. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

183. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

184. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.7,92,072/-
2. Loss of consortium	=	Rs.80,000/- Rs.40,000/-x2)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-

Total	=	Rs.9,02,072/-.
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185. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

186. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.5,38,800/- to Rs.9,02,072/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 206 of 2015

187. This appeal has been preferred by the Insurance Company against the award dated 20.03.2015 passed by the learned Tribunal, in MAC Petition No. 213/12, titled as 'Prabhu Ram & Another versus Oriental Insurance Company Ltd. & Another', wherein, a sum of Rs.7,33,200/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability

to pay the amount of compensation has been fastened upon the Insurance Company.

188. The petitioners, being parents of Shri Sanju, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, has filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

189. As per the claimants, Shri Vipan Kumar had sustained fatal injuries, in the accident, in question, and died. At the time of death, his age has been pleaded as 24 years and he was a student of BBA 1st year. According to the claimants, apart from the studies, he used to do the agriculture work and earning Rs.10,000/- per month.

190. The learned Tribunal has taken the age of Shri Sanju, at the time of his death, as 19 years, on the basis of copy of Parivar Register Ex.P-2, in which his date of birth has been mentioned as 06.02.1993. As such, the said findings do not require any interference, by this Court.

191. So far as the income of Shri Sanju, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings also do not require any interference by this Court, as petitioners are from the rural background and in rural areas, young boy of 19 years ordinarily contributes to his family income, by way of manual work. In the agricultural based society, young son in the family is engaged in multifarious activities to support his household. This fact also finds support from the stand taken by the petitioners, in which, they have pleaded the age of their son as 24 years, whereas, his age is held to be 19 years, as per the documentary proof. In the rural areas, the parents are considering their children more older than their age.

192. The learned Tribunal has not given the increase in the income of the deceased, towards his future prospects, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

193. Admittedly, Sanju was working in unorganized sector and his age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40% of his monthly income, the same comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

194. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the fact that the deceased was bachelor, 50% amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.3,780/- (Rs.7,560/- minus Rs.3,780/-).

195. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier. The said findings do not require and interference, by this Court. Thus, the loss of contribution comes to Rs.3,780/-x12x18= Rs.8,16,480/-.

196. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/-

towards ‘expectation of life’. The said findings, as per the mandate of the Hon’ble Supreme Court in **Pranay Sethi’s** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head ‘loss of estate’, Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

197. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram’s** case supra, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

198. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.8,16,480/-
2. Loss of consortium	=	Rs.80,000/- (Rs.40,000/-x2)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.9,26,480/-.

199. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%,

which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

200. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.7,33,200/- to Rs.9,26,480/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 208 of 2015

201. The instant appeal has been preferred by the Insurance Company against the award dated 25.03.2015 passed by the learned Tribunal, in MAC Petition No. 211/12, titled as 'Jamila & Others versus Oriental Insurance Company Ltd. & Another', whereby, a sum of Rs.6,25,200/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

202. The petitioners, being widow and sons of Shri Shamash Deen, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

203. As per the claimants, Shri Shamash Deen had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 50 years and he is agriculturist and earning Rs.10,000/- per month. Apart from this, he used to sell milk and earning Rs.12,000/- per month.

204. The learned Tribunal has taken the age of Shri Shamash Deen, at the time of his death, as 53 years, on the basis of copy of Parivar Register mark 'X'. As such, the said findings do not require any interference, by this Court.

205. So far as the income of Shri Shamash Deen, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the

principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court.

206. The learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

207. Admittedly, Shamash Deen was working in unorganized sector and his age is proved to be as 53 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 10% increase is required to be given, towards future prospects. Thus, by adding 10% of his monthly income, the same comes to Rs.5,940/- (Rs.5,400/- + Rs.540/-).

208. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.3,960/- (Rs.5,940/- minus Rs.1,980/-).

209. Learned Tribunal has applied the multiplier of '11', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.3,960/-x12x11= Rs.5,22,720/-.

210. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses and Rs.1,00,000/- on account of 'consortium'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

211. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

212. Thus, the entitlement of the petitioners, is adjudicated, as under:

- | | | |
|-----------------------|---|---------------|
| 1. Loss of income | = | Rs.5,22,720/- |
| 2. Loss of consortium | = | Rs.1,20,000/- |

		(Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.6,72,720/-.

213. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

214. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.6,25,200/- to Rs.6,72,720/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 209 of 2015

215. The Insurance Company has preferred this appeal against the award dated 20.03.2015 passed by the learned Tribunal, in MAC Petition No. 198/12, titled as 'Jamila & Others versus Oriental Insurance Company Ltd. &

Another', whereby, a sum of Rs.7,33,200/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

216. The petitioners, being mother and brothers of Shri Lal Hussain, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

217. As per the claimants, Shri Lal Hussain had sustained fatal injuries, in the accident, in question, and died. At the time of death, his age has been pleaded as 24 years and he was driver by profession and earning Rs.7,000/- per month. Apart from this, he used to get Rs.100/- as daily expenses. As such, according to the petitioners, Shri Lal Hussain was earning Rs.10,000/- per month.

218. The learned Tribunal has taken the age of Shri Lal Hussain at the time of his death, as 24 years, on the basis of copy of Parivar Register mark 'X', in which his age has been mentioned as 20.12.1989. As such, said findings do not require any interference, by this Court.

219. So far as the income of Shri Lal Hussain, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

220. Admittedly, Lal Hussain was working in unorganized sector and his age is proved to be as 24 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by

adding 40% of his monthly income, the same comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

221. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,040/- (Rs.7,560/- minus Rs.2,520/-).

222. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,040/- x 12 x 18 = Rs.10,88,640/-.

223. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head

‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

224. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram**’s case supra, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

225. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,88,640/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.12,38,640/-

226. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

227. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.7,33,200/- to Rs.12,38,640/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 228 of 2015

228. This appeal has been preferred by the Insurance Company against the award dated 20.03.2015 passed by the learned Tribunal, in MAC Petition No. 223/12, titled as 'Munshi & Ors. versus Oriental Insurance Company & Another', whereby, a sum of Rs.7,98,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

229. The petitioners, being husband and children of Smt. Chanchlo, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted

petition, before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

230. As per the claimants, the age of Smt. Chanchlo, at the time of her death, was 32 years of age. According to the claimants, she was home maker and her contribution towards her family has been pleaded as Rs.20,000/- per month.

231. The learned Tribunal has taken the age of Smt. Chanchlo, at the time of her death as 39 years, on the basis of copy of Parivar Register Ex.PW1/D, in which, the year of birth of Smt. Chanchlo has been recorded as 1973. As such, the said findings do not require any interference, by this Court.

232. So far as the contribution of the amount by Smt. Chanchlo, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has

held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

233. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

234. Admittedly, Smt. Chanchlo was working in unorganized sector and her age is below 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 40%, her monthly income comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/-).

235. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.9,334/- (Rs.14,000/- minus Rs.4,666/-).

236. Learned Tribunal has applied the multiplier of '15', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.9,334/- x 12 x 15 = Rs16,80,120/-.

237. The learned Tribunal has awarded a sum of Rs.50,000/-, on account of funeral expenses and

Rs.1,00,000/-, on account of consortium. The said findings, as per the mandate of the Hon’ble Supreme Court in **Pranay Sethi’s** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head ‘loss of estate’, Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

238. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram’s** case *supra*, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

239. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.16,80,120/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs. 15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.18,30,120/-.

240. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%,

which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

241. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.7,98,000/- to Rs.18,30,120/=-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 280 of 2015

242. This appeal has been preferred by the Insurance Company against the award dated 18.04.2015 passed by the learned Tribunal, in MAC Petition No. 209/12, titled as 'Dharmo & Ors. versus Oriental Insurance Company & Another', whereby, a sum of Rs.7,11,600/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

243. The petitioners, being husband and sons of Smt. Tilko, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

244. As per the claimants, the age of Smt. Tilko, at the time of her death, was 42 years of age. According to the claimants, she was home maker and her contribution towards her family has been pleaded as Rs.4,000/- per month.

245. The learned Tribunal has taken the age of Smt. Tilko, at the time of her death as 46 years, on the basis of copy of Parivar Register Ex.P-3, in which, the year of birth of Smt. Tilko has been recorded as 1966. Hence, the learned Tribunal has rightly ignored the postmortem report, as well as, the pleadings, in which, her date of birth has been mentioned as 42 years. As such, the said findings do not require any interference, by this Court.

246. So far as the contribution of the amount by Smt. Tilko, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

247. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution

made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

248. Admittedly, Smt. Tilko was working in unorganized sector and her age is above 40 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 25% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 25%, her monthly income comes to Rs.12,500/- (Rs.10,000/- + Rs.2,500/-).

249. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.8,334/- (Rs.12,500/- minus Rs.4,166/-).

250. Learned Tribunal has applied the multiplier of '13', which is the appropriate multiplier to be applied, in the

present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.8,334/-x12 x 13 = Rs.13,00,104/-.

251. The learned Tribunal has awarded a sum of Rs.50,000/-, on account of funeral expenses and Rs.1,00,000/-, on account of consortium. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

252. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

253. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.13,00,104/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs. 15,000/-

4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.14,50,104/-.

254. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

255. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.7,11,600/- to Rs.14,50,104/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 282 of 2015

256. The instant appeal has been preferred by the Insurance Company against the award dated 18.04.2015 passed by the learned Tribunal, in MAC Petition No. 165/12, titled as 'Geeta Devi & Others versus Ravikant Bhardwaj & Another', whereby, a sum of Rs.9,98,000/-, along with

interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

257. The petitioners, being widow and sons of Shri Hanso, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

258. As per the claimants, Shri Hanso had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 38 years and he is agriculturist and mason-cum-carpenter and his income has been pleaded as Rs.17,000/-, per month, from all sources.

259. The learned Tribunal has taken the age of Shri Hanso at the time of his death, as 38 years, on the basis of

postmortem report Ex.PW1/A. In the copy of Parivar Register, his date of birth has not been reflected. As such, the said findings do not require any interference, by this Court.

260. So far as the income of Shri Hanso, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

261. Admittedly, Hanso was working in unorganized sector and his age is proved to be as 38 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs. 5,400/- + Rs. 2,160/-).

262. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,040/- (Rs.7,560/- minus Rs.2,530/-).

263. Learned Tribunal has applied the multiplier of '15', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,040/-x12x15= Rs.9,07,200/-.

264. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

265. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram**'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

266. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.9,07,200/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.10,57,200/-.

267. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

268. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.9,98,000/- to Rs.10,57,200/-, with interest @ 7.5% per

annum. The award passed by the learned MACT is modified accordingly.

FAO No. 283 of 2015

269. This appeal has been preferred by the Insurance Company against the award dated 21.04.2015 passed by the learned Tribunal, in MAC Petition No. 167/12, titled as 'Bittu Ram & Others versus Ravikant Bhardwaj & Another', whereby, a sum of Rs. 5,00,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

270. The petitioners, being parents and sisters of Shri Kishori, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

271. As per the claimants, Shri Kishori had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 17 years and he is agriculturist, and earning Rs.9,000/-, per month.

272. Learned Tribunal has taken the age of Shri Kishori, at the time of his death, as 16 years, on the basis of copy of Parivar Register Ex.PW-4/C, in which, his date of birth has been mentioned as 01.06.1996. The said findings do not require any interference, by this Court.

273. So far as the income of Shri Kishori is concerned, the learned Tribunal has taken the notional income of Shri Kishori as Rs.30,000/- per annum. The said findings do not require any interference by this Court.

274. Learned Tribunal has wrongly applied the multiplier of '15', keeping in view the age of mother of deceased. The said findings require interference by this Court, as, it has been held by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, that the age of the deceased should be the basis for applying the multiplier. Thus,

multiplier of '18' is the appropriate multiplier, in the present case. Thus, the loss of contribution comes to Rs.30,000/- x 18 = Rs. 5,40,000/-.

275. The learned Tribunal has awarded a sum of Rs.50,000/- on account of 'funeral expenses'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

276. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

277. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.5,40,000/-
2. Loss of consortium	=	Rs.2,00,000/- (Rs.40,000/-x5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-

Total = Rs.7,70,000/-.

278. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

279. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.5,00,000/- to Rs.7,70,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 284 of 2015

280. This appeal has been preferred by the Insurance Company against the award dated 20.04.2015 passed by the learned Tribunal, in MAC Petition No. 163/12, titled as 'Rhisho @ Ramesh & Ors. versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.7,11,600/, along with interest, at the rate of 9% per annum, has been awarded in

favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

281. The petitioners, being husband and sons of Smt. Sobha @ Sobho, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

282. As per the claimants, the age of Smt. Sobha @ Sobho, at the time of her death, was 49 years of age. According to the petitioners, she was part time water carrier in GPS Dalgana and rearing milch cattle and her contribution towards her family has been pleaded as Rs.8,000/- per month.

283. The learned Tribunal has taken the age of Smt. Sobha @ Sobho, at the time of her death as 49 years, on the basis of copy of Parivar Register Ex.PB, in which, the year of birth of Smt. Sobha @ Sobho has been recorded as 1963.

As such, the said findings do not require any interference, by this Court.

284. So far as the contribution towards the family by Smt. Sobha @ Sobho, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

285. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household,

that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

286. Admittedly, Smt. Sobha @ Sobho was working in unorganized sector and her age, at the time of her death is 49 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 25% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 25%, her monthly income comes to Rs.12,500/- (Rs.10,000/- + Rs.2,500/-).

287. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.8,334/- (Rs.12,500/- minus Rs.4166/-).

288. Learned Tribunal has applied the multiplier of '13', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.8,334/- x 12 x 13 = Rs.13,00,104/-.

289. The learned Tribunal has awarded a sum of Rs.50,000/-, on account of funeral expenses and Rs.1,00,000/-, on account of consortium. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

290. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

291. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.13,00,104/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/- x 3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.14,50,104/-.

292. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

293. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.7,11,600/- to Rs.14,50,104/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 285 of 2015

294. The instant appeal has been preferred by the Insurance Company against the award dated 18.04.2015 passed by the learned Tribunal, in MAC Petition No. 171/12,

titled as 'Nirmla Devi & Others versus Ravikant Bhardwaj & Another', whereby, a sum of Rs.10,79,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

295. The petitioners, being widow, daughters and sons of Shri Hardyal @ Lal Chand, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.25,00,000/-.

296. As per the claimants, Shri Hardyal @ Lal Chand had sustained fatal injuries, in the accident in question, and died. At the time of his death, his age has been pleaded as 39 years and he is agriculturist and labourer and his income has been pleaded as Rs.13,000/-, per month, from all sources.

297. The learned Tribunal has taken the age of Shri Hardyal @ Lal Chand at the time of his death, as 39 years, on the basis of extract of Parivar Registrar Ex.PB', in which his date of birth has been mentioned as 01.07.1973. As such, the said findings do not require any interference, by this Court.

298. So far as the income of Shri Hardyal @ Lal Chand, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

299. Admittedly, Hardyal @ Lal Chand was working in unorganized sector and his age is proved to be 39 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by

adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

300. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

301. Learned Tribunal has applied the multiplier of '15', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,670/-x12x15= Rs.10,20,600/-.

302. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate',

Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

303. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram**'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

304. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,20,600/-
2. Loss of consortium	=	Rs.2,00,000/- (Rs.40,000/- x 5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.12,50,600/-.

305. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposit and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

306. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.10,79,000/- to Rs.12,50,600/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 286 of 2015

307. This appeal has been preferred by the Insurance Company against the award dated 20.04.2015 passed by the learned Tribunal, in MAC Petition No. 152/12, titled as 'Kamla Devi & Others versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.10,79,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

308. The petitioners, being widow, son, daughters and parents of Shri Tilak Raj @ Tilak Singh, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle,

have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.15,00,000/-.

309. As per the claimants, Shri Tilak Raj had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 37 years and he was Home Guard Volunteer and mason and his income has been pleaded as Rs.14,750/-, per month, from all sources.

310. The learned Tribunal has taken the age of Shri Tilak Raj, at the time of his death, as 38 years, on the basis of extract of Parivar Register Ex.PW-4/C, in which, his date of birth has been mentioned as 17.06.1974. As such, the said findings do not require any interference, by this Court.

311. So far as the income of Shri Tilak Raj, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given

the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

312. Admittedly, Shri Tilak Raj was working in unorganized sector and his age is proved to be as 38 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

313. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

314. Learned Tribunal has applied the multiplier of '15', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,670/-x12x15= Rs.10,20,600/-.

315. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

316. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

317. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,20,600/-
2. Loss of consortium	=	Rs. 2,00,000/- (Rs.40,000/- x 5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total		= Rs.12,50,600/-.

318. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

319. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.10,79,000/- to Rs.12,50,600/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 288 of 2015

320. The instant appeal has been preferred by the Insurance Company against the award dated 26.05.2015 passed by the learned Tribunal, in MAC Petition No. 231/12, titled as 'Garibo Devi & Others versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.4,93,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability

to pay the amount of compensation has been fastened upon the Insurance Company.

321. The petitioners, being widow and sons of Shri Panju Ram, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

322. As per the claimants, Shri Panju Ram had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 63 years and he was Fruit vegetable seller and agriculturist and his income has been pleaded as Rs.20,000/-, per month, from all sources.

323. The learned Tribunal has taken the age of Shri Panju Ram, at the time of his death, as 66 years, on the basis of extract of Parivar Register Ex. PW-1/C, in which, his year of birth has been mentioned as 1946. As such, the said findings do not require any interference, by this Court.

324. So far as the income of Shri Panju Ram, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court.

325. The age of the deceased, at the time of accident, is held to be 66 years, as such, nothing is required to be added on account of future prospects.

326. Out of the monthly income, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.4,050/- (Rs.5,400/- minus Rs.1,350/-).

327. Learned Tribunal has applied the multiplier of '5', which is the appropriate multiplier. Thus, the loss of contribution comes to Rs.4,050/-x12x5= Rs.2,43,000/-. The said findings do not require any interference, by this Court.

328. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium and Rs.1,00,000/- on account of 'loss of estate'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

329. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

330. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.2,43,000/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.4,33,000/-.

331. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

332. Consequently, the present appeal is partly allowed, however, the awarded amount is reduced from Rs.4,93,000/- to Rs.4,33,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 289 of 2015

333. The appeal in hand has been preferred by the Insurance Company against the award dated 14.05.2015 passed by the learned Tribunal, in MAC Petition No. 169/12, titled as 'Dharmi Devi & Others versus Ravikant Bhardwaj & Another', whereby, a sum of Rs.10,41,200/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability

to pay the amount of compensation has been fastened upon the Insurance Company.

334. The petitioners, being widow, sons and mother of Shri Parkash Chand, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.28,00,000/-.

335. As per the claimants, Shri Prakash Chand had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 38 years and he is agriculturist and mason-cum-carpenter and his income has been pleaded as Rs.15,000/-, per month, from all sources.

336. The learned Tribunal has taken the age of Shri Parkash Chand, at the time of his death, as 35 years, on the basis of extract of Parivar Register Ex.PW-1/B', in which, his date of birth has been mentioned as 12.12.1976. As such,

the said findings do not require any interference, by this Court.

337. So far as the income of Shri Parkash Chand, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

338. Admittedly, Shri Parkash Chand was working in unorganized sector and his age is proved to be as 35 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

339. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case

supra, and keeping in view the number of dependents, $1/4^{\text{th}}$ amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

340. Learned Tribunal has applied the multiplier of '16', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,670/-x12x16= Rs.10,88,640/-.

341. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

342. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is

entitled to the amount of compensation under the head 'loss of consortium'.

343. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,88,640/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.12,78,640/-.

344. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

345. It is worthwhile to record herein that the learned Tribunal, in the present case, has dismissed the claim petition qua mother of the deceased, however, the said findings are required to be interfered with, by this Court, as the mother also falls within the definition of 'dependents'.

346. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.10,41,200/- to Rs.12,78,640/-, with interest @ 7.5% per annum.

347. Since the mother of the deceased has also been held to be the one of the dependents, as such, the amount of compensation, is apportioned, among all the claimants, as under:-

Widow of deceased	: 40%
Both the sons	: 25% each
Mother of deceased	: 10%

348. The award passed by the learned MACT is modified accordingly.

FAO No. 290 of 2015

349. The instant appeal has been preferred by the Insurance Company against the award dated 27.05.2015 passed by the learned Tribunal, in MAC Petition No. 191/12, titled as 'Tek Chand & Others versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.4,70,000/-, along with

interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

350. The petitioners, being father and sisters of Shri Surender, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

351. As per the claimants, Shri Surender had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 17 years and he was a student and also following agricultural pursuits. His income has been pleaded as Rs.10,000/-, per month, from all sources.

352. The learned Tribunal has taken the age of Shri Surender, at the time of his death, as 17 years, on the basis

of extract of Parivar Register mark PR, in which, his date of birth has been mentioned as 17.11.1995. As such, the said findings do not require any interference, by this Court.

353. So far as the income of Shri Surender is concerned, the learned Tribunal has taken the notional income of Shri Surender as Rs.30,000/- per annum. The said findings do not require any interference by this Court.

354. Learned Tribunal has wrongly applied the multiplier of '14', keeping in view the age of father of deceased. The said findings require interference by this Court, as, it has been held by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, that the age of the deceased should be the basis for applying the multiplier. Thus, multiplier of '18' is the appropriate multiplier, in the present case. Thus, the loss of contribution comes to Rs.30,000/- x 18 = Rs.5,40,000/-.

355. The learned Tribunal has awarded a sum of Rs.50,000/- on account of 'funeral expenses'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this

Court. The petitioners are held entitled to Rs.15,000/- under the head ‘loss of estate’, Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

356. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram**’s case supra, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

357. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.5,40,000/-
2. Loss of consortium	=	Rs.2,00,000/- (Rs.40,000/-x5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.7,70,000/-.

358. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on

fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

359. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.4,70,000/- to Rs.7,70,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 292 of 2015

360. The present appeal has been preferred by the Insurance Company against the award dated 14.05.2015 passed by the learned Tribunal, in MAC Petition No. 181/12, titled as 'Neelam & Others versus Ravi Kant & Another', whereby, a sum of Rs.5,30,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

361. The petitioners, being parents and sisters of Shri Vivek, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

362. As per the claimants, Shri Vivek had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 11 years and he was a student and also following agricultural pursuits.

363. The learned Tribunal has taken the age of Shri Vivek, at the time of his death, as 10 years, on the basis of extract of Parivar Register Ex.PW-1/C, in which, his date of birth has been mentioned as 11.10.2001. As such, the said findings do not require any interference, by this Court.

364. So far as the income of Shri Vivek is concerned, the learned Tribunal has taken the notional income of Shri Vivek as Rs.30,000/- per annum. The said findings do not require any interference by this Court.

365. Learned Tribunal has wrongly applied the multiplier of '16', keeping in view the age of mother of deceased. The said findings require interference by this Court, as, it has been held by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, that the age of the deceased should be the basis for applying the multiplier. Thus, multiplier of '18' is the appropriate multiplier, in the present case. Thus, the loss of contribution comes to Rs.30,000/- x 18 = Rs.5,40,000/-.

366. The learned Tribunal has awarded a sum of Rs.50,000/- on account of 'funeral expenses'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

367. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is

entitled to the amount of compensation under the head ‘loss of consortium’.

368. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.5,40,000/-
2. Loss of consortium	=	Rs.2,00,000/- (Rs.40,000/- x 5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total		= Rs.7,70,000/-.

369. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

370. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.5,30,000/- to Rs.7,70,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 328 of 2015

371. This appeal has been preferred by the Insurance Company against the award dated 11.06.2015 passed by the learned Tribunal, in MAC Petition No. 193/12, titled as 'Ashok & Another versus Ravi Kant & Another', whereby, a sum of Rs.5,25,200/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

372. The petitioners, being sons of Smt. Gilmo, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

373. As per the claimants, the age of Smt. Gilmo, at the time of her death, was 40 years of age. According to the petitioners, she was homemaker and agriculturist and her

contribution towards her family has been pleaded as Rs.12,000/- per month, from all sources.

374. The learned Tribunal has taken the age of Smt. Gilmo, at the time of her death as 52 years, on the basis of copy of Parivar Register Ex.PW-3/C, in which, the year of birth of Smt. Gilmo has been recorded as 1960. As such, the said findings do not require any interference, by this Court.

375. So far as the contribution towards the family by Smt. Gilmo, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

376. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA

workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

377. Admittedly, Smt. Gilmo was working in unorganized sector and her age, at the time of her death is 52 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 10% increase is required to be given, towards future prospects,

had she been alive. Thus, by adding 10%, her monthly income comes to Rs.11,000/- (Rs.10,000/- + Rs.1,000/-).

378. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.7,334/- (Rs.11,000/- minus Rs.3,666/-).

379. Learned Tribunal has applied the multiplier of '11', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.7,334/- x 12 x 11 = Rs.9,68,088/-.

380. The learned Tribunal has awarded a sum of Rs.50,000/-, on account of funeral expenses. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head

‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

381. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram**’s case *supra*, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

382. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.9,68,088/-
2. Loss of consortium	=	Rs.80,000/- (Rs.40,000/-x2)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.10,78,088/-.

383. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

384. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.5,25,200/- to Rs.10,78,088/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No.329 of 2015

385. The Insurance Company has preferred this appeal against the award dated 12.06.2015 passed by the learned Tribunal, in MAC Petition No. 225/12, titled as 'Guro & Another versus Oriental Insurance Company Ltd. & Another', whereby, a sum of Rs.9,54,800/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

386. The petitioners, being widow and son of Shri Bido Ram, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition,

before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

387. As per the claimants, Shri Bido Ram had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 55 years and he was agriculturist and mason and his income has been pleaded as Rs.15,000/-, per month, from all sources.

388. The learned Tribunal has taken the age of Shri Bido Ram, at the time of his death, as 45 years, on the basis of extract of Parivar Register Ex.P-3, in which, his year of birth has been mentioned as 1967. As such, the said findings do not require any interference, by this Court.

389. So far as the income of Shri Bido Ram, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given

the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

390. Admittedly, Shri Bido Ram, was working in unorganized sector and his age is proved to be as 45 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 25% increase is required to be given, towards future prospects. Thus, by adding 25%, his monthly income, comes to Rs.6,750/- (Rs.5,400/- + Rs.1,350/-).

391. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.4,500/- (Rs.6,750/- minus Rs.2,250/-).

392. Learned Tribunal has applied the multiplier of '14', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.4,500/-x12x14= Rs.7,56,000/-.

393. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

394. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

395. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.7,56,000/-
2. Loss of consortium	=	Rs.80,000/- (Rs.40,000/- x 2)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total		= Rs.8,66,000/-.

396. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

397. Consequently, the present appeal is partly allowed, and, the awarded amount is reduced from Rs.9,54,800/- to Rs.8,66,000/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 352 of 2015

398. This appeal has been preferred by the Insurance Company against the award dated 16.07.2015 passed by the learned Tribunal, in MAC Petition No. 215/12, titled as 'Babli Devi & Others versus Oriental Insurance Company Ltd. & Another', whereby, a sum of Rs.11,27,600/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The

ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

399. The petitioners, being widow, son, daughters and father of Shri Kuldeep Singh, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.50,00,000/-.

400. As per the claimants, Shri Kuldeep Singh had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 32 years and he was contractor and his income has been pleaded as Rs.40,000/-, per month, from all sources.

401. The learned Tribunal has taken the age of Shri Kuldeep Singh, at the time of his death, as 33 years, on the basis of extract of Parivar Register Ex.P-3, in which, his date of birth has been mentioned as 22.07.1979. As such, the said findings do not require any interference, by this Court.

402. So far as the income of Shri Kuldeep Singh, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month, in the absence of any documentary proof that he was a contractor by profession. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

403. Admittedly, Shri Parkash Chand was working in unorganized sector and his age is proved to be as 33 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

404. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th

amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

405. Learned Tribunal has applied the multiplier of '16', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,670/-x12x16= Rs.10,88,640/-.

406. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

407. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is

entitled to the amount of compensation under the head ‘loss of consortium’.

408. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,88,640/-
2. Loss of consortium	=	Rs.2,00,000/- (Rs.40,000/-x5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.13,18,640/-.

409. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

410. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.11,27,600/- to Rs.13,18,640/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 353 of 2015

411. The present appeal has been preferred by the Insurance Company against the award dated 10.07.2015 passed by the learned Tribunal, in MAC Petition No. 144/12, titled as 'Tripta Devi & Others versus Oriental Insurance Company Ltd & Another', whereby, a sum of Rs.12,24,800/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

412. The petitioners, being widow, son, daughter and parents of Shri Bablu, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

413. As per the claimants, Shri Bablu had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 22 years and

he was agriculturist and carpenter and his income has been pleaded as Rs.15,000/-, per month, from all sources.

414. The learned Tribunal has taken the age of Shri Bablu, at the time of his death, as 21 years, on the basis of extract of Parivar Register Ex.PW-1/A, in which, his date of birth has been mentioned as 15.09.90. As such, the said findings do not require any interference, by this Court.

415. So far as the income of Shri Bablu, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

416. Admittedly, Shri Bablu was working in unorganized sector and his age is proved to be as 21 years, as such, in view of the law laid down by the Hon'ble

Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income, comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

417. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

418. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,670/-x12x18= Rs.12,24,720/-.

419. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra,

require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head ‘loss of estate’, Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

420. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram**’s case supra, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

421. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.12,24,720/-
2. Loss of consortium	=	Rs.2,00,000/- (Rs.40,000/- x 5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.14,54,720/-.

422. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on

fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

423. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.12,24,800/- to Rs.14,54,720/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 372 of 2015

424. This appeal has been preferred by the Insurance Company against the award dated 14.07.2015 passed by the learned Tribunal, in MAC Petition No. 11/2013, titled as 'Mariya & Others versus Ravi Kant Bhardwaj & Another', wherein, a sum of Rs.10,30,400/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

425. The petitioners, being widow, sons and daughters of Shri Israil, who expired, in the accident, in question,

having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.18,00,000/-.

426. As per the claimants, Shri Israil, had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 44 years and he is agriculturist, mason and rearing milch cattle and his income has been pleaded as Rs.15,000/-, per month, from all sources.

427. The learned Tribunal has taken the age of Shri Israil, at the time of his death, as 44 years, on the basis of extract of Parivar Register Ex.P-B, in which, his date of birth has been mentioned as 04.09.1967. As such, the said findings do not require any interference, by this Court.

428. So far as the income of Shri Israil, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/-

per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

429. Admittedly, Shri Israil, was working in unorganized sector and his age is proved to be as 44 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 25% increase is required to be given, towards future prospects. Thus, by adding 25%, his monthly income comes to Rs.6,750/- (Rs.5,400/- + Rs.1,350/-).

430. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,063/- (Rs.6,750/- minus Rs.1,687/-).

431. Learned Tribunal has applied the multiplier of '14', which is the appropriate multiplier. The said findings

do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,063/-x12x14= Rs.8,50,584/-.

432. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

433. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

434. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.8,50,584/-
2. Loss of consortium	=	Rs.2,40,000/- (Rs.40,000/-x6)
3. Loss of estate	=	Rs.15,000/-

4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.11,20,584/-.

435. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposit and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

436. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.10,30,400/- to Rs.11,20,584/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 375 of 2015

437. This appeal has been preferred by the Insurance Company against the award dated 16.07.2015 passed by the learned Tribunal, in MAC Petition No. 161/12, titled as ‘Sobha & Others versus Ravi Kant Bhardwaj & Another’, whereby, a sum of Rs.11,79,440/-, along with interest, at

the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

438. The petitioners, being widow, sons, daughter and father of Shri Chaman, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.15,00,000/-.

439. As per the claimants, Shri Chaman had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 32 years and he is agriculturist, mason and rearing milch cattle and his income has been pleaded as Rs.15,000/-, per month, from all sources.

440. The learned Tribunal has taken the age of Shri Chaman, at the time of his death, as 32 years, on the basis

of extract of Parivar Register Ex.P-3, in which, his date of birth has been mentioned as 18.05.1980. As such, the said findings do not require any interference, by this Court.

441. So far as the income of Shri Chaman, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case *supra*.

442. Admittedly, Shri Chaman was working in unorganized sector and his age is proved to be as 32 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

443. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/5th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.6,048/- (Rs.7,560/- minus Rs.1,512/-).

444. Learned Tribunal has applied the multiplier of '16', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.6,048/-x12x16= Rs.11,61,216/-.

445. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

446. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram**'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

447. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.11,61,216/-
2. Loss of consortium	=	Rs.2,80,000/- (Rs.40,000/- x 7)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.14,71,216/-.

448. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

449. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.11,79,440/- to Rs.14,71,216/-, with interest @ 7.5% per

annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 190 of 2016

450. This appeal has been preferred by the Insurance Company against the award dated 25.02.2016 passed by the learned Tribunal, in MAC Petition No. 207/12, titled as 'Meena & Others versus Oriental Insurance Company Ltd. & Another', wherein, a sum of Rs.10,16,200/-, with interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the amount. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

451. The petitioners, being widow, daughter and son of Shri Shaffi, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.40,00,000/-.

452. As per the claimants, Shri Shaffi had sustained fatal injuries, in the accident, in question, and died. At the time of death, his age has been pleaded as 35 years. According to the claimants, he was agriculturist, and rearing milch cattle and his income has been pleaded as Rs.32,000/-, per month, from all sources.

454. The learned Tribunal has taken the age of Shri Shaffi, at the time of his death, as 35 years, on the basis of postmortem report Ex.P-2. As such, the said findings do not require any interference, by this Court.

455. So far as the income of Shri Shaffi, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of

MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

456. Admittedly, Shri Shaffi was working in unorganized sector and his age is proved to be as 35 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

457. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,040/- (Rs.7,560/- minus Rs.2,520/-).

458. Learned Tribunal has applied the multiplier of '16', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,040/-x12x16= Rs.9,67,680/-.

459. The learned Tribunal has awarded a sum of Rs.25,000/- on account of funeral/burial expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

460. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

462. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.9,67,680/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.11,17,680/-.

463. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

464. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.10,16,200/- to Rs.11,17,680/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 203 of 2016

465. This appeal has been preferred by the Insurance Company against the award dated 22.02.2016 passed by the learned Tribunal, in MACT Petition No. 383/2013, titled as 'Ibrahim & Ors. versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.9,98,920/-, along with interest, at the

rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

466. The petitioners, being husband, son and daughters of Smt. Sheena, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.12,00,000/-.

467. As per the claimants, the age of Smt. Sheena, at the time of her death, was 46 years of age. According to the claimants, she was agriculturist and rearing milch cattle and

her contribution towards her family has been pleaded as Rs.9,000/- per month.

468. The learned Tribunal has taken the age of Smt. Sheena, at the time of her death as 46 years, on the basis of copy of Parivar Register Ex.P-A, in which, her year of birth of has been recorded as 1966. As such, the said findings do not require any interference, by this Court.

469. So far as the contribution of the amount by Smt. Sheena, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

470. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of

the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

471. Admittedly, Smt. Sheena was working in unorganized sector and her age is proved to be 46 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 25% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 25%, her monthly income comes to Rs.12,500/- (Rs.10,000/- + Rs.2,500/-).

472. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/5th amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.10,000/- (Rs.12,500/- minus Rs.2,500/-).

473. Learned Tribunal has applied the multiplier of '13', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.10,000/-x12 x 13 = Rs.15,60,000/-.

474. The learned Tribunal has awarded a sum of Rs.25,000/-, on account of funeral/burial expenses, Rs.1,00,000/-, to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate' and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head

‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

475. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram**’s case *supra*, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

476. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.15,60,000/-
2. Loss of consortium	=	Rs.3,60,000/- (Rs.40,000/-x9)
3. Loss of estate	=	Rs. 15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.19,50,000/-.

477. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

478. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.9,98,920/- to Rs.27,30,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 205 of 2016

479. This appeal has been preferred by the Insurance Company against the award dated 24.02.2016 passed by the learned Tribunal, in MAC Petition No. 173/12, titled as 'Dhanial & Ors. versus Ravi Kant Bhardwaj & Another', wherein, a sum of Rs.8,86,600/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

480. The petitioners, being husband, son and daughters of Smt. Aapto Devi, who expired, in the accident, in question, having taken place, due to the rash and

negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.10,00,000/-.

481. As per the claimants, the age of Smt. Aapto, at the time of her death, was 58 years of age. According to the claimants, she was home maker and agriculturist and her contribution towards her family has been pleaded as Rs.12,000/- per month, from all sources.

482. The learned Tribunal has taken the age of Smt. Aapto, at the time of her death as 50 years, on the basis of copy of postmortem report Ex.PW-2/A. Since, the copy of the postmortem report has been produced by the petitioners themselves, as such, the said document can be taken into consideration to the disadvantage of the petitioners, by holding that the age of Smt. Aapto Devi was 50 years at the time of her death. As such, the said findings do not require any interference, by this Court.

483. So far as the contribution towards the family by Smt. Aapto Devi, is concerned, the learned Tribunal, has

taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

484. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her

death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

485. Admittedly, Smt. Sheena was working in unorganized sector and her age is proved to be 50 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 10% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 10%, her monthly income comes to Rs.11,000/- (Rs.10,000/- + Rs.1,000/-).

486. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.8,250/- (Rs.11,000/- minus Rs.2,750/-).

487. Learned Tribunal has applied the multiplier of '13', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any

interference by this Court. Thus, the loss of contribution comes to Rs.8,250/-x12 x 13 = Rs.12,87,000/-.

488. The learned Tribunal has awarded a sum of Rs.25,000/-, on account of funeral expenses, Rs.1,00,000/-, to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate' and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

489. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

490. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.12,87,000/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs. 15,000/-

4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.14,77,000/-.

491. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

492. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.8,86,600/- to Rs.21,20,500/-. with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 212 of 2016

493. This appeal has been preferred by the Insurance Company against the award dated 25.02.2016 passed by the learned Tribunal, in MACT Petition No. 217/12, titled as ‘Hem Singh @ Hemu & Ors. versus The Oriental Insurance Company Limited & Another’, whereby, a sum of Rs.11,02,600/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the

amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

494. The petitioners, being husband, daughters and son of Smt. Krishno Devi, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.30,00,000/-.

495. As per the claimants, the age of Smt. Krishno Devi, at the time of her death, was 32 years of age. According to the claimants, she was home maker, agriculturist and rearing milch cattle and her contribution towards her family has been pleaded as Rs.6,000/- per month, from all sources.

496. The learned Tribunal has taken the age of Smt. Krishno Devi, at the time of her death as 32 years, on the basis of postmortem report Ex.P-2. As such, the said findings do not require any interference, by this Court.

497. So far as the contribution towards the family by Smt. Krishno Devi, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

498. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been

taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

499. Admittedly, Smt. Krishno Devi was working in unorganized sector and her age is proved to be 32 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 40%, her monthly income comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/-).

500. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of her personal expenses, is required to

be deducted, had she been alive. Thus, her monthly income comes to Rs.10,500/- (Rs.14,000/- minus Rs.3,500/-).

501. Learned Tribunal has applied the multiplier of '16', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.10,500/-x12 x 16 = Rs.20,16,000/-.

502. The learned Tribunal has awarded a sum of Rs.25,000/-, on account of funeral expenses, Rs.1,00,000/-, to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate' and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

503. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is

entitled to the amount of compensation under the head ‘loss of consortium’.

504. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.20,16,000/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.22,06,000/-.

505. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

506. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.11,02,600/- to Rs.22,06,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 365 of 2016

507. The instant appeal has been preferred by the Insurance Company against the award dated 23.05.2016 passed by the learned Tribunal, in MAC Petition No. 241/12,

titled as 'Kanta Devi & Ors. versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.10,99,800/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

508. The petitioners, being parents and brothers of Smt. Reeta Kumari, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

509. As per the claimants, the age of Smt. Reeta Kumari, at the time of her death, was 18 years of age. According to the claimants, she was student, agriculturist and doing tailoring work and her contribution towards her family has been pleaded as Rs.20,000/- per month, from all sources.

510. The learned Tribunal has taken the age of Smt. Reeta Kumari, at the time of her death as 18 years, on the basis of copy of Parivar Register Ex.PW-1/G, in which, her date of birth has been recorded as 2.2.1994. As such, the said findings do not require any interference, by this Court.

511. So far as the contribution towards the family by Smt. Reeta Kumari, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

512. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

513. Admittedly, Smt. Reeta Kumari was working in unorganized sector and her age is proved to be 18 years, as

such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 40%, her monthly income comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/-).

514. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the fact that the deceased was bachelor, 50% amount, on account of her personal expenses, is required to be deducted, had she been alive. The learned Tribunal has deducted $\frac{1}{4}^{\text{th}}$ on account of her personal expenses, had she been alive. The said findings require interference by this Court. By deducting 50% amount, her monthly income comes to Rs.7,000/- (Rs.14,000/- minus Rs.7,000/-).

515. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.7,000/-x12 x 18 = Rs.15,12,000/-.

516. The learned Tribunal has awarded a sum of Rs.25,000/-, on account of funeral expenses, Rs.1,00,000/-, on account of ‘loss of estate’ and Rs.1,00,000/- on account of ‘expectation of life’. The said findings, as per the mandate of the Hon’ble Supreme Court in **Pranay Sethi**’s case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head ‘loss of estate’, Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

517. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram**’s case *supra*, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

518. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.15,12,000/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.17,02,000/-.

519. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

520. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.10,99,800/- to Rs.17,02,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No.366 of 2016

521. The instant appeal has been preferred by the Insurance Company against the award dated 27.05.2016 passed by the learned Tribunal, in MAC Petition No. 182/12, titled as 'Chain Lal (deceased) through LRs & Ors. versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.7,00,200/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the

extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

522. The petitioners, being sons and daughters of Smt. Fenko Devi, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.12,00,000/-.

523. Initially, Shri Chain Lal, husband of Smt. Fenko Devi, was also party, but, during the pendency of the lis, on account of his death, his name was ordered to be deleted from the array of parties.

524. In the claim petition, the column, regarding the age of the deceased person, was left blank. According to the claimants, she was house-wife, agriculturist and Milk Seller and her contribution towards her family has been pleaded as Rs.15,000/- per month, from all sources.

525. The learned Tribunal has taken the age of Smt. Fenko, at the time of her death as 55 years, on the basis of postmortem report Ex.PA. As such, the said findings do not require any interference, by this Court.

526. So far as the contribution towards the family by Smt. Sheena, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

527. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been

taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

528. Admittedly, Smt. Fenko Devi was working in unorganized sector and her age is proved to be 55 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 10% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 10%, her monthly income comes to Rs.11,000/- (Rs.10,000/- + Rs.1,000/-).

529. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of her personal expenses, is required to

be deducted, had she been alive. Thus, her monthly income comes to Rs.8,250/- (Rs.11,000/- minus Rs.2,750/-).

530. Learned Tribunal has applied the multiplier of '11', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.8,250/-x12 x 11 = Rs.10,89,000/-.

531. The learned Tribunal has awarded a sum of Rs.25,000/-, on account of funeral expenses, Rs.1,00,000/-, on account of 'loss of estate' and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

532. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

533. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,89,000/-
2. Loss of consortium	=	Rs.2,00,000/- (Rs.40,000/-x5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.13,19,000/-.

534. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

535. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.7,00,200/- to Rs.13,19,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No.375 of 2016

536. The instant appeal has been preferred by the Insurance Company against the award dated 17.05.2016 passed by the learned Tribunal, in MAC Petition No. 5/13, titled as 'Phula Devi & Another versus Ravi Kant & Others', whereby, a sum of Rs.11,02,600/-, along with interest, at

the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

537. The petitioners, being parents of Shri Pawan Kumar, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

538. As per the claimants, Shri Pawan Kumar had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as

26 years and he was self employed and also following agricultural pursuits. His monthly income has been pleaded to Rs.25,000/- per month from all sources.

539. The learned Tribunal has taken the age of Shri Pawan Kumar, at the time of his death, as 25 years, on the basis of extract of Parivar Register Ex.PRW-2/A, in which, his date of birth has been mentioned as 30.04.1986. As such, the said findings do not require any interference, by this Court.

540. So far as the income of Shri Pawan Kumar, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

541. Admittedly, Shri Pawan Kumar was working in unorganized sector and his age is proved to be as 25 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

542. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,040/- (Rs.7,560/- minus Rs.2,520/-).

543. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,040/-x12x18= Rs.10,88,640/-.

544. The learned Tribunal has awarded a sum of Rs.25,000/- on account of funeral/burial expenses, Rs.1,00,000/- to proforma respondent No.3, on account of

consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

545. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

546. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,88,640/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.12,38,640/-.

547. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

548. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.11,02,600/- to Rs.12,38,640/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 586 of 2016

549. The present appeal has been preferred by the Insurance Company against the award dated 30.09.2016 passed by the learned Tribunal, in MAC Petition No. 195/2014, titled as 'Makhan versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.8,12,600/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioner-claimant, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers

covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

550. The petitioner, being husband of Smt. Sheena, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, has filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.12,00,000/-.

551. As per the claimant, the age of Smt. Sheena, at the time of her death, was 22 years of age. According to the claimant, she was homemaker, agriculturist and rearing milch cattle and her contribution towards her family has been pleaded as Rs.10,000/- per month.

552. The learned Tribunal has taken the age of Smt. Sheena, at the time of her death as 22 years, on the basis of copy of Parivar Register Ex.PW-8/C, in which, her year of birth of has been recorded as 1.9.1990. As such, the said findings do not require any interference, by this Court.

553. So far as the contribution towards the family by Smt. Sheena, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

554. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution

made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

555. Admittedly, Smt. Sheena was working in unorganized sector and her age is proved to be 22 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 40%, her monthly income comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/-).

556. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.9,334/- (Rs.14,000/- minus Rs.4,666/-).

557. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier to be applied, in the

present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.9,334/-x12 x 18 = Rs.20,16,144/-.

558. The learned Tribunal has awarded a sum of Rs.10,000/-, on account of funeral/burial expenses, Rs.25,000/-, on account of consortium. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

559. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

560. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.20,16,144/-
2. Loss of consortium	=	Rs.40,000/-
3. Loss of estate	=	Rs.15,000/-

4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.20,86,144/-.

561. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

562. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.8,12,600/- to Rs.20,86,144/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 604 of 2016

563. This appeal has been preferred by the Insurance Company against the award dated 19.09.2016 passed by the learned Tribunal, in MAC Petition No. 203/12, titled as ‘Babloo versus The Oriental Insurance Company & Another’, whereby, a sum of Rs.7,39,870/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioner-claimant, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the

Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

564. The petitioner, being son of Smt. Lambo, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, has filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

565. As per the claimant, the age of Smt. Lambo, at the time of her death, was 45 years of age. According to the claimants, she was house-wife, agriculturist and rearing milch cattle and her contribution towards her family has been pleaded as Rs.7,000/- per month, from all sources.

566. The learned Tribunal has taken the age of Smt. Lambo, at the time of her death as 41 years, on the basis of

postmortem report Ex.P-2. As such, the said findings do not require any interference, by this Court.

567. So far as the contribution towards the family by Smt. Lambo, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

568. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household,

that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

569. Admittedly, Smt. Lambo was working in unorganized sector and her age is proved to be 41 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 25% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 25%, her monthly income comes to Rs.12,500/- (Rs.10,000/- + Rs.2,500/-).

570. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/ 3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.8,334/- (Rs.12,500/- minus Rs.4,166/-).

571. Learned Tribunal has applied the multiplier of '14', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.8,334/-x12 x 14 = Rs.14,00,112/-.

572. The learned Tribunal has awarded a sum of Rs.10,000/-, on account of funeral expenses, Rs.25,000/-, on account of 'loss of affection', Rs.50,000/- on account of 'loss of estate' and Rs.50,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

573. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

574. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.14,00,112/-
2. Loss of consortium	=	Rs.40,000/-
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.14,70,112/-.

575. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

576. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.7,39,870/- to Rs.14,70,112/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 235 of 2016

577. This appeal has been preferred by the Insurance Company against the award dated 23.02.2016 passed by the learned Tribunal, in MACT Petition No. 362/2013, titled as ‘Chanco Ram & Another versus Oriental Insurance Company & Another’, whereby, a sum of Rs.9,29,800/-, along with interest, at the rate of 7.5% per annum, has been

awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

578. The petitioners, being husband and son of Smt. Kunto @ Kanta, who expired, in the accident, in question, having taken place, due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

579. As per the claimants, the age of Smt. Kunto @ Kanta, at the time of her death, was 41 years of age. According to the claimants, she was homemaker agriculturist and rearing milch cattle and her contribution

towards her family has been pleaded as Rs.15,000/- per month, from all sources.

580. The learned Tribunal has taken the age of Smt. Kunto @ Kanta, at the time of her death as 44 years, on the basis of copy of Parivar Register, Ex.P-A, in which, her year of birth has been mentioned as 1968. As such, the said findings, being based on the documentary evidence, do not require any interference, by this Court.

581. So far as the contribution towards the family by Smt. Kunto @ Kanta, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

582. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA

workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

583. Admittedly, Smt. Kunto @ Kanta was working in unorganized sector and her age is proved to be 44 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 25% increase is required to be given, towards future prospects, had she been

alive. Thus, by adding 25%, her monthly income comes to Rs.12,500/- (Rs.10,000/- + Rs.2,500/-).

584. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/ 3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs.8,334/- (Rs.12,500/- minus Rs.4,166/-).

585. Learned Tribunal has applied the multiplier of '14', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.8,334/-x12 x 14 = Rs.14,00,112/-.

586. The learned Tribunal has awarded a sum of Rs.25,000/-, on account of funeral expenses, Rs.1,00,000/-, to petitioner No.1, on account of 'consortium', Rs.1,00,000/- on account of 'loss of estate' and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held

entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

587. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

588. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.14,00,112/-
2. Loss of consortium	=	Rs.80,000/-
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.15,10,112/-.

589. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

590. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.10,30,600/- to Rs.15,10,112/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 236 of 2016

591. This appeal has been preferred by the Insurance Company against the award dated 21.03.2016 passed by the learned Tribunal, in MACT Petition No. 227/2012, titled as 'Kamal Kumar & others versus The Oriental Insurance Company & Another', whereby, a sum of Rs.10,59,400/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

592. The petitioners, being husband, son and daughter of Smt. Surekha, who expired, in the accident, in question, having taken place, due to the rash and negligent

driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

593. As per the claimants, Smt. Surekha, had sustained fatal injuries, in the accident, in question, and died. As per the claimants, her age, at the time of death, was 26 years of age. According to the claimants, she was homemaker, agriculturist and rearing milch cattle and her contribution towards her family has been pleaded, as Rs.9,000/- per month, from all sources.

594. The learned Tribunal has taken the age of Smt. Surekha, at the time of her death as 26 years, on the basis of postmortem report Ex.P-2. As such, the said findings, being based on the documentary evidence, do not require any interference, by this Court.

595. So far as the contribution towards the family by Smt. Surekha, is concerned, the learned Tribunal, has taken her contribution/earnings as ₹5400/- per month. The said findings are not sustainable in the eyes of law, as, the

Hon'ble Supreme Court in **Shishu Pal's** case supra, has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/- per month.

596. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be

taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

597. Admittedly, Smt. Surekha was working in unorganized sector and her age is proved to be 26 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects, had she been alive. Thus, by adding 40%, her monthly income comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/-).

598. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/ 3rd amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her established income comes to Rs.9,334/- (Rs.14,000/- minus Rs.4,666/-).

599. Learned Tribunal has applied the multiplier of '17', which is the appropriate multiplier to be applied, in the present case. As such, the said findings do not require any

interference by this Court. Thus, the loss of contribution comes to Rs.9,334/- x12x 17 = Rs.19,04,136/-.

600. The learned Tribunal has awarded a sum of Rs.25,000/-, on account of funeral expenses, Rs.1,00,000/-, to petitioner No.1, on account of 'consortium', Rs.1,00,000/- on account of 'loss of estate' and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

601. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

602. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.19,04,136/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-

4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.20,54,136/-.

603. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

604. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.10,59,400/- to Rs.20,54,136/-. with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 256 of 2016

605. This appeal has been preferred by the Insurance Company against the award dated 06.04.2016 passed by the learned Tribunal, in MACT Petition No. 179/12, titled as ‘Subhdra & Others versus Ravi Kant Bhardwaj & Another’, whereby, a sum of Rs.21,14,320/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been

fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

606. The petitioners, being widow, son and daughter of Shri Naresh Kumar, who expired, in the accident, in question, involving the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.25,00,000/-.

607. As per the claimants, Shri Naresh Kumar was working as Fitter and agriculturist. His monthly income has been pleaded as Rs.25,000/- from all sources. His age at the time of his death has been pleaded as 47 years.

608. The learned Tribunal has taken the age of Shri Naresh Kumar, at the time of his death, as 48 years, on the basis of the postmortem report Ex.PW-4/A. The said findings do not require any interference, by this Court.

609. So far as the income of Shri Naresh Kumar is concerned, as per the salary certificate Ex.PW-5/A, his salary has been proved to be Rs.17,204/- per month. However, the learned Tribunal has not given the increase, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

610. Admittedly, Naresh Kumar was working in government sector and his age is proved to be 48 years. In view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 30% increase is required to be given, towards future prospects, had he been alive. Thus, by adding 30%, his monthly income comes to Rs.22,365/- (Rs.17,204/- + Rs.5,161/-). As such, his annual income comes to Rs.2,68,380/- (Rs.22,365/- x 12). The income tax component is liable to be deducted from the said income.

611. The age of the deceased, at the time of accident was held to be 48 years. As per the income tax slab, applicable for the financial year 2012-13, income upto Rs.2,00,000/- was exempted. Thus, out of Rs.2,68,380/-, the amount of total taxable income comes to Rs.68,380/-

(Rs.2,68,380/- minus Rs.2,00,000/-). The said income falls within the tax slab of 10%. Thus, the tax component comes to Rs.6,838/-. The education cess @4% on the said amount of Rs.6,838/- is also liable to be deducted, which comes to Rs.274/-. Thus, the total tax component comes to Rs.7,112/-. Hence, the total established annual income of the deceased comes to Rs.2,68,380/- minus Rs.7,112/- = Rs.2,61,268/-.

612. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his contribution towards his family comes to Rs.1,74,179/- (Rs.2,61,268/- minus Rs.87,089/-).

613. Learned Tribunal has applied the multiplier of '13', which is the appropriate multiplier. Thus, the loss of contribution comes to Rs.1,74,179/-x13 = Rs.22,64,327/-.

614. The learned Tribunal has awarded a sum of Rs.25,000/- on account of funeral expenses, Rs.1,00,000/-

to petitioner No.1, on account of consortium, Rs.1,00,000/- towards 'loss of estate' and Rs.1,00,000/- towards 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

615. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

616. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs. 22,64,327/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.24,14,327/-.

617. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

618. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.21,14,320/- to Rs.24,14,327/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No.255 of 2016

619. This appeal has been preferred by the Insurance Company against the award dated 18.04.2016 passed by the learned Tribunal, in MACT Petition No. 9/13, titled as 'Bano @ Sharmkho & Others versus Ravi Kant Bhardwaj & Another', whereby, a sum of Rs.10,54,000/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers

covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

620. The petitioners, being widow, son and parents of Shri Mohd. Raffi, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.15,00,000/-.

621. As per the claimants, Shri Mohd Rafi had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 38 years and he was driver and agriculturist. His income has been pleaded to Rs.11,000/- per month, from all sources.

622. The learned Tribunal has taken the age of Shri Mohd. Radi, at the time of his death, as 38 years, on the basis of extract of Parivar Register Ex.PA, in which, his date of birth has been mentioned as 10.07.1974. As such, the

said findings, being based upon the documentary evidence, do not require any interference, by this Court.

623. So far as the income of Shri Mohd. Rafi, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

624. Admittedly, Shri Mohd. Rafi was working in unorganized sector and his age is proved to be as 38 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

625. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case

supra, and keeping in view the number of dependents, $1/4^{\text{th}}$ amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

626. Learned Tribunal has applied the multiplier of '15', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,670/-x12x15= Rs.10,20,600/-.

627. The learned Tribunal has awarded a sum of Rs.25,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

628. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is

entitled to the amount of compensation under the head 'loss of consortium'.

629. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,20,600/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.12,10,600/-.

630. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

631. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.10,54,000/- to Rs.12,10,600/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No.257 of 2016

632. The instant appeal has been preferred by the Insurance Company against the award dated 6.04.2016 passed by the learned Tribunal, in MAC Petition No. 159/12,

titled as 'Rekha & others versus Ravi Kant Bhardwaj & Others', whereby, a sum of Rs.11,99,800/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

633. The petitioners, being widow, parents and sister of Shri Surinder, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

634. As per the claimants, Shri Surender had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 25 years and he was mason and agriculturist. His monthly income has been pleaded to Rs.12,000/- per month from all sources.

635. The learned Tribunal has taken the age of Shri Surinder, at the time of his death, as 25 years, on the basis of extract of Parivar Register Ex.PW-1/B, in which, his date of birth has been mentioned as 01.09.1986. As such, the said findings, being based upon the documentary evidence, do not require any interference, by this Court.

636. So far as the income of Shri Surender, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the

mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

637. Admittedly, Shri Surender was working in unorganized sector and his age is proved to be as 25 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

638. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,670/- (Rs.7,560/- minus Rs.1,890/-).

639. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,670/-x12x18= Rs.12,24,720/-.

640. The learned Tribunal has awarded a sum of Rs.25,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No.1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

641. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

642. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.12,24,720/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/-x4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.14,14,720/-.

643. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

644. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.11,99,800/- to Rs.14,14,720/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No.260 of 2016

645. This appeal has been preferred by the Insurance Company against the award dated 11.04.2016 passed by the learned Tribunal, in MAC Petition No. 196/12, titled as 'Chain Lal & Another versus Ravi Kant Bhardwaj & Others', whereby, a sum of Rs.5,90,000/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the

extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

646. The petitioners, being parents of Shri Rintu, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

647. Petitioner No.1-Chain Lal, expired during the pendency of the *lis*, and his name was ordered to be deleted from the array of parties, vide order dated 14.09.2015.

648. As per the claimants, Shri Rintu had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 10 years.

649. Learned Tribunal has taken the age of Shri Rintu, at the time of his death, as 9 years, on the basis of

copy of Parivar Register Ex.PW-1/C, in which, his date of birth has been mentioned as 30.12.2003. The said findings do not require any interference, by this Court.

650. So far as the income of Shri Rintu is concerned, the learned Tribunal has taken the notional income of Shri Rintu, as Rs.30,000/-, per annum. The said findings do not require any interference by this Court.

651. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier, to be applied, in the present case. The said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.30,000/- x 18 = Rs.5,40,000/-.

652. The learned Tribunal has awarded a sum of Rs.50,000/- on account of 'funeral expenses'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

653. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram**'s case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

654. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.5,40,000/-
2. Loss of consortium	=	Rs.40,000/-
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.6,10,000/-.

655. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

656. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.5,90,000/- to Rs.6,10,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No.342 of 2016

657. This appeal has been preferred by the Insurance Company against the award dated 09.05.2016 passed by the learned Tribunal, in MACT Petition No. 201/12, titled as 'Doholo & Others versus Ravi Kant Bhardwaj & Others', wherein, a sum of Rs.5,65,000/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

658. The petitioners, being parents and sisters of Shri Rinku, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the

driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

659. As per the claimants, Shri Rinku had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 17 years and he was a student and doing agricultural work with his parents. His monthly income has been pleaded as Rs.10,000/-

660. Learned Tribunal has taken the age of Shri Rintu, at the time of his death, as 17 years, on the basis of copy of Birth Certificate Ex.PW-1/C, in which, his date of birth has been mentioned as 13.05.1995. The said findings, being based upon the documentary evidence, do not require any interference, by this Court.

661. So far as the income of Shri Rinku is concerned, the learned Tribunal has taken the notional income of Shri Rinku, as Rs.30,000/-, per annum. The said findings do not require any interference by this Court.

662. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier, to be applied, in the present case. The said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.30,000/- x 18 = Rs.5,40,000/-.

663. The learned Tribunal has awarded a sum of Rs.25,000/- on account of 'funeral expenses'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

664. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

665. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.5,40,000/-
2. Loss of consortium	=	Rs.1,60,000/-

		(Rs.40,000/-x4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000 /-
Total	=	Rs.7,30,000/-.

666. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

667. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.5,65,000/- to Rs.7,30,000/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No.479 of 2016

668. This appeal has been preferred by the Insurance Company against the award dated 10.06.2016 passed by the learned Tribunal, in MACT Petition No. 154/12, titled as ‘Rattan Chand & Others versus Ravi Kant Bhardwaj & Others’, whereby, a sum of Rs.10,02,600/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the

ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is liable to pay the highest compensation to the extent of the number of passengers covered under the policy, that is, $42 + 2 = 44$, by giving the right to recover the amount, which is beyond the compensation awarded to the persons covered by the policy, from the owner of the offending vehicle.

669. The petitioners, being parents and brother of Shri Kishore Kumar, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the driver of the offending vehicle, have filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.20,00,000/-.

670. As per the claimants, Shri Kishore Kumar had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 19 years and he was Plumber and Mason by profession. His income has been pleaded to Rs.10,000/- per month, from all sources.

671. The learned Tribunal has taken the age of Shri Kishore Kumar, at the time of his death, as 19 years, on the basis of extract of Parivar Register Ex.PB, in which, his date of birth has been mentioned as 20.09.1993. As such, the said findings do not require any interference, by this Court.

672. So far as the income of Shri Kishore Kumar, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

673. Admittedly, Shri Kishore Kumar was working in unorganized sector and his age is proved to be as 19 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by

adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

674. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,040/- (Rs.7,560/- minus Rs.2,520/-).

675. Learned Tribunal has applied the multiplier of '18', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.5,040/-x12x18= Rs.10,88,640/-.

676. The learned Tribunal has awarded a sum of Rs.25,000/- on account of funeral expenses, Rs.1,00,000/-, on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate',

Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

677. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram’s** case supra, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

678. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,88,640/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000/-x3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.12,38,640/-.

679. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

680. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs.10,02,600/- to Rs.12,38,640/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 330 of 2015

681. This appeal has been preferred by the Insurance Company against the award dated 11.06.2015 passed by the learned Tribunal, in MAC Petition No. 237/12, titled as 'Tek Chand & Others versus Ravi Kant Bhardwaj & another', wherein, a sum of Rs. 9,30,400/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

682. The said claim petition has been filed by the petitioners, being the husband and daughters of Smt. Veena, who, as per the claim petition, expired, on account of the fatal injuries sustained by her, in the accident, in question, having taken place due to the rash and negligent driving of the offending vehicle, by its driver.

683. According to the claimants, at the time of her death, the age of Smt. Veena was 41 years and she was a homemaker. However, as a homemaker, her income has

been pleaded to be Rs. 20,000/- per month, from all sources.

684. The learned Tribunal has taken the age of Smt. Veena, at the time of her death, as 41 years, on the basis of the stand taken by petitioner No. 1, in his affidavit, Ex. PW-1/A. Although, in the postmortem report, her age has been mentioned as 32 years, but, the learned Tribunal has rightly taken the age of Smt. Veena as 41 years, as pleaded by the petitioners, in the claim petition. The said findings do not require any interference by this Court.

685. So far as the income of Smt. Veena, during her lifetime is concerned, the learned Tribunal has taken her income as Rs.180/- per day, by applying the principle of MGNREGA and her income has been taken as Rs. 5,400/- per month. The said findings are not sustainable in the eyes of law, as, the Hon'ble Supreme Court in **Shishu Pal's** case (supra), has held that the value of the domestic care of a homemaker is liable to be taken as Rs.30,000/-, per month.

686. Since, the accident in question had taken place in the year 2012, and learned Tribunal has taken the income of a male, who had also expired, in the accident, in question, as Rs.5400/-, on the basis of the wages paid to MGNREGA workers, as such, this Court is of the view that in the light of the mandate of the Hon'ble Supreme Court in **Shishu Pal's** judgment (supra), ends of justice would be met, if the contribution of deceased, during her life time is taken as Rs. 10,000/-, per month. The earnings of a male have been taken as Rs.5400/- and adding some amount on account of multifarious activities done by the female in the household, that too, round the clock towards her family, her contribution cannot be considered lesser to the contribution made by a male. The contribution of a female, whose dependents are seeking the compensation, on account of her death, which had taken place in the year 2012, cannot be taken as Rs.30,000/-, as the same would amount to double enrichment, which is not permissible under the law.

687. Admittedly, Smt. Vimla Devi was working in unorganized sector and her age is above 40 years, as such,

in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case (supra), 25% increase is required to be given, towards her future prospects, had she been alive. Thus, by adding 25%, her monthly income comes to Rs.12,500/- (Rs.10,000/- + Rs. 2,500/-).

688. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case (supra), and keeping in view the number of dependents, 1/4th amount, on account of her personal expenses, is required to be deducted, had she been alive. Thus, her monthly income comes to Rs. 9,753/- (Rs. 12,500/- minus Rs. 3,125/-).

689. Learned Tribunal has applied the multiplier of '14', which is the appropriate multiplier to be applied, in the present case, in view of the ratio of law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case (supra). As such, the said findings do not require any interference by this Court. Thus, the loss of contribution comes to Rs.9,375/- x 12 x 14 = Rs. 15,75,000/-.

690. The learned Tribunal has awarded a sum of Rs.50,000/-, on account of funeral expenses, Rs.1,00,000/-, on account of consortium, to petitioner No. 1, and Rs.1,00,000/-, towards expectation of life. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case *supra*, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

691. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case *supra*, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

692. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.15,75,000/-
2. Loss of consortium	=	Rs.2,00,000/- Rs.40,000/- x 5)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.18,05,000/-

693. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

694. Consequently, the present appeal is partly allowed. The awarded amount is enhanced from Rs.9,30,400/- to Rs.18,05,000/-, however, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 258 of 2016

695. This appeal has been preferred by the Insurance Company against the award dated 23.04.2016 passed by the learned Tribunal, in MAC Petition No. 243/2012, titled as 'Sohnu & Ors. versus The Oriental Insurance Company & Another', whereby, a sum of Rs.7,62,400/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing

of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, by holding that the Insurance Company is bound to cover the awards of highest compensation to the extent of the number of passengers covered under the policy, i.e. $42 + 2 = 44$.

696. During the pendency of the present appeal, before this Court, on account of death of Smt. Sohnu-respondent No. 1 herein, her name has been ordered to be deleted from the array of respondents, vide order, dated 28.12.2016.

697. The claim petition was filed before the learned Tribunal by the petitioners-claimants, being widow, sons and daughters of Sh. Ghania, who expired, in the accident, in question, having taken place due to the rash and negligent driving of the offending vehicle, by its driver, seeking compensation of Rs.30,00,000/-.

698. As per the petitioners-claimants, the age of Sh. Ghania, at the time of his death, was 63 years of age.

According to the claimants, he was agriculturist, as well as, doing the work of mason and his contribution towards his family has been pleaded as Rs.18,000/- per month.

699. The learned Tribunal has taken the age of Sh. Ghania, at the time of his death as 58 years, on the basis of copy of Parivar Register Ex.P-1. As such, the said findings do not require any interference, by this Court.

700. So far as the income of Shri Ghania, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

701. Admittedly, Sh. Ghania was working in unorganized sector and his age is proved to be as 58 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 10% increase

is required to be given, towards future prospects. Thus, by adding 10%, his monthly income comes to Rs.5,940/- (Rs.5,400/-+ Rs.540/-).

702. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/4th amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.4,455/- (Rs.5,940/- minus Rs.1,485/-).

703. Learned Tribunal has applied the multiplier of '9', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss of contribution comes to Rs.4,455/- x 12 x 9 = Rs.4,81,140/-.

704. The learned Tribunal has awarded a sum of Rs.25,000/- on account of funeral expenses, Rs.1,00,000/- to petitioner No. 1, on account of consortium, Rs.1,00,000/- on account of 'loss of estate', and Rs.1,00,000/- on account of 'expectation of life'. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held

entitled to Rs.15,000/- under the head ‘loss of estate’, Rs.40,000/- under the head ‘loss of consortium’ and Rs.15,000/- under the head ‘funeral expenses’.

705. In view of the law laid down by the Hon’ble Supreme Court in **Nanu Ram**’s case supra, each claimant is entitled to the amount of compensation under the head ‘loss of consortium’.

706. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.4,81,140/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/- x 4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total		= Rs.6,71,140/-.

707. So far as the rate of interest is concerned, the learned Tribunal has awarded interest at the rate of 7.5%. The said findings do not require any interference by this Court.

708. Consequently, the present appeal is partly allowed, and the awarded amount is reduced from

Rs.7,62,400/- to Rs.6,71,140/-, with interest @ 7.5% per annum. The award passed by the learned MACT is modified accordingly.

FAO No. 175 of 2015

709. The Insurance Company has filed the present appeal, against the award dated 21.02.2015 passed by the learned Tribunal, in MAC Petition No. 174/2012, titled as 'Manoj Kumari and others versus Ravi Kant Bhardwaj & another', whereby, a sum of Rs.8,84,400/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioners-claimants, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

710. The petitioners-claimants have filed the above-noted claim petition, under Section 166 of the MV Act, seeking compensation on account of death of Shri Kewal Krishan, husband of petitioner No. 1, father of petitioners No. 2 & 3 and son of petitioner No. 4, in the accident in

question, having taken place, due to the rash and negligent driving of the offending vehicle, by its driver.

711. According to the petitioners-claimants, Shri Kewal Krishan had sustained fatal injuries, in the accident, in question, and died. At the time of his death, his age has been pleaded as 24 years and according to the petitioners-claimants, he was Purohit and agriculturist and was earning Rs. 15,000/- per month, from all sources.

712. The learned Tribunal has taken the age of Shri Kewal Krishan, at the time of his death, as 27 years, on the basis of extract of Parivar Register Ex.PW-1/D, in which, his date of birth has been mentioned as 09.05.1985. In this situation, the said findings do not require any interference, by this Court.

713. So far as the income of Shri Kewal Krishan, during his lifetime is concerned, the learned Tribunal has taken his income as Rs.180/- per day, by applying the principle of MGNREGA and his income has been taken as Rs.5,400/- per month. The said findings do not require any

interference by this Court. However, the learned Tribunal has not given the increase in the income of the deceased, as per the mandate of Hon'ble Supreme Court, in **Pranay Sethi's** case supra.

714. Admittedly, Shri Kewal Krishan was working in unorganized sector and his age is proved to be as 27 years, as such, in view of the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case supra, 40% increase is required to be given, towards future prospects. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

715. Out of the said amount, in view of the law laid down by the Hon'ble Supreme Court in **Sarla Verma's** case supra, and keeping in view the number of dependents, 1/3rd amount, on account of his personal expenses, is required to be deducted, had he been alive. Thus, his monthly income comes to Rs.5,040/- (Rs.7,560/- minus Rs.2,520/-).

716. Learned Tribunal has applied the multiplier of '17', which is the appropriate multiplier. The said findings do not require any interference, by this Court. Thus, the loss

of contribution comes to Rs.5,040/- x 12 x 17 = Rs.10,28,160/-.

717. The learned Tribunal has awarded a sum of Rs.50,000/- on account of funeral expenses, and Rs.1,00,000/- to petitioner No. 3, towards loss of consortium. The said findings, as per the mandate of the Hon'ble Supreme Court in **Pranay Sethi's** case supra, require interference by this Court. The petitioners are held entitled to Rs.15,000/- under the head 'loss of estate', Rs.40,000/- under the head 'loss of consortium' and Rs.15,000/- under the head 'funeral expenses'.

718. In view of the law laid down by the Hon'ble Supreme Court in **Nanu Ram's** case supra, each claimant is entitled to the amount of compensation under the head 'loss of consortium'.

719. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.10,28,160/-
2. Loss of consortium	=	Rs.1,60,000/- (Rs.40,000/- x 4)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-

Total = Rs.12,18,160/-.

720. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

721. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.8,84,400/- to Rs.12,18,160/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 169 of 2015

722. This appeal has been preferred by the Insurance Company against the award dated 21.02.2015 passed by the learned Tribunal, in MAC Petition No. 230/2012, titled as 'Mahinder versus Ravi Kant Bhardwaj & Another.', whereby, a sum of Rs.18,000/-, along with interest, at the rate of 9% per annum, has been awarded to the petitioner, from the

date of filing of the petition, till the realization thereof. The ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

723. The petitioner, who sustained injuries, in the accident, in question, involving the offending vehicle, has filed the above noted petition, before the learned Tribunal, seeking compensation of Rs.1,50,000/-.

724. As per the petitioner, he was about 35 years of age, at the time of accident and he was agriculturist and labourer. He has sustained injuries in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

725. According to the petitioner, he remained admitted in the Regional Hospital Chamba, w.e.f. 11.08.2012 to 13.08.2012 and spent more than a sum of Rs.55,000/-, on her treatment.

726. The learned Tribunal has awarded a sum of Rs.18,000/-, as compensation to the petitioner only under the heads 'attendant charges, 'special diet charges' and 'pain

and sufferings', whereas, the same is required to be given under the various heads.

727. The petitioner appeared in the witness-box as PW-1 and deposed as per the assertions as made in the claim petition. He has also tendered in evidence the discharge slip as Mark-A, which reveals that the petitioner remain admitted w.e.f. 11.08.2012 to 13.08.2012, in Regional Hospital, Chamba.

728. On the basis of the above documentary proof, this Court would proceed further to determine the amount of compensation, for which, the petitioner is entitled to, under the various heads: -

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERINGS:

729. The total period of hospitalization is held to be 3 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs. 2,000 x 3 = Rs. 6,000/-.

LOSS OF ENJOYMENT OF LIFE:

730. Keeping in view the period of hospitalization of 3 days, the petitioner might have taken at least 15 days for convalescence, and during that period, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs. 10,000/-, under the head 'loss of enjoyment of life'.

SHORTENED EXPECTATION OF LIFE:

731. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

732. Admittedly, there is no disability on the person of the petitioner, as such, no amount is required to be given under the head loss of earning capacity.

733. So far as the loss of earning is concerned, the petitioner has pleaded that he was earning Rs.15,000/-,

however, the said averments cannot be accepted as a gospel truth, without any substantive proof.

734. The learned Tribunal, in the case of death of a person, in the accident, has taken the income of a person working as labourer, as Rs.5,400/-, on the basis of the principle upon which wages are being paid for the MGNREGA workers, in the year 2012. Said principle is also liable to be applicable, in the present case.

735. Keeping in view the period of convalescence and hospitalization, which is held to be 18 days, it can be said that for a period of about one month, the petitioner could not contribute anything towards his family. As such, he is entitled to a sum of Rs.5,400/-, under this head. Ordered accordingly.

MEDICAL EXPENSES:

736. Since, the petitioner has remained admit in the hospital for a period of three days, he might have spent at least Rs.5,000/-, on purchase of medicines etc. As such, he is held entitled to Rs. 5,000/- under this head.

SPECIAL DIET AND ATTENDANT CHARGES:

737. The period of hospitalization and convalescence has been held to be 18 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 18 = Rs.3,600/-.

738. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

739. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.30,000/- (Rs.6,000/-+ Rs.10,000/-+ Rs.5,400/- + Rs.5,000/- + Rs.3,600/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

740. With these observations, the appeal is partly allowed by modifying the award passed by the learned

Tribunal and the amount of compensation is enhanced from Rs.18,000/- to Rs.30,000/-, along with interest @ 7.5% per annum.

FAO (MVA) No. 174 of 2015

741. This appeal has been filed by the Oriental Insurance Company, against the award dated 21.02.2015 passed by the learned Tribunal, in MACT Petition No.184 of 2012, titled as 'Sachu versus Ravikant Bhardwaj & Another'.

742. By way of the award dated 21.02.2015, the learned Tribunal has awarded a sum of Rs.18,000/-, along with interest, at the rate of 9%, per annum to the petitioner, from the date of filing of the petition till realization thereof, by fastening the ultimate liability to pay the amount of compensation upon the Insurance Company.

743. The petitioner, being minor, through his father, has filed the claim petition, under Section 166 of the MV Act, seeking compensation, on account of the injuries, sustained by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent

manner. According to the petitioner, he was 6 years of age, at the time of the accident and was a student.

744. The learned Tribunal has awarded the amount of compensation of Rs.18,000/-, under the heads attendant charges, special diet charges, and pain and suffering, whereas, the same is required to be assessed, under various heads, on the basis of the evidence, so adduced.

745. Father of the petitioner, in the present case, has stepped into the witnesses box, as PW-1 and filed his affidavit Ex.PW-1/A, which is based upon the assertions made by him in the petition. He has also placed on record copy of discharge slip, Mark-A, according to which, the petitioner was admitted on 11.08.2012 and discharged on 13.08.2012. Thus, the period of hospitalization is proved to be 3 days.

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

746. The total period of hospitalization is held to be 3 days. The said period must be traumatic and painful, for

which, the petitioner is held entitled to a sum of Rs.2,000 x 3=6,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

747. Keeping in view the period of hospitalization of 3 days, the petitioner might have taken at least 15 days for convalescence, and during that period, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.10,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

748. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

749. Keeping in view the age of the petitioner, at the time of the accident, in question, no amount is required to be given to the petitioner, under this head.

MEDICAL EXPENSES:

750. Since, the petitioner has remained admit in the hospital for a period of three days, he might have spent at least Rs.5,000/-, on purchase of medicines etc. As such, he is held entitled to Rs. 5,000/- under this head.

SPECIAL DIET AND ATTENDANT CHARGES:

751. The period of hospitalization and convalescence has been held to be 18 days, and during that period, the parents of the petitioner might have given the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 18 = Rs.3,600/-.

752. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

753. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.24,600/- (Rs.6,000/-+

Rs.10,000/-+ Rs.5,000/- + Rs.3,600/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

754. With these observations, the appeal is partly allowed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.18,000/- to Rs.24,600/-, along with interest @ 7.5% per annum.

FAO (MVA) No. 354 of 2015,

755. This appeal has been filed by the Oriental Insurance Company Limited, against the award dated 14.07.2015, passed by the learned Tribunal in MAC Petition No.18/2013, titled as Gulam Rasul vs. Oriental Insurance Company and Another.

756. By way of the award dated 14.07.2015, the learned Tribunal has allowed the claim petition and awarded a sum of ₹30,000/-, along with interest, at the rate of 9% per annum to the petitioner, by fastening the liability to pay the amount of compensation, upon the Insurance Company,

with the liberty to recover the same from the owner, which is in excess of its liability.

757. The petitioner has filed the claim petition, under Section 166 of the M.V. Act, before the learned Tribunal, seeking the amount of compensation, on account of the injuries, suffered by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

758. According to the petitioner, at the relevant time, his age was 35 years and was a labourer and selling milk. He has pleaded his income as Rs.10,000/-, per month. According to the petitioner, he remained hospitalized w.e.f. 11.08.2012 to 13.08.2012.

759. Learned Tribunal has awarded a sum of Rs.30,000/- under the heads medical expenses, attendant charges, special diet charges, and pain and suffering, whereas, the learned Tribunal is required to award the same under the various heads.

760. In such a situation, on the basis of the evidence adduced by the petitioner, the award amount is liable to be assessed, by this Court, so that the same could fall within the definition of 'just compensation'.

761. The petitioner, in the present case, apart from the oral testimony, has placed on record the discharge slip Ex.PW-1/A, according to which, he remained admit in Regional Hospital, Chamba, w.e.f. 11.08.2012 to 13.08.2012.

762. On the basis of the above evidence, the entitlement of the petitioner, for compensation, under various heads, is adjudicated, as under:

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

763. As per document Ex.PW-1/A, the period of hospitalization is held to be 3 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs.2,000x3=6,000/- under this head.

LOSS OF ENJOYMENT OF LIFE:

764. Keeping in view the period of hospitalization of 3 days, he might have taken at least 15 days for convalescence, and for a period of 18 days, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.10,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

765. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:**LOSS OF EARNING AND EARNING CAPACITY:**

766. Although, the petitioner has pleaded that he was earning Rs.10,000/-, however, the said statement cannot be accepted as a gospel truth, without any substantive proof. The learned Tribunal, in the case of death of a person, in the

accident in question, has taken the income of a person working as labourer, as Rs.5,400/-, on the basis of the principle upon which wages are being paid for the MGNREGA workers, in the year 2012. Said principle is also liable to be applicable, in the present case.

767. Keeping in view the period of convalescence and hospitalization, which is held to be 18 days, it can be said that for a period of about one month, the petitioner could not contribute anything towards his family. As such, he is entitled to a sum of Rs.5,400/-, under this head.

MEDICAL EXPENSES:

768. Since, the petitioner has remained admit in the hospital for a period of three days, he might have spent at least Rs.5,000/-, on purchase of medicines etc. As such, he is held entitled to Rs. 5,000/- under this head.

SPECIAL DIET AND ATTENDANT CHARGES:

769. The period of hospitalization and convalescence has been held to be 18 days, and during that period, the petitioner, might have taken the special diet and might have

required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 18 = Rs.3,600/-

770. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

771. Considering all these facts, the petitioner is held entitled to a sum of Rs.30,000/- (Rs.6,000/-+ Rs.10,000/-+ Rs.5,400/- + Rs.5,000/- + Rs.3,600/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

772. With these observations, the appeal is partly allowed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.18,000/- to Rs.30,000/-, along with interest @ 7.5% per annum.

FAO (MVA) No. 540 of 2017,

773. This appeal has been filed by the Oriental Insurance Company Limited, against the award dated 06.09.2017, passed by the learned Tribunal in MACT Petition No.1/2016, titled as Raj Kumar vs. The Oriental Insurance Company and Another.

774. By way of the award dated 06.09.2017, the learned Tribunal has allowed the claim petition and awarded a sum of ₹38,854/-, along with interest, at the rate of 7.5% per annum to the petitioner, by fastening the liability to pay the amount of compensation, upon the Insurance Company, with the liberty to recover the same from the owner, which is in excess of its liability.

775. The petitioner has filed the claim petition, under Section 166 of the M.V. Act, before the learned Tribunal, seeking the amount of compensation, on account of the injuries, suffered by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

776. According to the petitioner, at the relevant time, his age was 42 years and a mason by profession. He has pleaded his income as Rs.10,500/-, per month.

777. Learned Tribunal has awarded a sum of Rs.38,854/- under the head medical expenses, attendant charges, special diet charges, and pain and suffering, whereas the learned Tribunal is required to discuss the evidence produced by the petitioner under various heads.

778. In such situation, on the basis of the evidence adduced by the petitioner, the award amount is liable to be assessed, by this Court, so that the same could fall within the definition of 'just compensation'.

779. The petitioner, in the present case, has appeared in the witness box, as PW-4 and deposed as per the case, pleaded by him in the claim petition.

780. Petitioner has examined Dr. Prashant Rana, Medical Officer, Regional Hospital Chamba, as PW-1, who has deposed that on 11.08.2012, the petitioner was brought to the hospital with the history of a roadside accident and

remained admit till 18.08.2012. He was discharged, with a discharge slip, Ex.PW-1/A, issued by this witness, and was diagnosed with fracture of ribs (right side).

781. PW-3 Vijay Kumar, proved the copy of the bill, as Ex.PW-3/A.

782. On the basis of the above evidence, the entitlement of the petitioner, for compensation, under various heads, is adjudicated, as under:-

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

783. As per deposition of PW-1, the period of hospitalization is held to be 8 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs.2,000x8=16,000/- under this head.

LOSS OF ENJOYMENT OF LIFE:

784. Keeping in view the period of hospitalization of 8 days, he might have taken at least 2 months for convalescence, and as such, for a period of 68 days, he could

not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.50,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

785. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him, under this head.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

786. Although, the petitioner has pleaded that he was earning Rs.10,500/-, however, the said statement cannot be accepted as a gospel truth, without any substantive proof. The learned Tribunal, in the case of death of a person, in the accident, has taken the income of a person working as labourer, as Rs.5,400/-, on the basis of the principle upon

which wages are being paid for the MGNREGA workers, in the year 2012. Said principle is also liable to be applicable, in the present case. Keeping in view the period of convalescence and hospitalization, which is held to be 68 days, it can be said that for a period of about three months, the petitioner could not contribute anything towards his family. As such, he is entitled to a sum of Rs.5,400/- x 3 = Rs.16,200/-, under this head.

MEDICAL EXPENSES:

787. The petitioner might have spent at least Rs.10,000/-, on purchase of medicines etc. This has been done by this Court, considering the period of hospitalization of 8 days. Hence, he is held entitled to Rs. 10,000/- under this head.

SPECIAL DIET AND ATTENDANT CHARGES:

788. The period of hospitalization and convalescence has been held to be 68 days, and during that period, the petitioner, might have taken the special diet and might have

required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 68 = Rs.13,600/- under this head.

789. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.1,05,800/- (Rs.16,000/-+ Rs.50,000/-+ Rs.16,200/- + Rs.10,000/- + Rs. 13,600/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

790. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.38,854/- to Rs.1,05,800/-, along with interest @ 7.5% per annum.

FAO (MV) No.202 of 2016

791. This appeal has been filed by the Oriental Insurance Company Ltd., against the award dated 11.03.2016 passed by the learned Tribunal, in MACT Petition No.3 of 2012, titled as Balkishan vs. Ravikant and Another.

792. By way of the award dated 11.03.2016, the learned Tribunal has allowed the above-titled claim petition

and awarded a sum of Rs.18,000/-, along with interest, at the rate of 7.5% per annum, to the petitioner, by directing the Insurance Company to pay the amount of compensation and to recover the same from the owner, in excess of its liability.

793. The petitioner has filed the claim petition seeking the amount of compensation, on account of the injuries suffered by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

794. According to the petitioner, he is a labourer by profession. He has pleaded his income as Rs.11,000/-, per month.

795. The learned Tribunal has awarded the amount of Rs.18,000/- to the petitioner, under the head attendant charges, special diet, and pain and suffering, whereas the same is required to be assessed, on the basis of the evidence, so adduced, under various heads.

796. Petitioner, in the present case, has appeared in the witness box, as PW-2 and filed his affidavit Ex.PW-2/A, which is based upon the assertions made by him in the petition. He has also proved the discharge slip, Ex.P-1, according to which, the petitioner was admitted on 11.08.2012 and discharged on 13.08.2012. Thus the period of hospitalization is proved to be 3 days.

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

797. The total period of hospitalization is held to be 3 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs.2,000x3=6,000/-.

LOSS OF ENJOYMENT OF LIFE:

798. Keeping in view the period of hospitalization of 3 days, he might have taken at least 15 days for convalescence, and as such, during that period, he could not enjoy the life of a normal human being, for which, he is

entitled to a sum of Rs.10,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

799. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

800. Although, the petitioner has pleaded that he was earning Rs.11,000/-, however, the said statement cannot be accepted as a gospel truth, without any substantive proof. The learned Tribunal, in the case of death of a person, in the accident, has taken the income of a person working as labourer, as Rs.5,400/-, on the basis of the principle upon which wages are being paid for the MGNREGA workers, in the year 2012. Said principle is also liable to be applicable, in the present case. Keeping in view the period of

convalescence and hospitalization, which is held to be 18 days, it can be said that for one month, the petitioner could not contribute anything towards his family. As such, he is entitled to a sum of Rs.5,400/-, under this head.

MEDICAL EXPENSES:

801. The petitioner might have spent at least Rs.5,000/-, on purchase of medicines etc. This has been done by this Court, considering the period of hospitalization of 3 days.

SPECIAL DIET AND ATTENDANT CHARGES:

802. The period of hospitalization and convalescence has been held to be 18 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 18 = Rs.3,600/-

803. Considering all these facts, the petitioner is held to be entitled to a sum of Rs. 30,000/- (Rs.6,000/-+ Rs.10,000/- + Rs.5,400/- + Rs.5,000/- + Rs.3,600/-), along

with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

804. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.18,000/- to Rs.30,000/-, along with interest @ 7.5% per annum.

FAO (MVA) No. 237 of 2016

805. This appeal has been filed by the Oriental Insurance Company, against the award dated 23.03.2016 passed by the learned Tribunal, in MACT Petition No.41 of 2013, titled as Isrile versus Oriental Insurance Company & Another.

806. By way of the award dated 23.03.2016, the learned Tribunal has awarded a sum of Rs.18,000/-, along with interest, at the rate of 7.5%, per annum to the petitioner, from the date of filing of the petition till realization of the whole amount, by directing the Insurance Company to pay the amount, with liberty to recover the same, in excess of its liability, from the owner.

807. The petitioner has filed the claim petition, under Section 166 of the MV Act, seeking compensation, on account of the injuries, sustained by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner. According to the petitioner, he is a milkman by profession. He has pleaded his earning as Rs.9,000/- per month.

808. The learned Tribunal has awarded the amount of compensation of Rs.18,000/-, under the heads attendant charges, special diet, and pain and suffering, whereas, the same is required to be assessed, on the basis of the evidence, so adduced, under various heads.

809. Petitioner, in the present case, has appeared in the witness box, as PW-1 and filed his affidavit Ex.PW-1/A, which is based upon the assertions made by him in the petition. He has also proved the discharge slip, Ex.P-1, according to which, the petitioner was admitted on 11.08.2012 and discharged on 12.08.2012. Thus, the period of hospitalization is proved to be 2 days.

NON-PECUNIARY DAMAGES:**PAIN AND SUFFERING.**

810. The total period of hospitalization is held to be 2 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs.2,000 x 2= Rs. 4,000/-.

LOSS OF ENJOYMENT OF LIFE:

811. Keeping in view the period of hospitalization of 2 days, he might have taken at least 15 days for convalescence, and as such, during that period, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.10,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

812. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:**LOSS OF EARNING AND EARNING CAPACITY:**

813. Although, the petitioner has pleaded that he was earning Rs.9,000/-, however, the said statement cannot be accepted as a gospel truth, without any substantive proof. The learned Tribunal, in the case of death of a person, in the accident, has taken the income of a person working as labourer, as Rs.5,400/-, on the basis of the principle upon which wages are being paid for the MGNREGA workers, in the year 2012. Said principle is also liable to be applicable, in the present case. Keeping in view the period of convalescence and hospitalization, which is held to be 17 days, it can be said that for about one month, the petitioner could not contribute anything towards his family. As such, he is entitled to a sum of Rs.5,400/-, under this head.

MEDICAL EXPENSES:

814. The petitioner might have spent at least Rs.4,000/-, on purchase of medicines etc. This has been

done by this Court, considering the period of hospitalization of 2 days.

SPECIAL DIET AND ATTENDANT CHARGES:

815. The period of hospitalization and convalescence has been held to be 17 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 17 = Rs.3,400/-.

816. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.26,800/- (Rs.4,000/- + Rs.10,000/- + Rs.5400/- + Rs.4,000/- + Rs.3400/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

817. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.18,000/- to Rs.26,800/-, along with interest @ 7.5% per annum.

FAO (MVA) No. 234 of 2016

818. This appeal has been filed by the Oriental Insurance Company, against the award dated 18.03.2016 passed by the Court of learned Tribunal, in MACT Petition No.1 of 2013, titled as Davinder Kumar @ Ravinder versus Oriental Insurance Company & Another.

819. By way of the award dated 18.03.2016, the learned Tribunal has awarded a sum of Rs.18,000/-, along with interest, at the rate of 7.5%, per annum to the petitioner, from the date of filing of the petition till realization of the whole amount, by directing the Insurance Company to pay the amount, with liberty to recover the same, in excess of its liability, from the owner.

820. The petitioner has filed the claim petition under Section 166 of the MV Act, seeking compensation, on account of the injuries, sustained by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

821. According to the petitioner, he was 8 years of age, at the time of the accident. The learned Tribunal has awarded the amount of compensation of Rs.18,000/-, under the heads attendant charges, special diet, and pain and suffering, whereas, the same is required to be assessed, on the basis of the evidence, so adduced, under various heads.

822. Mother of the petitioner, in the present case, has appeared in the witness box, as PW-3 and filed her affidavit Ex.PW-3/A, which is based upon the assertions made by him in the petition.

823. PW-2 Smt. Roma has proved the discharge slip, Ex.PW-2/A, according to which, the petitioner was admitted on 11.08.2012 and discharged on 14.08.2012. Thus, the period of hospitalization is proved to be 4 days.

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

824. The total period of hospitalization is held to be 4 days. The said period must be traumatic and painful, for

which, the petitioner is held entitled to a sum of Rs.2,000x4=8,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

825. Keeping in view the period of hospitalization of 4 days, he might have taken at least 15 days for convalescence, and as such, during that period, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.10,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

826. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

827. Keeping in view the age of the petitioner, at the time of the accident, in question, no amount is required to be given to the petitioner, under this head.

MEDICAL EXPENSES:

828. The petitioner might have spent at least Rs.5,000/-, on purchase of medicines etc. This has been done by this Court, considering the period of hospitalization of 4 days.

SPECIAL DIET AND ATTENDANT CHARGES:

829. The period of hospitalization and convalescence has been held to be 19 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 19 = Rs.3,800/-.

830. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.26,800/- (Rs.8,000/-+ Rs.10,000/- + Rs.5,000/- + Rs.3800/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

831. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and

the amount of compensation is enhanced from Rs.18,000/- to Rs.26,800/-, along with interest @ 7.5% per annum.

FAO (MV) No. 293 of 2015

832. This appeal has been filed by the Oriental Insurance Company Ltd., against the award dated 14.05.2015 passed by the learned Tribunal, in MAC Petition No.187 of 2012, titled as Bindu versus Ravikant Bhardwaj & Another.

833. By way of the award dated 14.05.2015, the learned Tribunal has awarded a sum of Rs.18,000/-, along with interest, at the rate of 9%, per annum to the petitioner, from the date of filing of the petition till realization of the whole amount.

834. The petitioner has filed the claim petition, under Section 166 of the MV Act, seeking compensation, on account of the injuries, sustained by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

835. According to the petitioner, he is agriculturist and labourer, by profession. He has pleaded his earning as Rs.15,000/- per month, from all sources.

836. As per the petitioner, he remained admitted in the Regional Hospital, Chamba, for seven days and has spent Rs.70,000/- for his treatment.

837. The learned Tribunal has awarded a sum of Rs.18,000/-, as compensation to the petitioner, under the head attendant charges, special diet, and pain and suffering, whereas, the same is required to be assessed, on the basis of the evidence, so adduced, under various heads.

838. In order to ascertain the 'just compensation', for which, the petitioner is entitled to, in this case, the evidence of the petitioner is required to be discussed.

839. Apart from the oral evidence, the petitioner, has placed on record the copy of discharge slip, Ex.PA, according to which, the petitioner was admitted on 11.08.2012 and discharged on 17.08.2012. Thus, the period of hospitalization is proved to be 7 days.

NON-PECUNIARY DAMAGES:**PAIN AND SUFFERING.**

840. The total period of hospitalization is held to be 7 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs.2,000x7=14,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

841. Keeping in view the period of hospitalization of 7 days, he might have taken at least 20-23 days for convalescence, and as such, during that period, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.25,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

842. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:**LOSS OF EARNING AND EARNING CAPACITY:**

843. Although, the petitioner has pleaded that he was earning Rs.15,000/-, however, the said statement cannot be accepted as a gospel truth, without any substantive proof. The learned Tribunal, in the case of death of a person, in the accident, has taken the income of a person working as labourer, as Rs.5,400/-, on the basis of the principle upon which wages are being paid for the MGNREGA workers, in the year 2012. Said principle is also liable to be applicable, in the present case. Keeping in view the period of convalescence and hospitalization, which is held to be one month, it can be said that for about one month, the petitioner could not contribute anything towards his family. As such, he is entitled to a sum of Rs.5,400/-, under this head.

MEDICAL EXPENSES:

844. The petitioner might have spent at least Rs.10,000/-, on purchase of medicines etc. This has been

done by this Court, considering the period of hospitalization of 7 days.

SPECIAL DIET AND ATTENDANT CHARGES:

845. The period of hospitalization and convalescence has been held to be one month, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 30 = Rs.6,000/-.

846. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

847. Considering all these facts, the petitioner is held entitled to a sum of Rs. 60,400/- (Rs.14,000/-+ Rs.25,000/- + Rs.5,400/- + Rs.10,000/- + Rs.6,000/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

848. With these observations, the appeal is partly allowed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.18,000/- to Rs.30,000/-, along with interest @ 7.5% per annum.

FAO (MV) No. 325 of 2015

849. This appeal has been filed by the Oriental Insurance Company Ltd., against the award dated 11.06.2015 passed by the learned Tribunal, in MAC Petition No.200 of 2012, titled as Subhdra versus Ravi Kant & Another.

850. By way of the award dated 11.06.2015, the learned Tribunal has awarded a sum of Rs.39,258/-, along with interest, at the rate of 9%, per annum, to the petitioner, from the date of filing of the petition till realization thereof. The ultimate liability to pay the amount of compensation was fastened upon the Insurance Company.

851. The petitioner has filed the claim petition under Section 166 of the MV Act seeking compensation, on account

of the injuries, sustained by her, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

852. According to the petitioner, she is a homemaker and agriculturist. She has pleaded her earnings as Rs.10,000/- per month, from all sources.

853. As per the petitioner, she remained hospitalized in the Regional Hospital, Chamba, for six days and has spent more than a sum of Rs.1,00,000/- for her treatment.

854. The learned Tribunal has awarded a sum of Rs.39,258/-, as compensation to the petitioner, under the heads medical expenses, attendant charges, special diet, and pain and suffering, whereas, the same is required to be assessed, on the basis of the evidence, so adduced, under various heads.

855. In order to ascertain the 'just compensation', for which, the petitioner is entitled to, in this case, the evidence of the petitioner is required to be discussed.

856. In order to prove her case, apart from the oral evidence, the petitioner, has placed on record the copy of Parivar Register Ex.PW-1/B, Jamabandi Ex.PW-1/C, medical bills Ex.PW-1/D to Ex.PW-1/F.

857. PW-2 Smt. Roma Shabnam, has proved the discharge slip, Ex.PW-2/A, according to which, the petitioner was admitted on 11.08.2012 and discharged on 16.08.2012. Thus, the period of hospitalization is proved to be 6 days.

858. On the basis of the above documents, now, the entitlement of the petitioner is adjudicated as under:-

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

859. The total period of hospitalization is held to be 6 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs.2,000x6=12,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

860. Keeping in view the period of hospitalization of 6 days, he might have taken at least 20 days for convalescence, and as such, during that period, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.25,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

861. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:**LOSS OF EARNING AND EARNING CAPACITY:**

862. It is not the case of the petitioner that due to the injuries, suffered by her, in the accident, in question, she has become disabled, nor, any such evidence has been adduced by her before the learned Tribunal. As such, no

amount is required to be given under the head loss of earning capacity.

863. So far as the loss of earning is concerned, keeping in view the period of hospitalization, which is held to be 6 days and period of convalescence, which is held to be 20 days, it can be said that for a period of about one month, the petitioner could not contribute anything for her family. As such, she is held entitled to a sum of Rs.10,000/-.

MEDICAL EXPENSES:

864. The petitioner might have spent Rs.13,258/-, on account of medical expenses. The said findings, being based upon the documentary evidence, require no interference by this Court.

SPECIAL DIET AND ATTENDANT CHARGES:

865. The period of hospitalization and convalescence has been held to be 26 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 26 = Rs.5200/-, under this head.

866. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

867. Considering all these facts, the petitioner is held entitled to a sum of Rs.65,458/- (Rs.12,000/-+ Rs.25,000/-+ Rs.10,000/- + Rs.13,258/- + Rs.5200/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

868. With these observations, the appeal is partly allowed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.39,258/- to Rs.65,458/-, along with interest @ 7.5% per annum.

FAO (MV) No. 291 of 2015

869. This appeal has been filed by the Oriental Insurance Company Ltd., against the award dated 14.05.2015 passed by the learned Tribunal, in MAC Petition No.195 of

2012, titled as Bimla Devi versus Ravikant Bhardwaj & Another.

870. By way of the award dated 14.05.2015, the learned Tribunal has awarded a sum of Rs.25,000/-, along with interest, at the rate of 9%, per annum, to the petitioner, from the date of filing of the petition till realization thereof, by fastening the ultimate liability to pay the compensation upon the Insurance Company.

871. The petitioner has filed the claim petition under Section 166 of the MV Act, seeking compensation, on account of the injuries, sustained by her, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

872. According to the petitioner, she is a homemaker and agriculturist. She has pleaded her earnings as Rs.15,000/- per month, from all sources.

873. As per the petitioner, she remained hospitalized for about seventeen days and has spent more than a sum of Rs.2,00,000/-, for her treatment.

874. The learned Tribunal has awarded a sum of Rs.25,000/-, as compensation to the petitioner, under the heads, attendant charges, special diet charges, and pain and suffering, whereas, the same is required to be assessed, under various heads, on the basis of the evidence, so adduced, by the petitioner.

875. In order to ascertain the 'just compensation', for which, the petitioner is entitled to, in this case, the evidence of the petitioner is required to be discussed.

876. In order to prove her case, the petitioner appeared in the witness-box as PW-1, and has placed on record the copy of the discharge slips, Mark-A and Mark-B (Ex.P-2 & Ex.P-3), temperature pulse chart Mark-C (Ex.P-4) and admit Card Mark-D (Ex.P-5). According to discharge Card Ex.P-3, the petitioner was admitted Dr.RPGMC & Hospital, Kangra at Tanda on 11.8.2012 and discharged on 16.08.2012 and as per discharge Card Ex.P-2, the petitioner was admitted at Regional Hospital Chamba on 16.08.2012 and discharged on 27.08.2012. Thus, the period of hospitalization is proved to be 17 days.

877. On the basis of the above documents, now, the entitlement of the petitioner to the amount of compensation, is adjudicated, as under:-

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

878. The total period of hospitalization is held to be 17 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs.2,000x17=34,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

879. Keeping in view the period of hospitalization of 17 days, he might have taken at least two months, for convalescence, and as such, during that period, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.50,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

880. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the

petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

881. Admittedly, there is no disability on the person of the petitioner, as such, no amount is required to be given under the head loss of earning capacity.

882. So far as the loss of earning is concerned, keeping in view the period of hospitalization, which is held to be 17 days and period of convalescence, which is held to be 2 months, it can be said that for a period of about three months, the petitioner could not contribute anything for her family. As such, she is held entitled to a sum of Rs.10,000/- x 3 = Rs.30,000/-.

MEDICAL EXPENSES:

883. The petitioner might have spent at least Rs.50,000/-, on purchase of medicines etc. This has been done by this Court, considering the period of hospitalization of 17 days.

SPECIAL DIET AND ATTENDANT CHARGES:

884. The period of hospitalization and convalescence has been held to be 77 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 77 = Rs.15,400/-.

885. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

886. Considering all these facts, the petitioner is held entitled to a sum of Rs.1,79,400/- (Rs.34,000/-+ Rs.50,000/-+ Rs.30,000/- + Rs.50,000/- + Rs.15,400/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

887. With these observations, the appeal is partly allowed by modifying the award passed by the learned

Tribunal and the amount of compensation is enhanced from Rs.25,000/- to Rs.1,79,400/-, along with interest @ 7.5% per annum.

FAO (MV) No. 207 of 2015

888. This has been filed by the Oriental Insurance Company Ltd., against the award dated 07.03.2015 passed by the learned Tribunal, in MAC Petition No.2 of 2013, titled as Tulso versus Ravi Kant Bhardwaj & Another.

889. By way of the award dated 07.03.2015, the learned Tribunal has awarded a sum of Rs.22,000/-, along with interest, at the rate of 9%, per annum, to the petitioner, from the date of filing of the petition till realization thereof, by fastening the ultimate liability to pay the compensation upon the Insurance Company.

890. The petitioner has filed the claim petition, under Section 166 of the MV Act, seeking compensation, on account of the injuries, sustained by her, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

891. According to the petitioner, she is a homemaker and agriculturist. She has pleaded her earning as Rs.5,000/- per month, from all sources. As per the petitioner, she remained hospitalized in the Regional Hospital, Chamba, for seven days.

892. The learned Tribunal has awarded a sum of Rs.22,000/-, as compensation to the petitioner, under the heads, attendant charges, special diet charges, and pain and suffering, whereas, the same is required to be assessed, under various heads, on the basis of the evidence, so adduced, by the petitioner.

893. In order to ascertain the 'just compensation', for which, the petitioner is entitled to, in this case, the evidence of the petitioner is required to be taken into consideration.

894. The petitioner appeared in the witness-box as PW-3, and deposed, as per the assertions made by her in the claim petition. Learned counsel for the petitioner has tendered in evidence the discharge slip, Ex.PA, which reveals that the petitioner was admitted in Regional Hospital

Chamba on 11.08.2012 and discharged on 17.08.2012.

Thus, the period of hospitalization is proved to be 7 days.

895. On the basis of the above documents, now, the entitlement of the petitioner to the amount of compensation, is adjudicated as under:-

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

896. The total period of hospitalization is held to be 7 days. The said period must be traumatic and painful, for which, the petitioner is held entitled to a sum of Rs.2,000x7=14,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

897. Keeping in view the period of hospitalization of 7 days, he might have taken at least 20 days, for convalescence, and during that period, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.25,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

898. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:**LOSS OF EARNING AND EARNING CAPACITY:**

899. Admittedly, there is no disability on the person of the petitioner, as such, no amount is required to be given under the head loss of earning capacity.

900. So far as the loss of earning is concerned, keeping in view the period of hospitalization, which is held to be 7 days and period of convalescence, which is held to be 20 days, it can be said that for a period of about one month, the petitioner could not contribute anything for her family. As such, she is held entitled to a sum of Rs.10,000/-.

MEDICAL EXPENSES:

901. The petitioner might have spent at least Rs.10,000/-, on purchase of medicines etc. This has been

done by this Court, considering the period of hospitalization of 7 days.

SPECIAL DIET AND ATTENDANT CHARGES:

902. The period of hospitalization and convalescence has been held to be 27 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 27 = Rs.5,400/-.

903. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

904. Considering all these facts, the petitioner is held entitled to a sum of Rs.64,400/- (Rs.14,000/-+ Rs.25,000/-+ Rs.10,000/- + Rs.10,000/- + Rs.5400/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

905. With these observations, the appeal is partly allowed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.22,000/- to Rs.64,400/-, along with interest @ 7.5% per annum.

FAO No.587 of 2016

906. This appeal has been filed by the Oriental Insurance Company Ltd., against the award dated 19.09.2016, passed by the learned Tribunal in MACT No.402 of 2013, titled as 'Shaffi versus Oriental Insurance Company and Another', whereby the petition was allowed by granting a sum of ₹ 6,20,139/-, along with interest, at the rate of 7.5% per annum, from the date of filing of the petition till realization.

907. The ultimate liability to pay the amount of compensation was fastened upon the Insurance Company, with the liberty to recover the same in excess of its liability, i.e. 42+2=44, from the owner.

908. The petitioner has filed the claim petition, seeking compensation, on account of the injuries/disabilities sustained/suffered by him, in the accident, in question, involving the offending vehicle. The accident is stated to have taken place on account of the rash and negligent driving of the driver of the offending vehicle.

909. According to the petitioner, he was 30 years of age at the time of the accident and a laborer by profession. He has pleaded his income as Rs.10,000/- per month.

910. After the accident, the petitioner was taken to the Zonal Hospital, Chamba, from where, he was referred to Dr. Rajendra Prasad Government Medical College and Hospital, Kangra at Tanda, for further treatment, where, he remained admitted for about 16 days.

911. The petitioner further pleaded that due to the accident, in question, he has become disabled. He has pleaded his bright past and bleak future.

912. In order to assess the just compensation, it would be just and appropriate for this Court to discuss the evidence, so adduced, by the petitioner, in the present case.

913. Petitioner has examined Dr. Prashant Rana, as, PW-1, who proved the admission and discharge slip Ex.PW-1/A, deposing that the petitioner was admitted on 11.08.2012, and thereafter he was referred to Tanda Hospital. As per the discharge slip Ex.PW-1/A, Shaffi Mohammad used to attend Zonal Hospital, Chamba for follow-ups. The Doctor has also proved the disability certificate Ex. PW-1/B, according to which, the board found 50% disability on the person of Shaffi Mohammad, as, he suffered a fracture in his left arm. Lastly, the doctor deposed that the petitioner could not do manual work due to this disability. The disability is stated to be related to upper limb and the same could not create any hindrance, in the movement of the petitioner, but, according to the doctor, he could not sell milk, as he cannot use his right hand. The disability, as mentioned in the certificate is not in relation to the whole body.

914. Surinder Kumar PW-3, proved the cash memo/bills Ex. PW-3/A and 3/B.

915. PW-4 Anand Kishan proved documents Ex. PW-4/A and Ex. PW-4/B.

916. PW-5 Aman Mahajan, has proved the bill, Ex. PW-5/A.

917. Petitioner Shaffi stepped into the witness-box as PW-6 and has deposed on the similar lines, as per the assertions made in the claim petition. He also produced the bus tickets Ex. PW-6/B.

918. PW-8, Dr. Kulwinder Pal Singh, also treated Shaffi Mohammad vide prescription slip Mark-A.

919. PW-9 Pushpa Devi proved the bills Ex. PW-9/A and Ex. PW-/B issued by his driver, as, her vehicle was hired by the petitioner for attending the hospital.

920. PW-10 Dr. Bhanu Awasthi, Dr. Rajendra Prasad Government Medical College and Hospital, Tanda proved the discharge card Ex. PW-10/A.

921. As per this document, the petitioner was admitted on 12.08.2012 and discharged on 26.08.2012, brought with fractures of both bones of the right forearm (distal end) with carpal instability, and fracture of the clavicle. He was again admitted in the Hospital on 15.07.2014 to 24.07.2014. He was treated vide document Ex. PW-10/A.

922. On the basis of the above documents, now, this Court would proceed further to determine the amount of compensation, for which, the petitioner is entitled to, under the various heads: -

NON-PECUNIARY DAMAGES

PAIN AND SUFFERING:

923. As per the document Ex.PW-1/A, petitioner was firstly admitted in Regional Hospital, Chamba, from where, he was referred to DRPGMC Tanda, where he remain admitted w.e.f.12.08.2012 to 26.08.2012. Thus, the period of hospitalization is proved to be 15 days. Thereafter, as per the document Mark P-11, he was again admitted on 15.07.2014 and was discharged on 24.07.2014, as such, the

period of hospitalization on second occasion is proved to be 9 days.

924. Thus, the total period of hospitalization is proved to be 24 days, which certainly might have been traumatic and painful for the petitioner, for which, he is held entitled to a sum of Rs.2,000/-x 24 = Rs.48,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

925. Petitioner remained admitted in the hospital on two occasions, for about 24 days. Considering the period between his first and second admission, it can be safely said that he remained under treatment for almost two years. On account of disability, which, as per the certificate Ex.PW-1/C, is 50%, representing locomotor impaired, the petitioner could not enjoy the life of a normal human being. As such, this Court is of the view that a sum of Rs.4,00,000/-.

SHORTEN EXPECTATION OF LIFE:

926. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the

petitioner, in the accident, in question, the life span of the petitioner has been shortened.

LOSS OF EARNINGS AND EARNING CAPACITY:

927. The petitioner has pleaded that he was working as a labourer, as such, his income is required to be taken as ₹5,400/- per month, as, the learned Tribunal has taken the income of the person working as labourer, as Rs.180/- per day, by applying the principle of MGNREGA or say Rs. 5,400/- per month. The petitioner suffered permanent disability, as such, some amount keeping in view his age is required to be added, in his monthly income to assess the loss of earning capacity. In this regard, it is apt to rely upon the decision the Hon'ble Apex Court in **Govind Yadav versus The New India Assurance Co. Ltd.**, reported in 2012 ACJ 28 (SC), relevant paras-12 to 15 of the judgment of as reproduced, as under:

12. In Reshma Kumari v. Madan Mohan (2009) 13 SCC 422, this Court reiterated that the compensation awarded under the Act should be just and also identified the factors which should be kept in mind while determining the amount of compensation. The relevant portions of the judgment are extracted below:

"The compensation which is required to be determined must be just. While the claimants are required to be

compensated for the loss of their dependency, the same should not be considered to be a windfall. Unjust enrichment should be discouraged. This Court cannot also lose sight of the fact that in given cases, as for example death of the only son to a mother, she can never be compensated in monetary terms. The question as to the methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect; he might have become eligible to promotion immediately; there might have been chances of an immediate pay revision, whereas in another (sic situation) the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote. It is, therefore, difficult for any court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of hypotheses or guess work may be inevitable. That may be so.

In the Indian context several other factors should be taken into consideration including education of the dependants and the nature of job. In the wake of changed societal conditions and global scenario, future prospects may have to be taken into consideration not only having regard to the status of the employee, his educational qualification; his past performance but also other relevant factors, namely, the higher salaries and perks which are being offered by the private companies these days. In fact while determining the multiplicand this Court in *Oriental Insurance Co. Ltd. v. Jas huben* held that even dearness allowance and perks with regard thereto from which the family would have derived monthly benefit, must be taken into consideration.

One of the incidental issues which has also to be taken into consideration is inflation. Is the practice of taking inflation into consideration wholly incorrect? Unfortunately, unlike other developed countries in India there has been no scientific study. It is expected that with the rising inflation the rate of interest would go up. In India it does not happen. It, therefore, may be a relevant factor which may be taken into consideration

for determining the actual ground reality. No hard-and-fast rule, however, can be laid down therefor."

(emphasis supplied)

13. In *Arvind Kumar Mishra v. New India Assurance Company Limited* (2010) 10 SCC 254, the Court considered the plea for enhancement of compensation made by the appellant, who was a student of final year of engineering and had suffered 70% disablement in a motor accident. After noticing factual matrix of the case, the Court observed:

"We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation. The whole idea is to put the claimant in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered."

(emphasis supplied)

14. In *Raj Kumar v. Ajay Kumar* (2011) 1 SCC 343, the Court considered some of the precedents and held:

"The provision of the Motor Vehicles Act, 1988 ("the Act", for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or the Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned."

The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life."

(emphasis supplied)

15. In our view, the principles laid down in *Arvind Kumar Mishra v. New India Assurance Company Ltd.* (supra) and *Raj Kumar v. Ajay Kumar* (supra) must be followed by all the Tribunals and the High Courts in determining the quantum of compensation payable to the victims of accident, who are disabled either permanently or temporarily. If the victim of

the accident suffers permanent disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss of earning and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident.

928. Similar view has again been taken by the Hon'ble Supreme Court in the case titled as, **Sidram versus Divisional Manager, United India Insurance Company Limited & anr.**, reported in (2023) 3 Supreme Court Cases

439. Relevant paragraphs 29 to 40 of the judgment are reproduced as under:

29. *The process of determining the compensation by the court is essentially a very difficult task and can never be an exact science. Perfect compensation is hardly possible, more so in claims of injury and disability. As rightly pointed out in H. West & Son Ltd. v. Shephard, 1958-65 ACJ 504 (HL, England):*

"...money cannot renew a physical frame that has been battered."

30. *The principle consistently followed by this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident, with other compensatory directions for loss of amenities and other payments. These general principles have been stated and reiterated in several decisions. [Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683.]*

31. *It is now a well settled position of law that even in cases of permanent disablement incurred as a result of a motor-accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects as well. We have come across many orders of different tribunals and unfortunately affirmed by different High Courts, taking the view that the claimant is not entitled to compensation for future prospects in accident cases involving serious injuries resulting in permanent*

disablement. That is not a correct position of law. There is no justification to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading is illogical because it denies altogether the possibility of the living victim progressing further in life in accident cases – and admits such possibility of future prospects, in case of the victim's death.

32. This Court has emphasised time and again that “just compensation” should include all elements that would go to place the victim in as near a position as she or he was in, before the occurrence of the accident. Whilst no amount of money or other material compensation can erase the trauma, pain and suffering that a victim undergoes after a serious accident, (or replace the loss of a loved one), monetary compensation is the manner known to law, whereby society assures some measure of restitution to those who survive, and the victims who have to face their lives.

33. In *Santosh Devi v. National Insurance Company Limited and Others*, (2012) 6 SCC 421, this Court held that:

“14. We find it extremely difficult to fathom any rationale for the observation made in paragraph 24 of the judgment in *Sarla Verma* case [*Sarla Verma v. DTC*, (2009) 6 SCC 121] that where the deceased was self-employed or was on a fixed salary without provision for annual increment, etc., the Courts will usually take only the actual income at the time of death and a departure from this rule should be made only in rare and exceptional cases involving special circumstances. In our view, it will be nave to say that the wages or total emoluments/income of a person who is self-employed or who is employed on a fixed salary without provision for annual increment, etc., would remain the same throughout his life.

15. The rise in the cost of living affects everyone across the board. It does not make any distinction between rich and poor.

As a matter of fact, the effect of rise in prices which directly impacts the cost of living is minimal on the rich and maximum on those who are self-employed or who get fixed income/emoluments. They are the worst affected people. Therefore, they put in extra efforts to

generate additional income necessary for sustaining their families.

16. The salaries of those employed under the Central and State Governments and their agencies/instrumentalities have been revised from time to time to provide a cushion against the rising prices and provisions have been made for providing security to the families of the deceased employees. The salaries of those employed in private sectors have also increased manifold. Till about two decades ago, nobody could have imagined that salary of Class IV employee of the Government would be in five figures and total emoluments of those in higher echelons of service will cross the figure of rupees one lakh.

17. Although the wages/income of those employed in unorganised sectors has not registered a corresponding increase and has not kept pace with the increase in the salaries of the government employees and those employed in private sectors, but it cannot be denied that there has been incremental enhancement in the income of those who are self-employed and even those engaged on daily basis, monthly basis or even seasonal basis. We can take judicial notice of the fact that with a view to meet the challenges posed by high cost of living, the persons falling in the latter category periodically increase the cost of their labour. In this context, it may be useful to give an example of a tailor who earns his livelihood by stitching cloths. If the cost of living increases and the prices of essentials go up, it is but natural for him to increase the cost of his labour. So will be the cases of ordinary skilled and unskilled labour, like, barber, blacksmith, cobbler, mason etc.

18. Therefore, we do not think that while making the observations in the last three lines of para 24 of *Sarla Verma* [*Sarla Verma v. DTC*, (2009) 6 SCC 121] judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation.”

34. In *Jagdish v. Mohan and Others*, (2018) 4 SCC 571, the victim, a carpenter, suffered permanent disablement, and his claim for compensation including for loss of future prospects was considered by a three-Judge Bench which included, incidentally, the judges who had decided *National Insurance Company* (supra). This Court held that:

“13. In the judgment of the Constitution Bench in *Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi]*, (2017) 16 SCC 680, this Court has held that the benefit of future prospects should not be confined only to those who have a permanent job and would extend to self-employed individuals. In the case of a self-employed person, an addition of 40% of the established income should be made where the age of the victim at the time of the accident was below 40 years. Hence, in the present case, the appellant would be entitled to an enhancement of Rs. 2400 towards loss of future prospects.

14. In making the computation in the present case, the court must be mindful of the fact that the appellant has suffered a serious disability in which he has suffered a loss of the use of both his hands. For a person engaged in manual activities, it requires no stretch of imagination to understand that a loss of hands is a complete deprivation of the ability to earn. Nothing—at least in the facts of this case—can restore lost hands. But the measure of compensation must reflect a genuine attempt of the law to restore the dignity of the being. Our yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. If it does, as it must, it must provide a realistic recompense for the pain of loss and the trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights, they constitute entitlements under law. Our conversations about law must shift from a paternalistic subordination of the individual to an assertion of enforceable rights as intrinsic to human dignity.

15. The Tribunal has noted that the appellant is unable to even eat or to attend to a visit to the toilet without the assistance of an attendant. In this background, it would be a denial of justice to compute the disability at 90%. The disability is indeed total.

Having regard to the age of the appellant, the Tribunal applied a multiplier of 18. In the circumstances, the compensation payable to the appellant on account of the loss of income, including future prospects, would be Rs 18,14,400. In addition to this amount, the appellant should be granted an amount of Rs 2 lakhs on account of pain, suffering and loss of amenities. The amount awarded by the Tribunal towards medical expenses (Rs 98,908); for extra nourishment (Rs 25,000) and for attendant's expenses (Rs 1 lakh) is maintained. The Tribunal has declined to award any amount towards future treatment. The appellant should be allowed an amount of Rs 3 lakhs towards future medical expenses. The appellant is thus awarded a total sum of Rs 25,38,308 by way of compensation. The appellant would be entitled to interest at the rate of 9% p.a. on the compensation from the date of the filing of the claim petition. The liability to pay compensation has been fastened by the Tribunal and by the High Court on the insurer, owner and driver jointly and severally which is affirmed. The amount shall be deposited before the Tribunal within a period of 6 weeks from today and shall be paid over to the appellant upon proper identification."

35. The case of *Parminder Singh v. New India Assurance Company Limited and Others*, (2019) 7 SCC 217, involved an accident victim, who underwent surgery for hemiplegia (weakness of one half of the body on the left side; in this case, caused by an accident). According to the treating medic, the victim could not work as a labourer or perform any agricultural work, or work as a driver (as he was wont to); the assessment of his disability was at 75%, and of a permanent nature. The Court held that:

"5.1. The appellant has however, produced an affidavit by his employer in this Court. As per the said affidavit, the appellant was earning Rs 10,000 p.m. at the time of the accident. 5.2. On the basis of the affidavit filed by the employer of the appellant, we accept that the income of the appellant was Rs 10,000 p.m. at the time of the accident, for the purpose of computing the compensation payable to him.

5.3. Taking the income of the appellant as Rs 10,000 p.m., with future prospects @ 50% as awarded by the High Court, the total income of the appellant would come to Rs 15,000 p.m. 5.4. The appellant was 23

years old at the time when the accident occurred. Applying the multiplier of 18, the loss of future earnings suffered by the appellant would work out to Rs $15,000 \times 12 \times 18 = \text{Rs } 32,40,000$.

5.7. In *K. Suresh v. New India Assurance Co. Ltd.* (2012) 12 SCC 274, this Court held that: (SCC p. 279, para 10) “10. It is noteworthy to state that an adjudicating authority, while determining the quantum of compensation, has to keep in view the sufferings of the injured person which would include his inability to lead a full life, his incapacity to enjoy the normal amenities which he would have enjoyed but for the injuries and his ability to earn as much as he used to earn or could have earned. Hence, while computing compensation the approach of the Tribunal or a court has to be broad-based. Needless to say, it would involve some guesswork as there cannot be any mathematical exactitude or a precise formula to determine the quantum of compensation. In determination of compensation the fundamental criterion of “just compensation” should be inquired.”

5.9. In the present case, it is an admitted position that it is not possible for the appellant to get employed as a driver, or do any kind of manual labour, or engage in any agricultural operations whatsoever, for his sustenance. In such circumstances, the High Court has rightly assessed the appellant’s functional disability at 100% insofar as his loss of earning capacity is concerned. The appellant is, therefore, awarded Rs 32,40,000 towards loss of earning capacity.”

36. Yet later and in near past, in an accident case, which tragically left in its wake a young girl in a life-long state of paraplegia, this Court, in *Kajal v. Jagdish Chand and Others*, (2020) 4 SCC 413, reiterated that in addition to loss of earnings, compensation for future prospects too could be factored in, and observed that:

“14. In *Concord of India Insurance Co. Ltd. v. Nirmala Devi* [(1979) 4 SCC 365 : 1979 SCC (Cri) 996 : 1980

ACJ 55], this Court held : (SCC p. 366, para 2) “2. ... the determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales.”

15. In *R.D. Hattangadi v. Pest Control (India) (P) Ltd.* [(1995) 1 SCC 551 : 1995 SCC (Cri) 250], dealing with the different heads of compensation in injury cases this Court held thus:

“9. Broadly speaking while fixing the amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include: (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in the future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for loss of expectation of life i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”

16. In *Raj Kumar v. Ajay Kumar* [(2011) 1 SCC 343 : (2011) 1 SCC (Civ) 164 : (2011) 1 SCC (Cri) 1161], this Court laid down the heads under which compensation is to be awarded for personal injuries: (SCC p. 348, para 6) “6. The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)

(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.”

17. In *K. Suresh v. New India Assurance Co. Ltd.*, (2012) 12 SCC 274 : (2013) 2 SCC (Civ) 279 : (2013) 4 SCC (Cri) 638, this Court held as follows: (SCC p. 276, para 2) “2. ... There cannot be actual compensation for anguish of the heart or for mental tribulations. The quintessentiality lies in the pragmatic computation of the loss sustained which has to be in the realm of realistic approximation. Therefore, [Section 168](#) of the Motor Vehicles Act, 1988 (for brevity “the Act”) stipulates that there should be grant of “just compensation”. Thus, it becomes a challenge for a court of law to determine “just compensation” which is neither a bonanza nor a windfall, and simultaneously, should not be a pittance.

20. Both the courts below have held that since the girl was a young child of 12 years only notional income of

Rs 15,000 p.a. can be taken into consideration. We do not think this is a proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned much more than Rs 15,000 p.a. Each case has to be decided on its own evidence but taking notional income to be Rs 15,000 p.a. is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is Rs 4846 per month. In our opinion, this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be Rs 6784.40 per month i.e. 81,412.80 p.a. Applying the multiplier of 18, it works out to Rs 14,65,430.40, which is rounded off to Rs 14,66,000.”

37. In [Neerupam Mohan Mathur v. New India Assurance Company](#), (2013) 14 SCC 15, this Court considered the case of a victim, whose injury was assessed to 70% as loss of earning capacity for amputation of the arm; he was a postgraduate diploma holder in mechanical engineering, 32 years of age and earning about Rs. 3000/- per month. This Court held, approving the High Court's order (which had adopted the formula from the [Workmen's Compensation Act, 1923](#) to determine 70% for the purpose of deciding loss of earning capacity) as follows:

“12. In the present case, the percentage of permanent disability has not been expressed by the doctors with reference to the full body or with reference to a particular limb. However, it is not in dispute that the claimant suffered such a permanent disability as a result of injuries that he is not in a position of doing the specialised job of designing, refrigeration and air conditioning. For the said reason, the claimant's services were terminated by his employer but that does not mean that the claimant is not capable to do any other job including the desk job. Having qualification of BSc degree and postgraduate diploma in Mechanical Engineering, he can perform any job where application of mind is required than any physical work.

13. In view of the forgoing discussion we find no grounds made out to interfere with the finding of the High Court which determined the percentage of loss of earning capacity to 70% adopting the percentage of loss of earning capacity as per the [Workmen's](#)

Compensation Act. The total loss of income was thus rightly calculated by the High Court at Rs 6,04,800.”

38. However, making a monetary assessment of the injury suffered is the only process devised to compensate the victim. The process of making such an assessment, whether in case of death or injury, is provided in [Section 168](#) of the Act which requires that the tribunals constituted under the Act determine compensation, which appears to be ‘just’. Thus, the Act vests a wide discretion upon the tribunals. The decision of this Court in [Divisional Controller, KSRTC v. Mahadeva Shetty and Another](#), (2003) 7 SCC 197, needs mention here (para 15):

“15. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. Bodily injury is nothing but a deprivation which entitles the claimant to damages. The quantum of damages fixed should be in accordance with the injury. An injury may bring about many consequences like loss of earning capacity, loss of mental pleasure and many such consequential losses. A person becomes entitled to damages for mental and physical loss, his or her life may have been shortened or that he or she cannot enjoy life, which has been curtailed because of physical handicap. The normal expectation of life is impaired. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be “just” and it cannot be a bonanza; not a source of profit but the same should not be a pittance. The courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be “just” compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of “just” compensation which is the pivotal consideration. Though by use of the expression “which appears to it to be just”, a wide discretion is vested in the Tribunal, the determination

has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness.. ...”

39. This Court in *R.D. Hattangadi* (supra), posited certain principles to be followed:

“9.....while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial;

(iii) other material loss. So far non-pecuniary damages are concerned, they may include (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters, i.e., on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”

40. In the case of *Raj Kumar* (supra) this Court has explained in the following terms the general principles relating to compensation in injury cases and assessment of future loss of earnings due to permanent disability:

“General principles relating to compensation in injury cases

5. The provision of the [Motor Vehicles Act, 1988](#) (“the Act”, for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss

suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or the Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. [See *C.K. Subramania Iyer v. T. Kunhikuttan Nair* [(1969) 3 SCC 64 : AIR 1970 SC 376] , *R.D. Hattangadi v. Pest Control (India) (P) Ltd.* [(1995) 1 SCC 551 : 1995 SCC (Cri) 250] and *Baker v. Willoughby* [1970 AC 467 : (1970) 2 WLR 50 :

(1969) 3 All ER 1528 (HL)] .]

6. The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b),

(iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

7. Assessment of pecuniary damages under Item (i) and under Item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses—Item (iii)—depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages—Items (iv),

(v) and (vi)—involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the claimant. Decisions of this Court and the High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability—Item (ii) (a). We are concerned with that assessment in this case.

Assessment of future loss of earnings due to permanent disability

8. Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the

maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accident injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ("the Disabilities Act", for short). But if any of the disabilities enumerated in Section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.

9. The percentage of permanent disability is expressed by the doctors with reference to the whole body, or more often than not, with reference to a particular limb. When a disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45% permanent disability with reference to the whole body. The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body. If there is 60% permanent disability of the right hand and 80% permanent disability of left leg, it does not mean that the extent of permanent disability with reference to the whole body is 140% (that is 80% plus 60%). If different parts of the body have suffered different percentages of disabilities, the sum total thereof expressed in terms of the permanent disability with reference to the whole body cannot obviously exceed 100%.

10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.

11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in [Arvind Kumar Mishra v. New India Assurance Co. Ltd.](#) [(2010) 10 SCC 254 :

(2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and [Yadava Kumar v. National Insurance Co. Ltd.](#) [(2010) 10 SCC 341 :

(2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567])

12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:

(i) whether the disablement is permanent or temporary;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person. If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he

continues to earn or can continue to earn his livelihood.

14. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred per cent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of "loss of future earnings", if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not be found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity.

15. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.

16. The Tribunal should not be a silent spectator when medical evidence is tendered in regard to the injuries and their effect, in particular, the extent of permanent disability. Sections 168 and 169 of the Act make it evident that the Tribunal does not

function as a neutral umpire as in a civil suit, but as an active explorer and seeker of truth who is required to “hold an enquiry into the claim” for determining the “just compensation”. The Tribunal should therefore take an active role to ascertain the true and correct position so that it can assess the “just compensation”. While dealing with personal injury cases, the Tribunal should preferably equip itself with a medical dictionary and a handbook for evaluation of permanent physical impairment (for example, Manual for Evaluation of Permanent Physical Impairment for Orthopaedic Surgeons, prepared by American Academy of Orthopaedic Surgeons or its Indian equivalent or other authorised texts) for understanding the medical evidence and assessing the physical and functional disability. The Tribunal may also keep in view the [First Schedule to the Workmen's Compensation Act, 1923](#) which gives some indication about the extent of permanent disability in different types of injuries, in the case of workmen.

17. If a doctor giving evidence uses technical medical terms, the Tribunal should instruct him to state in addition, in simple non-medical terms, the nature and the effect of the injury. If a doctor gives evidence about the percentage of permanent disability, the Tribunal has to seek clarification as to whether such percentage of disability is the functional disability with reference to the whole body or whether it is only with reference to a limb. If the percentage of permanent disability is stated with reference to a limb, the Tribunal will have to seek the doctor's opinion as to whether it is possible to deduce the corresponding functional permanent disability with reference to the whole body and, if so, the percentage.

18. The Tribunal should also act with caution, if it proposed to accept the expert evidence of doctors who did not treat the injured but who give “ready to use” disability certificates, without proper medical assessment. There are several instances of unscrupulous doctors who without treating the injured, readily give liberal disability certificates to help the claimants. But where the disability certificates are given by duly constituted Medical Boards, they may be accepted subject to evidence

regarding the genuineness of such certificates. The Tribunal may invariably make it a point to require the evidence of the doctor who treated the injured or who assessed the permanent disability. Mere production of a disability certificate or discharge certificate will not be proof of the extent of disability stated therein unless the doctor who treated the claimant or who medically examined and assessed the extent of disability of the claimant, is tendered for cross-examination with reference to the certificate. If the Tribunal is not satisfied with the medical evidence produced by the claimant, it can constitute a Medical Board (from a panel maintained by it in consultation with reputed local hospitals/medical colleges) and refer the claimant to such Medical Board for assessment of the disability.

19. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”

929. Keeping in view the fact that the petitioner was working in unorganized sector and his age is proved to be below 40 years, 40% increase is required to be given, towards future prospects, had he not been suffered the permanent disability, in the accident, in question. Thus, by adding 40%, his monthly income comes to Rs.7,560/- (Rs.5,400/- + Rs.2,160/-).

930. Keeping in view the 50% disability (locomotor impaired), as, mentioned in the disability certificate Ex. PW-1/C, the disability is assessed to the extent of 30%, as functional disability. As such, the loss of earning capacity is adjudicated as Rs.2,268/- (Rs.7,560/- x 30%), per month. The petitioner is 31 years of age, as such, multiplier of 16 is required to be applied. Thus, the loss of earning capacity comes to Rs.4,35,456/-(Rs.2,268/-x 12x16).

931. Since, the petitioner has become permanently disabled, no separate amount is awarded under the head of 'loss of earnings'.

MEDICAL EXPENSES:

932. The learned Tribunal has awarded a sum of Rs.5,181/- under the head medical charges, the same being based on documentary evidence, does not require any interference.

TRANSPORTATION EXPENSES:

933. The learned Tribunal has awarded a sum of Rs 2,558/-, on account of transportation expenses, being based upon the documentary evidence, require no interference by this Court.

SPECIAL DIET AND ATTENDANT CHARGES:

934. Considering the fact that the period of hospitalization and treatment spread over two years, and during that period the petitioner might have taken special diet and also hired the service of an attendant, for which, the ends of justice would me, if a lump sum amount of Rs.1,00,000/- is awarded, under the head special diet and attendant charges.

935. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.9,91,195/- (Rs.48,000/- + Rs.4,00,000/- + Rs.4,35,456/- + Rs.5,181/- + Rs.2,558/- + Rs.1,00,000/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

936. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.6,20,139/- to Rs.9,91,195/-, along with interest @ 7.5% per annum.

FAO No.233 of 2016

937. This appeal has been filed by the Oriental Insurance Company Ltd., against the award dated 20.03.2016, passed by the learned Tribunal in MAC Petition No.20 of 2013 titled as 'Guddu versus The Oriental Insurance Company Ltd. and Another'.

938. By way of the award dated 20.03.2016, the Tribunal has allowed the claim petition filed by the petitioner, by awarding a sum of Rs.14,80,824/-, along with

interest, at the rate of 7.5% per annum, from the date of filing of the petition till realization of the amount, by fastening the liability to pay the amount of compensation upon the Insurance Company, with a right to recover the amount from the owner, which is beyond the passengers, covered under the policy i.e. $42+2=44$.

939. Petitioner Guddu has filed the claim petition, before the learned Tribunal, seeking the amount of compensation, on account of injury/disability sustained/suffered by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

940. According to the petitioner, at the time of the accident, he was 25 years of age and was working as labourer. He has pleaded his income as Rs.10,000/- per month. According to the petitioner, after the accident he was taken to Regional Hospital, Chamba, from where, he was referred to Indira Gandhi Medical College & Hospital, Shimla for further treatment. The petitioner remained admitted in

Regional Hospital Chamba, as well as, IGMSC Shimla for about 1½ month.

941. As per the petitioner, after discharge from the hospital, the petitioner is still under treatment. On his treatment, the petitioner was forced to spend a sum of Rs.3,50,000/-. The petitioner further pleaded that due to the injury suffered by him, he has become disabled.

942. In order to ascertain the 'just compensation', for which, the petitioner is entitled to, in this case, the evidence of the petitioner is required to be discussed.

943. After framing of the issues, petitioner Guddu filed his affidavit exhibit PW1/A, which is based upon the assertions, as made, in the petition. He has proved the disability certificate mark A, FIR mark B, discharge slip mark C, MRI report mark D, and medical bills mark G to mark H.

944. PW-3 Dr. Prashant Rana, being member of the disability board, has issued the certificate Exhibit PW-3/A and deposed that due to the injuries suffered by him, Guddu

cannot do anything, during his entire life time and he requires physiotherapy during his entire lifetime. He has denied that with the passage of time, disability, as mentioned, in the certificate, could be decreased. The said disability is stated to be 100%. This witness has further clarified that the 100% disability is in relation to the whole body.

945. PW-4 Chaman Singh, Junior Assistant, Regional Hospital Chamba, proved the receipt Ex.PW4/A.

946. In view of the above evidence, so discussed, now, this Court would proceed further to determine the amount of compensation, so that the same could fall within the definition of 'just compensation'.

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

947. After the accident, petitioner was admitted, in IGMC from 12.08.2012 to 25.09.2012. The period of hospitalization, thus, comes to 44 days, for which the

petitioner is held entitled for a sum of Rs.2,000/-x44-
Rs.88,000/-.

LOSS OF ENJOYMENT OF LIFE

948. As per the disability certificate Ex.PW3/A, the petitioner became 100% disabled, which is permanent in nature. Despite efforts made by the learned counsel appearing for the petitioner, nothing could be elicited from the person, who has proved the certificate, i.e., PW3 Dr. Prashant Rana, rather he has stated that the said disability is 100% qua whole body. Meaning thereby, the petitioner has been forced to live his remaining life confined to the bed. What to talk to enjoy the life of a normal human being, the cruel fate has snatched away the basic right, to live with dignity, from the petitioner, on account of the injuries/disability suffered by him, in the accident, in question. No amount of money could compensate the petitioner, for the agony, which, he would face, during his remaining life. At the time of accident, he was a young man of 26 years, having so many dreams to achieve, in the life. No amount of money can compensate the petitioner, but in

order to give solace to the petitioner, for his agony, in which he will live his rest of life, some guesswork is required to be done by this Court.

949. As such, this Court is of the view that a sum of Rs.40,00,000/- would be the appropriate amount of compensation, under the head of loss of enjoyment of life.

SHORTEN EXPECTATION OF LIFE:

950. As per the disability certificate Ex.PW-3/A, the petitioner has become 100% disabled and as such, even, for following his daily pursuits, he needs the services of an attendant. Certainly, due to the 100% disability, his life span has been shortened, for which, he is held entitled to a sum of Rs.10,00,000/-.

PECUNIARY DAMAGES:

LOSS OF EARNINGS AND EARNING CAPACITY

951. According to the petitioner, at the relevant time, he was earning Rs.10,000 per month, by working as a labourer and agriculturist. The learned Tribunal, in the case of death of a person, in the accident, has taken the income

as Rs.5,400/-, on the basis of the principle upon which wages are being paid for the MGNREGA workers, in the year 2012. Said principle is also liable to be applicable in the present case. However, keeping in view the age of the petitioner, 40% amount is liable to be added on account of his future prospects, had he not been suffered disability. Thus, by adding 40%, his income comes to Rs.5400 +Rs.2160=Rs.7560/-.

952. The petitioner is 100% disabled and the said disability is in relation to his entire body. Meaning thereby loss of earning capacity is also assessed as 100%, as, the person with 100% disability, needs the services of an attendant even to follow his daily pursuits, and he cannot be expected to earn his livelihood. As such, he is held entitled to a sum of Rs.7560x12x18=Rs.16,32,960/-, under the head loss of earning capacity. Since, the petitioner has become 100% disabled, as such, no separate amount is awarded under the head of loss of earnings.

MEDICAL EXPENSES:

953. The learned Tribunal has awarded a sum of Rs.15,224/-, the said finding require no interference, by this Court.

SPECIAL DIET AND ATTENDANT CHARGES:

954. The petitioner has become 100% disabled, meaning thereby, he will remain on bed for his rest of life and for following the daily pursuits, he will require the services of an attendant. As deposed by PW-3, the petitioner will require physiotherapy during his lifetime. As such, considering the expenses of physiotherapy and expenses for hiring the services of an attendant, which the petitioner has been forced to spend, this Court is of the view that at least a sum of Rs.20,00,000/-, is required to be given to the petitioner, under this head.

955. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.87,36,184/- (Rs.88,000/-+ Rs.40,00,000/-+ Rs.10,00,000/- + Rs.16,32,960/- + Rs.15,224/- + Rs.20,00,000/-), along with interest @ 7.5%

per annum, from the date of filing of the petition till its realization.

956. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.14,80,824/- to Rs.87,36,184/-, along with interest @ 7.5% per annum.

FAO (MV) No.411 of 2016

957. The instant appeal has been filed by the Oriental Insurance Company Ltd., against the award dated 16.05.2016 passed by the learned Tribunal in MACT Petition No.53/13, titled Ashwani Kumar versus Oriental Insurance Company and Another.

958. By way of the award dated 16.05.2016, the learned Tribunal, while allowing the petition, filed by the petitioner, awarded a sum of ₹14,06,000/-, along with interest, at the rate of 7.5% per annum, by fastening the liability to pay the amount upon the Insurance Company, by

giving a right to recover the same, in excess of its liability, from the owner.

959. The petitioner filed the said petition seeking the amount of compensation on account of injuries/disability sustained by him, in the accident, in question, involving the offending vehicle, which had taken place, due to the rash and negligent driving of the driver of the offending vehicle.

960. According to the petitioner, he was about 36 years of age, at the time of the accident and was a shopkeeper and agriculturist by profession; as such, he had pleaded his income as Rs.15,000/- per month.

961. As per the petitioner, after the accident, he was taken to the Zonal Hospital, Chamba, and Dr. Rajendra Prasad Government Medical College and Hospital, Tanda, where he remained admitted from 11.08.2012 to 13.09.2012, and thereafter visited hospitals for follow-up on various occasions. According to him, he suffered 45% permanent disability.

962. The petitioner proved the disability certificate Ex.PW-1/A, issued by the Board of Doctors, in which, Dr. Prashant Rana was one of the members, and also proved the discharge slip Ex.PW-1/B. In cross-examination, he admitted that the disability mentioned in Ex. PW-1/A, is in relation to the upper limb. Voluntarily stated that the upper limb includes the hand.

963. Petitioner, while appearing in the witnesses-box as PW-2, has deposed as per the averments made in the petition. In addition to this, he has also produced the discharge slip Ex.PW-2/B, X-ray Ex.PW-2/C, matriculation certificate Ex.PW-2/Dm extract of Parivar Register Ex.PW-2/E, Jamabandi Ex.PW-2/F.

964. PW-5 Krishan Chand, Dealing Assistant, CMO Office, Chamba, proved the license for running a grocery shop Ex.PW-5/A and Ex.PW-5/B, which was issued by the Food Safety Officer.

965. PW-6 Rakesh Kumar, has proved the copy of the receipts Ex.PW-6/A to Ex.PW-6/C, by virtue of which, he

took the petitioner to Tanda Hospital from Chamba, in his vehicle bearing number HP-01C-0163.

966. In view of the above evidence, so discussed, now, this Court would proceed further to determine the amount of compensation, for which, the petitioner is entitled to, so that the same could fall within the definition of 'just compensation'.

NON-PECUNIARY DAMAGES

PAIN AND SUFFERING:

967. As per the discharge certificate Ex.PW-1/B, the petitioner was referred to Dr.RPGMC Tanda on 11.08.2012 and remained admit at Dr. Rajendra Prasad Government Medical College and Hospital, Tanda from 12.08.2012 to 13.09.2012. Thus, the period of hospitalization comes to 32 days, for which, the petitioner is entitled to a sum of ₹2,000/- x 32= Rs.64,000/-.

LOSS OF ENJOYMENT OF LIFE:

968. The petitioner might have taken about four months for convalescence, considering the period of

hospitalization which is proved to be 32 days. The petitioner has suffered 45% disability, in the accident, in question. Meaning thereby, a young man of 36 years was forced to live the rest of his life along with disability, as such, it can be said that he could not enjoy the life of a normal human being, for which, the ends of justice would be met, if a sum of ₹5,00,000, is awarded, on account of loss of enjoyment of life.

LOSS OF EARNING AND EARNING CAPACITY:

969. The petitioner, in the present case, has proved the requisite certificate issued by the Food Safety and Standards Authority of India, under the provisions of Food Safety and Standards Act, from which it can be inferred that the petitioner was running a grocery shop and confectionery shop, and might be earning Rs.10,000/- per month.

970. In view of the decisions of the Hon'ble Supreme Court, in Govind Yadav's and Sidram's case supra, in the cases of permanent disability, the amount is liable to be added on account of future prospects, had the petitioner not been suffered the disability.

971. Keeping in view the age of the petitioner, which is proved to be below 40 years, 40% amount is liable to be added, as, he was working in the unorganized sector. By adding 40%, his income comes to ₹14,000/-. As such, his annual income, comes to Rs.14,000/- x 12=Rs.1,68,000/- per annum.

972. The disability of the petitioner is proved to be 45% locomotor impairs, and since, majority of activities, in a shop, are being done through hands, the said 45% disability can be said to be functional disability. As such, the loss of earning capacity is adjudicated as Rs.75,600/- (Rs.1,68,000/- x 45%), per annum. The petitioner is 38 years of age, as such, multiplier of 15 is required to be applied. Thus, the loss of earning capacity comes to Rs.11,34,000/-(Rs.75,600/-x 15).

MEDICAL EXPENSES:

973. The learned MACT has awarded a sum of ₹17,000/- on medical and transport expenses, which does not require any interference.

SPECIAL DIET AND ATTENDANT CHARGES:

974. Considering the period of convalescence and hospitalization, which comes to about five months, the petitioner might have taken special diet and required the services of attendants, during that period. As such, he is entitled to a sum of Rs.200/-x150= Rs.30,000/-.

975. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.17,45,000/- (Rs.64,000/-+ Rs.5,00,000/-+ Rs.11,34,000/- + Rs.17,000/- + Rs.30,000/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

976. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.14,06,000/- to Rs.17,45,000/-, along with interest @ 7.5% per annum.

FAO (MV) No.443 of 2016,

977. This appeal has been filed by Oriental Insurance Company Ltd., against the award dated 25.06.2016 passed

by the learned Tribunal in MACT Petition No.42 of 2013, titled as 'Aimna versus Oriental Insurance Company & Another'.

978. By way of award dated 25.06.2016, the learned Tribunal has allowed the claim petition and awarded a sum of Rs.16,000/-, along with interest, at the rate of 7.5% per annum, from the date of filing of the petition till realization of the whole amount, by fastening the liability to pay the amount upon the Insurance Company with a right to recover the same, in excess of its liability, from the owner.

979. The petitioner has filed the claim petition, under Section 166 of MV Act, seeking the amount of compensation, on account of the injuries, sustained by her, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

980. According to the petitioner, at the time of the accident, she was 32 years of age and is a homemaker and pleaded her contribution as Rs.6,000/- per month.

981. The learned Tribunal, in the present case, has awarded the amount of compensation, only under the heads of attendant charges, special diet, and pain and suffering.

982. The petitioner, apart from deposing her case, as pleaded in the petition, has also placed on record the discharge card Ex.RW-4/A, according to which, the petitioner remained admitted in Regional Hospital, Chamba, from 11.08.2012 to 13.08.2012. Her entitlement is now liable to be adjudicated, as under:

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

983. Period of hospitalization is held to be 3 days. The said period must be traumatic and painful, for which, the petitioner is held entitled for a sum of Rs.2,000 × 3 = Rs. 6,000/-.

LOSS OF ENJOYMENT OF LIFE:

984. Keeping in view the period of hospitalization of 3 days, she might have taken at least 10 days for convalescence, and for a period of about 13 days she could

not enjoy the life of a normal human being, for which, she is entitled to a sum of Rs.10,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

985. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

986. It is not the case of the petitioner that due to the injuries suffered by her in the accident, in question, she has become disabled, nor any evidence has been adduced by her before the learned Tribunal. As such, no amount is required to be given under the head loss of earning capacity.

987. So far as the loss of earning is concerned, the period of hospitalization is held to be 3 days and period of convalescence is held to be 15 days. As such, it can be said that for the said period of about 18 days, the petitioner could

not contribute anything for her family, for which, she is held entitled to a sum of Rs.10,000/-.

MEDICAL EXPENSES:

988. The petitioner might have spent at least Rs.5,000/-, on purchase of medicines etc. This has been done by the Court, considering the period of hospitalization of 3 days.

SPECIAL DIET AND ATTENDANT CHARGES:

989. The period of hospitalization and convalescence has been held to be 18 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 18 = Rs. 3,600/-

990. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.34,600/- (Rs.6,000/-+ Rs.10,000/-+ Rs.10,000/- + Rs.5,000/- + Rs.3600/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

991. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.16,000/- to Rs.34,600/-, along with interest @ 7.5% per annum.

FAO (MV) No.262 of 2016

992. The present appeal has been filed by the Oriental Insurance Company Ltd., against the order dated 21.04.2016, passed by the learned Tribunal in MACT Petition No.16 of 2013, titled 'Masum versus Oriental Insurance Company and Another'.

993. By way of the award dated 21.04.2016, the learned Tribunal has allowed the claim petition, filed by the petitioner, by awarding a sum of ₹18,000/-, along with interest, at the rate of 7.5% per annum, from the date of filing of the petition till realization of the whole amount, by fastening the liability to pay the amount upon the Insurance Company, with the liberty to recover the same, in excess of its liability, from the owner.

994. Petitioner Masum has filed the claim petition, under Section 166 of MV Act, seeking the amount of compensation on account of the injuries suffered by him, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

995. According to the petitioner, at the time of the accident, he was 18 years of age and was working as a labourer and selling milk, and was earning ₹10,000/- per month.

996. The learned Tribunal has awarded the amount of compensation to the petitioner, under the heads, attendant charges, special diet charges, as well as, pain and suffering. However, the learned Tribunal has not awarded any amount of compensation, under the different heads.

997. In such situation, on the basis of the evidence adduced by the petitioner, the award amount is liable to be assessed, by this Court, so that the same could fall within the definition of 'just compensation'.

998. The petitioner, apart from deposing her case, as pleaded in the petition, has also placed on record the discharge card Ex.RW-1/C, according to which, the petitioner remained admitted in Regional Hospital, Chamba, from 11.08.2012 to 13.08.2012. Her entitlement is now liable to be adjudicated, as under:

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

999. Period of hospitalization is held to be 3 days. The said period must be traumatic and painful, for which, the petitioner is held entitled for a sum of $\text{Rs.}2,000 \times 3 = \text{Rs.}6,000/-$, under this head.

LOSS OF ENJOYMENT OF LIFE:

1000. Keeping in view the period of hospitalization of 3 days, she might have taken at least 15 days for convalescence, and as such, for a period of about 18 days she could not enjoy the life of a normal human being, for which, she is entitled to a sum of $\text{Rs.}10,000/-$, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

1001. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened.

PECUNIARY DAMAGES:**LOSS OF EARNING AND EARNING CAPACITY:**

1002. It is not the case of the petitioner that due to the injuries suffered by her in the accident, in question, she has become disabled, nor any evidence has been adduced by her before the learned Tribunal. As such, no amount is required to be given under the head loss of earning capacity.

1003. So far as the loss of earning is concerned, the period of hospitalization is held to be 3 days and period of convalescence is held to be 15 days. As such, for the said period of about 18 days, the petitioner could not contribute anything for her family, for which, she is held entitled to a sum of Rs.10,000/-.

MEDICAL EXPENSES:

1004. The petitioner might have spent at least Rs.5,000/-, on purchase of medicines etc. This has been done by the Court, considering the period of hospitalization of 3 days.

SPECIAL DIET AND ATTENDANT CHARGES:

1005. The period of hospitalization and convalescence has been held to be 18 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 18 = Rs. 3,600/-.

1006. Considering all these facts, the petitioner is held entitled to a sum of Rs.34,600/- (Rs.6,000/-+ Rs.10,000/-+ Rs.10,000/- + Rs.5,000/- + Rs.3600/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

1007. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and

the amount of compensation is enhanced from Rs.18,000/- to Rs.34,600/-, along with interest @ 7.5% per annum.

FAO (MV) No.263 of 2016

1008. This appeal has been filed by the Oriental Insurance Company Ltd., against the award dated 12.04.2016 passed by the Court of learned Tribunal, in MACT Petition No.334 of 2013, titled Pooja versus Ravikant Bhardwaj and Another.

1009. By way of the award dated 12.04.2016, the learned Tribunal, while allowing the petition filed by the petitioner, has awarded a sum of ₹14,500/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the whole amount, by fastening the liability to pay the amount, upon the Insurance Company, with the liberty to recover the same, in excess of its liability, from the owner.

1010. The petitioner has filed the claim petition, under Section 166 of MV Act, seeking the amount of compensation, on account of the injuries sustained by her, in the accident,

in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

1011. According to the petitioner, at the time of the accident, she was about 20 years of age and was a student. The learned Tribunal has awarded a sum of ₹18,000/- in the present case.

1012. The learned Tribunal has awarded the amount of compensation to the petitioner, under the heads, attendant charges, special diet charges, as well as, pain and suffering. However, the learned Tribunal has not awarded any amount of compensation, under the different heads.

1013. In such situation, on the basis of the evidence adduced by the petitioner, the award amount is liable to be assessed, by this Court, so that the same could fall within the definition of 'just compensation'.

1014. Apart from petitioner, her father also appeared in the witness-box, as PW-2, and tendered his affidavit Ex.PW-2/A, which is based upon the assertions as made in the petition. Apart from this, he has also proved the discharge

card Ex.P-1, according to which, the petitioner remained admitted in Regional Hospital, Chamba, from 11.08.2012 to 13.08.2012. Her entitlement is now liable to be adjudicated, as under:

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

1015. Period of hospitalization is held to be 3 days. The said period must be traumatic and painful, for which, the petitioner is held entitled for a sum of $\text{Rs.}2,000 \times 3 = \text{Rs.}6,000/-$.

LOSS OF ENJOYMENT OF LIFE:

1016. Keeping in view the period of hospitalization of 3 days, she might have taken at least 15 days for convalescence, and as such, for a period of about 18 days she could not enjoy the life of a normal human being, for which, she is entitled to a sum of $\text{Rs.}10,000/-$, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

1017. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the

petitioner, in the accident, in question, the life span of the petitioner has been shortened.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

1018. It is not the case of the petitioner that due to the injuries suffered by her in the accident, in question, she has become disabled, nor any evidence has been adduced by her before the learned Tribunal. As such, no amount is required to be given under the head loss of earning capacity.

1019. So far as the loss of earning is concerned, the period of hospitalization is held to be 3 days and period of convalescence is held to be 15 days. As such, for the said period of about 18 days, the petitioner could not have contributed anything for her family, for which, she is held entitled to a sum of Rs.10,000/-.

MEDICAL EXPENSES:

1020. The petitioner might have spent at least Rs.5,000/-, on purchase of medicines etc. This has been

done by the Court, considering the period of hospitalization of 3 days.

SPECIAL DIET AND ATTENDANT CHARGES:

1021. The period of hospitalization and convalescence has been held to be 18 days, and during that period, the petitioner, might have taken the special diet and might have required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 18 = Rs. 3,600/-

1022. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.34,600/- (Rs.6,000/-+ Rs.10,000/-+ Rs.10,000/- + Rs.5,000/- + Rs.3,600/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

1023. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.14,500/- to Rs.34,600/-, along with interest @ 7.5% per annum.

FAO (MV) No.343 of 2016

1024. This has been filed by the Oriental Insurance Company Ltd., against the award dated 03.05.2016 passed by the learned Tribunal, in MACT Petition No.124 of 2014, titled 'Hitender Kumar versus Oriental Insurance Company & Another'.

1025. By way of the award dated 03.05.2016, while allowing the petition, filed by the petitioner, the learned Tribunal has awarded a sum of Rs.22,000/-, along with interest, at the rate of 7.5% per annum, from the date of filing of the petition till realization of the whole amount, by fastening the liability upon the Insurance Company, with the liberty to recover the same, in excess of its liability, from the owner.

1026. The petitioner has filed the claim petition, under Section 166 of MV Act, seeking compensation, on account of injury sustained by him in the accident, in question, involving the offending vehicle, which was being driven by its driver, in a rash and negligent manner.

1027. According to the petitioner, at the time of accident, he was about 17 years of age and was a student and agriculturist, by profession. He has pleaded his monthly income, as Rs.10,000/-.

1028. The learned Tribunal, in the present case, has awarded a sum of Rs.22,000/- to the petitioner, under the head attendant charges, special diet, and pain and suffering.

1029. In such a situation, on the basis of the evidence adduced by the petitioner, the award amount is liable to be assessed, by this Court, so that the same could fall within the definition of 'just compensation'.

1030. Apart from the oral deposition, the petitioner has also placed on record the copy of the discharge slip Ex.PW-1/A, according to which, the petitioner was admitted on 11.08.2012 and was discharged on 17.08.2012.

NON-PECUNIARY DAMAGES:

PAIN AND SUFFERING.

1031. Thus, the total period of hospitalization is held to be 7 days. The said period must be traumatic and painful,

for which, the petitioner is held entitled to a sum of Rs.2,000x7=14,000/-.

LOSS OF ENJOYMENT OF LIFE:

1032. Keeping in view the period of hospitalization of 7 days, he might have taken at least 20-23 days for convalescence, and for a period of one month, he could not enjoy the life of a normal human being, for which, he is entitled to a sum of Rs.25,000/-, under the head loss of enjoyment of life.

SHORTENED EXPECTATION OF LIFE:

1033. There is no evidence on the record to prove or to suggest that on account of injuries, suffered by the petitioner, in the accident, in question, the life span of the petitioner has been shortened. As such, no amount of compensation is required to be given to him.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY:

1034. Although, the petitioner has pleaded that he was earning Rs.10,000/-, however, the said statement cannot be

accepted as a gospel truth, without any substantive proof. The learned Tribunal, in the case of death of a person, in the accident, has taken the income of a person working as labourer, as Rs.5,400/-, on the basis of the principle upon which wages are being paid for the MGNREGA workers, in the year 2012. Said principle is also liable to be applicable, in the present case. Keeping in view the period of convalescence and hospitalization, which is held to be one month, the petitioner is entitled to a sum of Rs.5,400/-, under this head.

MEDICAL EXPENSES:

1035. The petitioner might have spent at least Rs.10,000/-, on purchase of medicines etc. This has been done by this Court, considering the period of hospitalization of 7 days.

SPECIAL DIET AND ATTENDANT CHARGES:

1036. The period of hospitalization and convalescence has been held to be one month, and during that period, the petitioner, might have taken the special diet and might have

required an attendant. As such, the petitioner is entitled to a sum of Rs.200/- x 30 = Rs.6,000/-

1037. Considering all these facts, the petitioner is held to be entitled to a sum of Rs.60,400/- (Rs.14,000/-+ Rs.25,000/-+ Rs.5,400/- + Rs.10,000/- + Rs.6,000/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization.

1038. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.22,000/- to Rs.60,400/-, along with interest @ 7.5% per annum.

FAO No. 478 of 2016

1039. This appeal has been filed by the Oriental Insurance Company Ltd., against the Award dated 14.06.2016, passed by learned Tribunal, in MACT Petition No.13 of 2013, titled as 'Koshalya Versus Ravi Kant Bhardwaj & Another'.

1040. By way of award dated 14.06.2016, the learned Tribunal has allowed the above titled claim petition, by

awarding a sum of Rs. 8,03,755/-, with interest at the rate of 7.5% per annum, from the date of filing of the petition till realization of the amount, by fastening the liability to pay the amount of compensation to the Insurance Company, with a right to recover the same in excess of its liability, from the Insurer/owner.

1041. The above titled claim petition has been filed by petitioner Koshalya, seeking the amount of compensation on account of the injuries/disability, sustained/suffered by her, in the accident, in question, involving the offending vehicle, being driven by its driver, in a rash and negligent manner.

1042. According to the petitioner, at the time of accident, she was 18 years of age and was earning Rs.5,000/- per month, from knitting & tailoring and helping in agricultural pursuits.

1043. According to the petitioner, after the accident, she was taken to Regional Hospital Chamba, for treatment. Thereafter, she was referred to Dr. Rajinder Parshad Medical College and Hospital, Tanda, from where, she remained admit for 28 days and after discharge from the hospital, she

had attended the Hospital for follow-up treatment, by hiring the taxi.

1044. The petitioner has also pleaded about her bright past and bleak future, by pleading that in the accident, in question, she had suffered 55% permanent disability.

1045. The learned Tribunal has awarded the amount of compensation, under different heads and now, this Court has to discuss the evidence adduced by the petitioner on record, to ascertain the fact, whether the amount of compensation, which, was awarded to the petitioner, falls within the definition of 'just compensation' or not.

1046. After framing of the issues, the petitioner has examined Dr. Prashant Rana, as PW-1, who has deposed that on 18.01.2014, he has examined the petitioner, for the purpose of ascertaining the disability and he issued the disability certificate Ext. PW-1/A, according to which, she has become 55% disabled and she cannot walk, without any help, during her remaining life. She cannot follow the agricultural pursuits. As per the cross-examination, petitioner sustained injuries over her backbone at D-12.

1047. The petitioner has also examined Sh. Jaram Singh, as PW-4, who is owner of vehicle No.HP01C-0924 and he has produced the documents Ext. PW4/A and Ext. PW4/B.

1048. PW-5 Smt. Chhelo Devi, has proved the document Ext. PW5/A.

1049. PW-6 Rajinder Kumar, proved the documents Ext. PW6/A and Ext. PW6/B. These documents are pertaining to the receipts issued for hiring the said vehicle by the petitioner.

1050. PW-7 Shri Sushil Kumar, Senior Assistant, Medical College, Tanda, proved the document Ext. PW7/B to Ext. PW7/S, including the discharge slip Ext. PW7/A.

1051. PW-8 Smt. Sushma Devi, proved the document Ext. PW8/A and Ext. PW8/B.

1052. In this factual background, now, this Court would proceed further to ascertain the amount of compensation, for which, the petitioner is entitled for.

NON-PECUNIARY DAMAGES

PAIN AND SUFFERINGS:

1053. As per the documents, placed on record, the period of hospitalization of the petitioner, is proved to be 22 days, as per Ext. PW7/A. As per this document, petitioner remained admitted with Dr. Rajendra Prasad Govt. Medical College & Hospital, Kangra at Tanda, from 12.08.2012 to 02.09.2012, meaning thereby, the period of hospitalization thus comes to 22 days.

1054. The period of hospitalization might be painful and traumatic for the petitioner being a young girl, aged about 18 years, for which she is held entitled for a sum of Rs. 2,000/- x 22 = Rs. 44,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

1055. The period of hospitalization is held to be 22 days and the petitioner has also suffered 55% disability. As such, she might have taken at least four months for convalescence.

1056. Considering the peculiar facts and circumstances of the case that the petitioner, a young girl of 18 years, had sustained the disability, which, as per the Doctor, is 55%,

she has to live her rest of the life along with this 55% permanent disability.

1057. Admittedly, this disability has also diminished the matrimonial chances of the petitioner. When a person was forced to live rest of her life with 55% disability, which, according to the Doctor, resulted into difficulty in walking, and her inability to perform agricultural pursuits, as such, under the head 'Loss of Enjoyment of Life', at least, Rs.5,00,000/-, is liable to be awarded to the petitioner. Ordered accordingly

SHORTEN EXPECTANCY OF LIFE:

1058. There is nothing on the record to demonstrate that on account of the injuries/disability, sustained/suffered by the petitioner, the life span of the petitioner has been shortened. As such, no amount of compensation is being awarded, under this head.

PECUNIARY DAMAGES

LOSS OF EARNING AND EARNING CAPACITY:

1059. The petitioner has pleaded that she was earning Rs. 5,000/- per month. Keeping in view the law laid down

by Hon'ble Supreme Court in **Shishu Pal's case**, in which the Hon'ble Supreme Court, has taken into consideration the multifarious activities done by homemaker and contribution of female as Rs. 30,000/- per month. The decision in **Shishu Pal's** case, has rendered by the Hon'ble Supreme Court in the year 2026 and considering the fact that accident in question had taken place in the year 2012, as such, it would be just and appropriate for this Court to assess the contribution of a young girl, who use to help her parents in daily pursuits, her contribution is assessed as Rs. 10,000/- per month.

1060. In view of the decisions of the Hon'ble Supreme Court, in **Govind Yadav's** and **Sidram's** case supra, in the cases of permanent disability, the amount is liable to be added on account of future prospects, had the petitioner not been suffered the disability.

1061. Keeping in view the age of the petitioner, and at the time of accident, she was working in unorganized sector, 40% amount has to be added, on account of her future prospects.

1062. Thus, her contribution towards her family comes to Rs. 10,000/- + 4,000/- (40%) = Rs. 14,000/-. As per the statement of Doctor, the petitioner has suffered 55% permanent disability. Considering the fact that the petitioner, a young girl, was a homemaker at the time of accident, as such, 55% disability can be said to be functional disability. As such, her monthly loss of earning capacity, thus comes to Rs. 14,000/- x 55% = Rs. 7,700/-.

1063. Considering the age of the petitioner, multiplier of '18' is required to be added, in the present case. Thus, the compensation, under the head 'Loss of Earning Capacity', is adjudicated as, Rs. 7,700/- x 12 x 18 = Rs. 16,63,200/-.

1064. So far as the 'loss of earning' is concerned, considering the period of hospitalization and period of convalescence, the petitioner could not contribute for her family, at least for about four months. Thus, 'Loss of Earning' comes to Rs. 10,000/- x 4 = Rs. 40,000/-.

MEDICAL EXPENSES

1065. The learned Tribunal has awarded a sum of Rs.5,105/- under the head 'Medical Expenses'. The said

findings, being based upon the documentary evidence, do not require any interference, by this Court.

TRANSPORTATION EXPENSES

1066. On the basis of the documentary evidence, the learned Tribunal has awarded a sum of Rs.38,130/-, which does not require any interference.

SPECIAL DIET & ATTENDANT CHARGES

1067. Period of hospitalization and convalescence, is held to be four months. During that period, she might have taken special diet and the pro bono services rendered by her parents, during that period is liable to be compensated. As such, petitioner is held entitled to a sum of Rs. 200 x 120 = Rs. 24,000/-.

1068. Considering all these facts, the petitioner is held entitled to a sum of Rs. 44,000/- + Rs. 5,00,000/- + Rs. 16,63,200/- + Rs. 40,000/- + Rs. 5,105/- + Rs. 38,130/- + Rs. 24,000/- = Rs. 23,14,435/-.

1069. With these observations, the appeal is dismissed, by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from

Rs.8,03,755/- to Rs. 23,14,435/-, along with interest, at the rate of 7.5%, from the date of filing of the petition, till the realization of the whole amount.

FAO No. 444 of 2016,

1070. This appeal has been filed by the Oriental Insurance Company Ltd., against the Award dated 20.06.2016, passed by learned Tribunal, in MACT Petition No.470/14, titled as "Seema Versus Oriental Insurance Company Ltd. & Another".

1071. By way of award dated 20.06.2016, the learned Tribunal has allowed the above titled claim petition, by awarding a sum of Rs. 5,33,636/-, with interest at the rate of 7.5% per annum, from the date of filing of the petition till realization of the amount, by fastening the liability to pay the amount of compensation to the Insurance Company, with a right to recover the same, in excess of its liability, from the Insurer/owner.

1072. The above titled claim petition has been filed by petitioner Seema, seeking the amount of compensation on account of the injuries/disability, sustained/suffered by her,

in the accident, in question, involving the offending vehicle, being driven by its driver in a rash and negligent manner.

1073. According to the petitioner, at the time of accident, she was 20 years of age and was a homemaker and agriculturist.

1074. According to the petitioner, after the accident, she was taken to Civil Hospital Chamba, for treatment, where she remained admitted w.e.f. 11.08.2012 to 02.09.2012. Thereafter, she was referred to IGMC Shimla, where she remained admitted as indoor patient w.e.f. 03.09.2012 to 20.09.2012 and one major operation was conducted and a plate was implanted, in the back of the petitioner.

1075. The petitioner has also pleaded about her bright past and bleak future, by pleading that in the said accident, she had suffered 30% permanent disability.

1076. The learned Tribunal has awarded the amount of compensation, under different heads and now, this Court has to discuss the evidence, adduced by the petitioner, on record, to ascertain the fact, whether the amount of

compensation, which, was awarded to the petitioner, falls within the definition of 'just compensation' or not.

1077. After framing the issues, the petitioner, when appeared in the witness box has deposed, as per the averments, as made in the petition.

1078. In addition to this, the petitioner has examined Dr. Praveen Thakur, Medical Officer, Z.H. Mandi as PW-3, who has deposed that on 27.09.2014, the Medical Board has assessed the disability on the person of petitioner, vide disability Ext. PW3/A. He has admitted that the disability, as mentioned, in the certificate Ext. PW3/A, is not in relation to the whole body.

1079. Apart from this, the petitioner has also placed on record the documentary evidence, with regard to her treatment, as well as, the discharge slip.

1080. In view of the above evidence, now this Court would proceed further to ascertain the amount of compensation, for which, the petitioner is entitled under the various heads.

NON-PECUNIARY DAMAGES**PAIN AND SUFFERINGS:**

1081. As per the document Mark X, which, is the photocopy of the discharge slip, issued by the Doctor of IGMC Shimla, petitioner was admitted on 03.09.2012 and was discharged on 20.09.2012. So far as her admission in Civil Hospital Chamba is concerned, she has deposed in her examination-in-chief, while appearing as PW-1, that she remained admitted in the hospital from 11.08.2012 to 02.09.2012 and thereafter in Shimla w.e.f. 03.09.2012 to 20.09.2012.

1082. The factual position has not been controverted by the learned counsel for the petitioner, in the present case, by suggesting her that she has not been admitted in Civil Hospital Chamba, nor in IGMC Shimla. As such, uncontroverted deposition made by the petitioner is liable to be taken into consideration, to assess the amount of compensation.

1083. Thus, the total period of hospitalization comes to 40 days, for which the petitioner is held entitled for a sum of Rs. 2,000/- x 40 = Rs. 80,000/-.

LOSS OF ENJOYMENT OF LIFE:

1084. As per the disability certificate Ext. PW3/A, Board found the permanent disability of 30%, on the person of Seema. The petitioner has to live with the disability, rest of her life. The trauma, which the petitioner would face rest of her life, is to be compensated in terms of money.

1085. Apart from this, considering the period of hospitalization, petitioner might have taken at least four months for convalescence. During that period, she could not enjoy her life as a normal human being. Considering all these facts, ends of justice would be met, if a sum of Rs. 4,00,000/- is awarded to the petitioner, under the head 'Loss of Enjoyment of Life'.

SHORTEN EXPECTANCY OF LIFE:

1086. There is nothing on the record to demonstrate that on account of the injuries/disability, sustained/suffered by the petitioner, the life span of the petitioner has been shortened. As such, no amount of compensation is being awarded, under this head.

PECUNIARY DAMAGES**LOSS OF EARNING AND EARNING CAPACITY:**

1087. Keeping in view the law laid down by Hon'ble Supreme Court in **Shishu Pal's case**, in which the Hon'ble Supreme Court, has taken into consideration the multifarious activities done by homemaker and contribution of female as Rs. 30,000/- per month. The decision in **Shishu Pal's case**, has been rendered by the Hon'ble Supreme Court in the year 2026 and considering the fact that accident in question had taken place in the year 2012, as such, it would be just and appropriate for this Court to assess the contribution of a young girl, who use to help her parents in daily pursuits, her contribution is assessed as Rs. 10,000/- per month.

1088. In view of **Pranay Sethi's case**, by adding 40% in the above amount of contribution, on account of future prospect of Smt. Seema, her total contribution towards her family comes to Rs. 10,000/- + 4,000/- (40%) = Rs.14,000/-. As per the disability certificate, the Board found 30% permanent disability, which although not in relation to the

whole body, but keeping in view the multifarious activity being done by homemaker, the said disability can be said to be functional disability. As such, her monthly loss of earning capacity, thus comes to Rs. 14,000/- x 30% =Rs. 4,200/-.

1089. Considering the age of the petitioner, multiplier of 18 is required to be added, in the present case. Thus, the compensation under the head 'Loss of Earning Capacity', is adjudicated as, Rs. 4,200/- x 12 x 18 = Rs. 9,07,200/-.

1090. So far as the 'Loss of Earning' is concerned, considering the period of hospitalization and period of convalescence, the petitioner could not contribute for her family, at least for about four months. Thus, 'Loss of Earning' comes to Rs. 10,000/- x 4 = Rs. 40,000/-.

MEDICAL & TRANSPORTATION EXPENSES

1091. The learned Tribunal has awarded a sum of Rs. 48,716/-, under the head 'Medical & Transportation Expenses'. The said findings does not require any interference by this Court.

SPECIAL DIET & ATTENDANT CHARGES

1092. Period of hospitalization and convalescence, is held to be four months. During that period, she might have taken special diet and the pro bono services rendered by her parents, during that period is liable to be compensated. As such, petitioner is held entitled to a sum of Rs. 200 x 120 = Rs. 24,000/-.

1093. Considering all these facts, the petitioner is held entitled to a sum of Rs. 80,000/- + Rs. 4,00,000/- + Rs. 9,07,200/- + Rs. 40,000/- + Rs. 48,716/- + Rs. 24,000/- = Rs. 14,99,916/-.

1094. With these observations, the appeal is dismissed by modifying the award passed by the learned Tribunal and the amount of compensation is enhanced from Rs.5,33,636/- to Rs.14,99,916/-, along with interest, at the rate of 7.5%, from the date of filing of the petition, till the realization of the whole amount.

FAO No. 327 of 2015

1095. This appeal has been filed by the Oriental Insurance Company Ltd., against the Award dated

11.06.2015, passed by learned Tribunal, in MACT Petition No.245/12, titled as “Kisho Devi Versus Ravi Kant Bhardwaj & Another”.

1096. By way of award dated 11.06.2015, the learned Tribunal has allowed the above titled claim petition, by awarding a sum of Rs.1,94,760/-, with interest at the rate of 9% per annum, from the date of filing of the petition till realization of the amount, by fastening the liability to pay the amount of compensation to the Insurance Company.

1097. The above titled claim petition has been filed by petitioner, seeking the amount of compensation on account of the injuries/disability, sustained/suffered by her, in the accident, in question, involving the offending vehicle, being driven by its driver in a rash and negligent manner.

1098. According to the petitioner, at the time of accident, she was 40 years of age and was a homemaker and pleaded her income as Rs. 10,000/- per month.

1099. According to the petitioner, after the accident, she remained admitted at Zonal Hospital Chamba for one day and on next day i.e. 12.08.2012, she was referred to

Medical College Tanda, where she remained admitted w.e.f. 12.08.2012 to 16.09.2012 and she was forced to spend a sum of Rs. 80,000/- on her treatment.

1100. The learned Tribunal has awarded the amount of compensation under different heads and now, this Court has to discuss the evidence adduced by the petitioner on record, to ascertain the fact, whether the amount of compensation, which, was awarded to the petitioner, falls within the definition of 'just compensation' or not.

1101. After framing of the issues, the petitioner has appeared in the witness box as PW-1 and tendered the entire documents in her evidence, including the discharge slip, treatment summary and Medical bills.

1102. In view of the above, her entitlement, is adjudicated, as under:

NON-PECUNIARY DAMAGES

PAIN AND SUFFERINGS:

1103. As per the documents, placed on record, the period of hospitalization of the petitioner, is held to be w.e.f.

11.08.2012 to 09.09.2012, i.e. 27 days, for which she is held entitled for a sum of Rs. 2,000/- x 27 = Rs. 54,000/-.

LOSS OF ENJOYMENT OF LIFE:

1104. The period of hospitalization is held to be 27 days, and as per document Ext. P-B, which is discharge certificate, the Doctor found the fracture in shaft femur left side. As such, she might have taken at least four months for convalescence.

1105. During the said period of about four months and 27 days i.e. five months, she could not enjoy the life of a normal human being, for which she is held entitled for a sum of Rs. 1,00,000/-.

SHORTEN EXPECTATION OF LIFE:

1106. There is nothing on the record to demonstrate that on account of the injuries/disability, sustained/suffered by the petitioner, the life span of the petitioner has been shortened. As such, no amount of compensation is being awarded, under this head.

PECUNIARY DAMAGES**LOSS OF EARNING AND EARNING CAPACITY:**

1107. Keeping in view the law laid down by Hon'ble Supreme Court in ***Shishu Pal's case***, in which the Hon'ble Supreme Court, has taken into consideration the multifarious activities done by homemaker and contribution of female as Rs. 30,000/- per month. The decision in ***Shishu Pal's case***, has rendered by the Hon'ble Supreme Court in the year 2026 and considering the fact that accident in question had taken place in the year 2012, as such, it would be just and appropriate for this Court to assess the contribution of a homemaker, as Rs. 10,000/- per month.

1108. So far as the 'Loss of Earning' is concerned, considering the period of hospitalization and period of convalescence, the petitioner could not contribute for her family, at least for about five months. Thus, 'Loss of Earning' comes to Rs. 10,000/- x 5 = Rs. 50,000/-.

1109. There is no disability, as such, no amount of compensation is awarded under the head 'Loss of Earning Capacity'.

MEDICAL EXPENSES

1110. The learned Tribunal has awarded a sum of Rs. 38,260/- under the head 'Medical Expenses'. The said findings do not require any interference by this Court.

SPECIAL DIET & ATTENDANT CHARGES

1111. Period of hospitalization and convalescence, is held to be five months. During that period, she might have taken special diet and the pro bono services rendered by her family, during that period is liable to be compensated. As such, petitioner is held entitled to a sum of Rs. 200 x 150 = Rs. 30,000/-.

1112. Considering all these facts, the petitioner is held entitled to a sum of Rs. 54,000/- + Rs. 1,00,000/- + Rs. 50,000/- + Rs. 38,260/- + Rs. 30,000/- = Rs. 2,72,260/-.

1113. Thus, the amount of compensation is liable to be enhanced from Rs. 1,94,760/- to Rs. 2,72,260/-. However, rate of interest, which has been awarded by the learned

Tribunal, as 9% per annum, is liable to be reduced, keeping in view the prevailing rate of interest of the nationalized banks and the same is assessed at the rate of 7.5% per annum, from the date of filing of the petition, till the realization of the whole amount.

1114. Accordingly, the appeal of the Insurance Company is partly allowed and the award passed by the learned Tribunal is modified, in the aforesaid terms.

FAO No. 326 of 2015

1115. This appeal has been filed by the Oriental Insurance Company Ltd., against the Award dated 20.06.2015, passed by learned Tribunal, in MACT Petition No. 4 of 2013, titled as "Bindu Versus Ravi Kant Bhardwaj & Another".

1116. By way of award dated 20.06.2015, the learned Tribunal has allowed the above titled claim petition, by awarding a sum of Rs. 1,06,000/-, with interest at the rate of 9% per annum, from the date of filing of the petition till realization of the amount, by fastening the liability to pay the amount of compensation to the Insurance Company.

1117. The above titled claim petition has been filed by petitioner Bindu, seeking the amount of compensation on account of the injuries/disability, suffered/sustained by her, in a road side accident involving the offending vehicle, which, had taken place on 11.08.2012, due to the rash and negligent driving of the driver of the offending vehicle.

1118. According to the petitioner, at the time of accident, she was 17 years of age and was a student and in addition to this, she was helping her parents in domestic pursuits. She has pleaded her income as Rs. 10,000/- per month.

1119. According to the petitioner, after the accident, she was taken to Civil Hospital Chamba, for treatment, where she remained admitted w.e.f. 11.08.2012 to 13.08.2012. Thereafter, she was referred to Dr. Rajinder Prasad Medical College and Hospital, Tanda, where she remained admitted w.e.f. 13.08.2012 to 31.08.2012. Thereafter, she was advised bed rest upto 02.11.2012.

1120. The learned Tribunal has awarded the amount of compensation under different heads and now, this Court has

to discuss the evidence adduced by the petitioner on record, to ascertain the fact, whether the amount of compensation, which, was awarded to the petitioner, falls within the definition of 'just compensation' or not.

1121. After framing of the issues, the petitioner has examined PW-1 Smt. Roma Shabnam, who has proved the document Ext. PW1/A, which is the copy of OPD Register.

1122. Petitioner herself appeared in the witness box as PW-3 and produced the discharge slip Mark A and Medical certificate Mark B.

1123. Considering the said documents, now this Court would proceed further to ascertain the amount of compensation, for which the petitioner is held entitled, in the present case.

NON-PECUNIARY DAMAGES

PAIN AND SUFFERINGS:

1124. As per the document Ext. P-X, she was admitted on 13.08.2012 and discharged on 31.08.2012. Thus, the total period of hospitalization comes to 18 days and said

period must be traumatic and painful for her, for which, she is held entitled to a sum of Rs. 2000/- x 18 = Rs. 36,000/-.

LOSS OF ENJOYMENT OF LIFE:

1125. Considering the period of hospitalization, which is held to be 18 days, she might have taken two months on convalescence, for which, she is held entitled for a sum of Rs. 50,000/-.

SHORTEN EXPECTANCY OF LIFE:

1126. There is nothing on the record to demonstrate that on account of the injuries/disability, sustained/suffered by the petitioner, the life span of the petitioner has been shortened. As such, no amount of compensation is being awarded, under this head.

PECUNIARY DAMAGES

LOSS OF EARNING AND EARNING CAPACITY:

1127. There is no permanent disability to the petitioner. As such, no amount under the head 'Loss of Earning Capacity', is liable to be given to the petitioner.

1128. However, contribution of a homemaker is held to be Rs. 10,000/-, by this Court and she could not

contribute anything for a period of about three months, for which, she is held entitled for a sum of Rs. 10,000/- x 3 = Rs. 30,000/-.

MEDICAL EXPENSES

1129. The learned Tribunal has awarded a sum of Rs. 50,000/- under the head 'Medical Expenses'. The said findings do not require any interference by this Court.

TRANSPORTATION EXPENSES

1130. On the basis of the documentary evidence, the learned Tribunal has awarded a sum of Rs. 10,000/-, which does not require any interference.

SPECIAL DIET & ATTENDANT CHARGES

1131. Period of hospitalization and convalescence, is held to be three months. During that period, she might have taken special diet and the pro bono services rendered by her parents, during that period is liable to be compensated. As such, petitioner is held entitled to a sum of Rs. 200 x 90 = Rs. 18,000/-.

1132. Considering all these facts, the petitioner is held entitled to a sum of Rs. 36,000/- + Rs. 50,000/- + Rs.

30,000/- + Rs. 50,000/- + Rs. 10,000/- + Rs. 18,000/- = Rs. 1,94,000/-.

1133. Thus, the amount of compensation is liable to be enhanced from Rs. 1,06,000/- to Rs. 1,94,000/-. However, rate of interest, which has been awarded by the learned Tribunal, as 9% per annum, is liable to be reduced, keeping in view the prevailing rate of interest of the nationalized banks and the same is assessed at the rate of 7.5% per annum, from the date of filing of the petition, till the realization of the whole amount.

1134. Accordingly, the appeal of the Insurance Company is partly allowed and the award passed by the learned Tribunal is modified, in the aforesaid terms.

FAO No. 307 of 2017

1135. This appeal has been filed by the Oriental Insurance Company Ltd., against the Award dated 14.03.2017/07.04.2017, passed by learned Tribunal, in MACT Petition No. 706 of 2015, titled as “Hitesh Kumar Versus The Oriental Insurance Company Ltd. & Another”.

1136. By way of award dated 14.03.2017/07.04.2017, the learned Tribunal has allowed the above titled claim petition, by awarding a sum of Rs. 8,33,461/-, with interest at the rate of 7.5% per annum, from the date of filing of the petition till realization of the amount, by fastening the liability to pay the amount of compensation to the Insurance Company, with a right to recover the same in excess of its liability, from the Insurer/owner.

1137. The above titled claim petition has been filed by petitioner Hitesh Kumar, seeking the amount of compensation on account of the injuries/disability, suffered/sustained by him, in a road side accident involving the offending vehicle, which, had taken place on 11.08.2012, due to the rash and negligent driving of the driver of the offending vehicle.

1138. According to the petitioner, at the time of accident, he was 20 years of age and was a student/agriculturist and has pleaded his income/contribution as Rs. 10,000/-, towards his family.

1139. According to the petitioner, after the accident, he was taken to Regional Hospital Chamba, for treatment. Thereafter, he was referred to IGMC Shimla, but due to critical condition, he was shifted to nearest hospital Ravi Multi Specialist at Pathankot, where he remained under treatment for about two years and as such, he was forced to spent Rs. 4,70,000/-, on his treatment.

1140. The learned Tribunal has awarded the amount of compensation under different heads and now, this Court has to discuss the evidence adduced by the petitioner on record, to ascertain the fact, whether the amount of compensation, which, was awarded to the petitioner, falls within the definition of 'just compensation' or not.

1141. After framing the issues, the petitioner has examined Dr. Devinder Kumar as PW-3, who has deposed that on 11.08.2012, he has assessed the disability on the person of Hitesh Kumar, being member of the Medical Board and issued the disability certificate Ext. PW3/A. In the cross-examination, he has admitted that the injury mentioned in the disability certificate could heal with the

passage of time, but voluntarily stated that the said injury has been healed to the extent, which the same could be.

1142. PW-5 Yogesh Kumar, proved the receipts Ext. PW5/A to Ext. PW5/C, issued by the Red Cross Society.

1143. Petitioner while appearing in the witness box as PW-4, has filed his duly sworn in affidavit Ext. PW4/A, in which, he has deposed that after the accident, firstly he was taken to RH Chamba, from where, he was taken to hospital at Pathankot, from where, he was referred to PGI Chandigarh for treatment.

1144. In view of the above, now this Court would proceed further for the amount of compensation, which is adjudicated, as under:

NON-PECUNIARY DAMAGES

PAIN AND SUFFERINGS:

1145. As per the discharge slip Ext. PW3/B, the petitioner remained admitted with RH Chamba, for one day. Although, the petitioner has deposed that he remained under treatment with Ravi Multi Specialist Hospital Pathankot, as well as, PGI Chandigarh, but in the absence of

any documentary evidence, the petitioner is held entitled for a sum of Rs. 2,000/- on account of 'Pain and Sufferings', as period of hospitalization, must be painful and traumatic.

LOSS OF ENJOYMENT OF LIFE:

1146. As per the disability certificate, the Board found 45% disability on the person of the claimant and considering the said disability, the petitioner young boy of 20 years of age, was forced to live his rest of life along with said disability. As such, ends of justice would meet, if an amount of Rs. 4,00,000/- is awarded to the petitioner, on account of 'Loss of Enjoyment of Life'.

SHORTEN EXPECTANCY OF LIFE:

1147. There is nothing on the record to demonstrate that on account of the injuries/disability, sustained/suffered by the petitioner, the life span of the petitioner has been shortened. As such, no amount of compensation is being awarded, under this head.

PECUNIARY DAMAGES**LOSS OF EARNING AND EARNING CAPACITY:**

1148. The petitioner has pleaded that he was earning Rs. 10,000/- per month. In view of the stand taken by the learned Tribunal, in relation to the death case, where the earning of those persons were taken as Rs. 5,400/- per month, this Court is also of the view that ends of justice would meet, if the contribution of the petitioner is taken as Rs. 5,400/- per month, at the time of accident.

1149. In view of the decisions of the Hon'ble Supreme Court, in Govind Yadav's and Sidram's case supra, in the cases of permanent disability, the amount is liable to be added on account of future prospects, had the petitioner not been suffered the disability.

1150. Keeping in view the age of the petitioner, and at the time of accident, he was working in unorganized sector, 40% amount has to be added, on account of his future prospect.

1151. Thus, his contribution towards his family comes to Rs. 5,400/- + 2,160/- (40%) = Rs. 7,560/-. As per the statement of Doctor, the petitioner has suffered 45% permanent disability, which has been explained in the certificate locomotor impaired and mental retardation. The said disability of 45%, can be said to be functional disability. As such, his monthly loss of earning capacity, thus comes to Rs. 7,560/- x 45% = Rs. 3,402/-. Thus, the entitlement of the petitioner, under the head 'Loss of Earning Capacity', is adjudicated as, Rs. 3,402/- x 12 x 18 = Rs. 7,34,832/-.

1152. Considering the percentage of disability, as well as, the mental retardation, after the accident, petitioner could not contribute anything for his family. As such, no amount is liable to be given under the head 'Loss of Earning'.

MEDICAL & TRANSPORTATION EXPENSES

1153. The learned Tribunal has awarded a sum of Rs. 1,53,581/- under the head 'Medical & Transportation Expenses'. The said findings do not require any interference by this Court.

SPECIAL DIET & ATTENDANT CHARGES

1154. Considering the percentage of disability, he might have required the services of an attendant, for at least four month. During that period, he might have taken special diet and is liable to be compensated. As such, petitioner is held entitled to a sum of Rs. $200 \times 120 =$ Rs. 24,000/-.

1155. Considering all these facts, the petitioner is held entitled to a sum of Rs. 2,000/- + Rs. 4,00,000/- + Rs. 7,34,832/- + Rs. 1,53,581/- + Rs. 24,000/- = Rs. 13,14,413/-.

1156. Thus, the amount of compensation is liable to be enhanced from Rs. 8,33,461/- to Rs. 13,14,413/-, along with interest at the rate of 7.5%, from the date of filing of the petition, till the realization of the whole amount.

1157. Accordingly, the appeal of the Insurance Company is dismissed. The award passed by the learned tribunal is modified in the aforesaid terms.

FAO No. 166 of 2015

1158. The Insurance Company has filed the present appeal, against the award dated 21.02.2015 passed by the learned Tribunal, in MAC Petition No. 188/2012, titled as 'Akshu versus Ravi Kant Bhardwaj & another', whereby, a sum of Rs.18,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioner-injured, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

1159. Petitioner-Akshu, being minor, through his father, has filed the above-noted claim petition, under Section 166 of the MV Act, seeking compensation on account of injuries sustained by him, in the accident in question, having taken place, due to the rash and negligent driving of the offending vehicle, by its driver.

1160. According to the petitioner-injured, after the accident, he was taken to Regional Hospital, where he remained admit for four days, i.e. from 11.08.2012 to

14.08.2012 and as per the pleadings, he was forced to spent a sum of Rs. 50,000/- on his treatment.

1161. The learned Tribunal has awarded a sum of Rs. 18,000/- only to the petitioner, however, as mandated by the law, the compensation has not been awarded by discussing the evidence, under the various heads. As such, the entitlement of the petitioner is required to be adjudicated afresh by this Court, by considering the fact that the appeal is continuation of the original proceedings.

1162. As per the statement of the father of the petitioner, his son remained admit for four days in Chamba Hospital from 11.08.2012 to 14.08.2012. Admittedly, no documentary proof has been annexed with the petition, but, the tone and tenor of the cross-examination demonstrate that the factum of petitioner's travelling in the offending vehicle as well as, his treatment has not seriously been disputed by the respondents, as, it has been suggested to the father of the petitioner by the learned counsel for respondent No. 1 that he has not annexed the bills of the treatment of his son. Similarly, when learned counsel for

the Insurance Company, gave a suggestion to the father of the injured that his son has not sustained injuries, the said suggestion has been denied. Further, the father of the petitioner has admitted that he has not annexed any document qua the expenses incurred by him, on the treatment of his son.

1163. The proceedings under the MV Act are summary in nature and the liability of tortfeasor is to be fixed on the touchstone of preponderance of probabilities. In such situation, even in the absence of any documentary proof, the entitlement of the petitioner for just compensation is adjudicated upon as under:

NON PECUNIARY DAMAGES:

PAIN AND SUFFERINGS:

1164. After the accident in question, the petitioner was taken to Regional Hospital, Chamba, where, according to his father, the petitioner remained admitted for a period of four days. The said period of four days must be painful and

traumatic for the petitioner, for which he is held entitled to Rs. 2,000/- x 4 = Rs. 8,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

1165. On account of the injuries sustained by the petitioner, he has to remain hospitalized for a period of four days and certainly, he might have taken at least fifteen days for convalescence to come out from the impact of trauma of accident. As such, the ends of justice would be met if a sum of Rs. 25,000/- is awarded to the petitioner, under this head. Ordered accordingly.

SHORTEN EXPECTANCY OF LIFE:

1166. There is no evidence on the record to prove or to suggest that on account of injuries sustained by the petitioner in the accident in question, the life span of the petitioner has been shortened. Hence, no compensation is being awarded under this head.

PECUNIARY DAMAGES:

LOSS OF EARNINGS AND EARNING CAPACITY:

1167. There is no disability on the person as such no amount of compensation is required to be give however keeping in view the period hospitalization and convalescence, which according to the considered opinion of this Court comes to 30 days during which the petitioner could not earn anything, As such, he is entitled to a sum of Rs.5,400/-, under this head.

MEDICAL EXPENSES:

1168. The period of hospitalization, has been held to be four days. When, a person remained admit for about four days in hospital, he might have spent some amount on his treatment. Admittedly, there is no documentary proof for the same, however, when, father of the petitioner has stated, on oath, and the name of petitioner Akshu has duly been mentioned in the list of injured persons, which has been annexed with the report relied upon by the respondents, as Ex. RW-2/A, the ends of justice would be met if a sum of Rs. 10,000/- is awarded to the petitioner, under this head. Ordered accordingly.

TRAVELLING EXPENSES:

1169. There is no evidence on the record to prove or to suggest that on account of injuries sustained by the petitioner in the accident in question, he has to incur travelling expenses. Hence, no compensation is being awarded under this head.

SPECIAL DIET AND ATTENDANT CHARGES:-

1170. During the period of hospitalization, as well as, convalescence, which has been held to be $4 + 15 = 19$ days, the parents of the petitioner might have given a special diet to him, for which, the petitioner is held entitled to Rs. 200/- x 19 = 3,800/-, as compensation, under this head.

1171. Considering all these facts, the petitioner is held entitled to a sum of Rs.8,000/- + Rs.25,000/- + Rs.5,400/- + Rs.10,000/- + Rs.3,800/- = Rs. 52,200/-.

1172. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on

the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

1173. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs. 18,000/- to Rs. 46,800/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

FAO No. 201 of 2016

1174. The Insurance Company has filed the present appeal, against the award dated 05.03.2016 passed by the learned Tribunal, in MAC Petition No. 183/2012, titled as 'Sonu versus Ravi Kant Bhardwaj & another', whereby, a sum of Rs. 21,000/-, along with interest, at the rate of 7.5% per annum, has been awarded in favour of the petitioner-injured, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company, with right of recovery in excess of its liability from the owner, by holding that the Insurance Company is bound to cover the awards of highest

compensation to the extent of the number of passengers covered under the policy, i.e. $42 + 2 = 44$.

1175. Petitioner-Sonu, being minor, through his father, has filed the above-noted claim petition, under Section 166 of the MV Act, seeking compensation on account of injuries sustained by him, in the accident in question, having taken place, due to the rash and negligent driving of the offending vehicle, by its driver.

1176. According to the petitioner-injured, after the accident, he was taken to Regional Hospital, where he remained admit from 11.08.2012 to 16.08.2012 and as per the pleadings, he was forced to spent a sum of Rs. 50,000/- on his treatment.

1177. The learned Tribunal has awarded a sum of Rs. 21,000/- only to the petitioner, however, as mandated by the law, the compensation has not been awarded by discussing the evidence, under the various heads. As such, the entitlement of the petitioner is required to be adjudicated

afresh by this Court, by considering the fact that the appeal is continuation of the original proceedings.

1178. On behalf of the minor petitioner, his father has stepped into the witness box as PW-2 and tendered his affidavit in evidence, Ex. PW-2/A, which is based upon the assertions, as made in the claim petition. He has admitted that he has not annexed any documentary proof to demonstrate that his son was admitted in the hospital, however, as per the discharge slip, Mark A, his son Sonu remained admit in Regional Hospital from 11.08.2012 to 16.08.2012.

1179. On the basis of the above facts, the entitlement of the petitioner for just compensation is adjudicated upon as under:

NON PECUNIARY DAMAGES:

PAIN AND SUFFERINGS:

1180. After the accident in question, the petitioner was taken to Regional Hospital, Chamba, where he remained admit for a period of six days. The said period of six days

must be painful and traumatic for the petitioner, for which he is held entitled to Rs. 2,000/- x 6 = Rs. 12,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

1181. On account of the injuries sustained by the petitioner, he has to remain hospitalized for a period of six days and certainly, he might have taken at least fifteen days for convalescence to come out from the impact of trauma of accident. As such, the ends of justice would be met if a sum of Rs. 25,000/- is awarded to the petitioner, under this head. Ordered accordingly.

SHORTEN EXPECTANCY OF LIFE:

1182. There is no evidence on the record to prove or to suggest that on account of injuries sustained by the petitioner in the accident in question, the life span of the petitioner has been shortened. Hence, no compensation is being awarded under this head.

PECUNIARY DAMAGES:

LOSS OF EARNING AND EARNING CAPACITY

1183. There is no disability on the person of the petitioner and considering his age, no amount of compensation is required to be given to the petitioner under this head.

MEDICAL EXPENSES:

1184. The period of hospitalization, has been held to be six days and the father of the petitioner might have spent at least Rs. 10,000/- for medicines. Thus, the petitioner is held entitled to Rs. 10,000/-, as compensation under this head.

TRAVELLING EXPENSES:

1185. There is no evidence on the record to prove or to suggest that on account of injuries sustained by the petitioner in the accident in question, he has to incur travelling expenses. Hence, no compensation is being awarded under this head.

SPECIAL DIET AND ATTENDANT CHARGES:-

1186. During the period of hospitalization, as well as, convalescence, which has been held to be $6 + 15 = 21$ days,

the parents of the petitioner might have given a special diet to him, for which, the petitioner is held entitled to Rs. 200/- x 21 = 4,200/-, as compensation, under this head.

1187. Considering all these facts, the petitioner is held entitled to a sum of Rs.12,000/- + Rs.25,000/- + Rs.10,000/- + Rs.4,200/- = Rs. 51,200/-.

1188. The learned Tribunal has rightly awarded interest @ 7.5% per annum, in view of the prevailing rates of interest being awarded by the nationalized banks on the fixed deposits. The same needs no interference, by this Court.

1189. Consequently, the present appeal is dismissed, however, the awarded amount is enhanced from Rs. 21,000/- to Rs. 51,200/-, with interest @ 7.5% per annum.

The award passed by the learned Tribunal is modified accordingly.

FAO No. 373 of 2015

1190. The Insurance Company has filed the present appeal, against the award dated 14.07.2015 passed by the learned Tribunal, in MAC Petition No. 19/2013, titled as

'Lalu versus Oriental Insurance Company Limited & another', whereby, a sum of Rs. 30,000/-, along with interest, at the rate of 9% per annum, has been awarded in favour of the petitioner-injured, from the date of filing of the petition, till the realization thereof. However, the ultimate liability to pay the amount of compensation has been fastened upon the Insurance Company.

1191. Petitioner-Lalu has filed the above-noted claim petition, under Section 166 of the MV Act, seeking compensation on account of injuries sustained by him, in the accident in question, having taken place, due to the rash and negligent driving of the offending vehicle, by its driver.

1192. The petitioner-injured has pleaded his age to be 18 years, at the time of accident. As per the pleadings, the petitioner was labourer by profession and selling milk. He has pleaded his income Rs. 10,000/- per month.

1193. The learned Tribunal, in the present case, has awarded a sum of Rs.5,000/-, under the head 'attendant charges; Rs.5,000/- under the head 'Special diet charges'

and Rs.20,000/- under the head 'Pain and Suffering'; however, compensation under the other heads has not been awarded, which is required to be adjudicated upon, on the basis of the evidence, so adduced before the learned Tribunal. As such, considering the fact that the appeal is continuation of the original proceedings, the amount of compensation, is required to be re-determined.

1194. The petitioner, after framing of the issues by the learned Tribunal, has stepped into the witness box as PW-1 and deposed as per the averments, as made in the claim petition. According to him, he has annexed the prescription slip with the claim petition, however, the bills have not been annexed. He has also admitted that he has not suffered any disability.

1195. By examining PW-3, Dr. Prashant Rana, the petitioner has proved the discharge slip, Ex. PW-3/A. This witness has specifically stated that as per the discharge slip, the petitioner has suffered stable compression fracture L-2. According to him, the Doctor has advised 1½ months' bed rest to the petitioner. He has further deposed that the

person with such injury could not work as a labourer for about 5-6 months.

1196. The petitioner has pleaded that he was earning Rs. 10,000/- per month, however, in the absence of any documentary proof, the amount of Rs. 5,400/-, as taken by the learned Tribunal, for a person, who was working as a labourer is required to be applied, in the present case, as such, his monthly income is held to be ₹ 5,400/-. Now, the entitlement of the petitioner, under various heads, is adjudicated upon, as under:

NON PECUNIARY DAMAGES:

PAIN AND SUFFERINGS:

1197. After the accident in question, the petitioner was taken to Hospital. The period of hospitalization, as per the discharge slip, is proved to be three days, i.e. from 11.08.2012 to 13.08.2012. The said period of three days must be painful and traumatic for the petitioner, for which, he is held entitled to Rs.2,000/- x 3 = Rs.6,000/-, under this head.

LOSS OF ENJOYMENT OF LIFE:

1198. On account of the injuries sustained by the petitioner, he has to remain hospitalized for a period of three days and as per the deposition of PW-3, Dr. Prashant Rana, the petitioner was advised 1½ months' bed rest. Also, he could not work as labourer for a period of 5-6 months. Meaning thereby, for a period of about 7½ – 8 months, the petitioner could not live the life of a normal human being, for which, he is entitled to a sum of Rs.50,000/-, under this head. Ordered accordingly.

SHORTEN EXPECTANCY OF LIFE:

1199. There is no evidence on the record to prove or to suggest that on account of injuries sustained by the petitioner in the accident in question, the life span of the petitioner has been shortened. Hence, no compensation is being awarded under this head.

PECUNIARY DAMAGES:**LOSS OF EARNINGS AND EARNING CAPACITY:**

1200. In this case, the petitioner has not suffered any disability. As such, the petitioner is not entitled to any

compensation for loss of earning capacity. However, in view of the discussion made above, especially while determining the amount of compensation under the head 'loss of enjoyment of life', it has been held that the petitioner could not work for a period of about eight months, due to the injury suffered by him, which is stated to be stable compression fracture L-2, by PW-3. The petitioner could not contribute for his family for about eight months, for which, he is held entitled to a sum of Rs. 5400/- x 8 = 43,200/-, for loss of earnings.

MEDICAL EXPENSES:

1201. The period of hospitalization, has been held to be three days and the petitioner might have spent at least Rs. 10,000/- for medicines. Thus, the petitioner is held entitled to Rs. 10,000/-, as compensation under this head.

TRAVELLING EXPENSES:

1202. There is no evidence on the record to prove or to suggest that on account of injuries sustained by the petitioner in the accident in question, he has to incur

travelling expenses. Hence, no compensation is being awarded under this head.

SPECIAL DIET AND ATTENDANT CHARGES:-

1203. During the period of hospitalization, as well as, convalescence, including the period for which he remained on bed rest and the period for which he could not work, the petitioner might have taken a special diet and might have required the services of an attendant. As such, the petitioner is held entitled to a sum of Rs. 200/- x 240 = Rs.48,000/- under this head.

1204. Considering all these facts, the petitioner is held entitled to compensation to the tune of Rs. 6,000/- + Rs. 50,000/- + Rs. 43,200/- + Rs. 10,000/- + Rs. 48,000/- = Rs. 1,57,200/-.

1205. So far as the rate of interest is concerned, the learned Tribunal has awarded the interest at the rate of 9%, which is also liable to be interfered with, keeping in view the rate of interest being awarded by the nationalized banks on

the fixed deposits and it would be just and appropriate for this Court to reduce the same from 9% to 7.5%.

1206. Consequently, the present appeal is partly allowed, however, the awarded amount is enhanced from Rs.30,000/- to Rs.1,57,200/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

CATEGORY-II

FAO Nos. 145 of 2017, 425 to 430, 460 to 471 of 2016, 203 to 205, 231, 289, 611, 614 of 2018, 133, 162, 163, 334 of 2019 and FAO (MV) No. 220 of 2026.

1207. All these appeals have been preferred by the owner of the offending vehicle, against the awards, passed by the learned Tribunal, in the cases, arising out of the accident, in question, by virtue of which, the initial responsibility to pay the amount of compensation has been fastened upon the Insurance Company with the right of recovery of the same from the owner of the offending vehicle.

1208. As per the awards, so passed by the learned Tribunal, the liability to pay the awards of highest

compensation to the extent of number of passengers covered under the insurance policy, i.e. 42+2 persons, has been fastened upon the Insurance Company.

1209. In view of the discussion made above, the Insurance Company has been held liable to pay the amount of compensation to the extent of its liability i.e., 42, since, the driver of the offending vehicle has expired, whereas, the conductor has not filed any claim petition. As such, the Insurance Company is liable to pay the highest 42 awards to the petitioners/claimants. The Insurance Company is also directed to deposit the amount of compensation in all the cases with liberty to recover the same from the owner, which are beyond 42 highest awards.

1210. Accordingly, these appeals are also disposed of, with no order so as to costs.

CATEGORY-III

FAO No.174 of 2017

1211. Since the compensation amount has been enhanced in the appeal filed by the Insurance Company,

bearing FAO(MV) No. 233 of 2016, the present appeal is allowed, in terms of the findings given in the said appeal.

1212. It is worthwhile to record herein that any amount already received by the petitioners-claimants, in all the cases, from the Government, shall be deducted from the total compensation awarded, as, failing to do so would result in double enrichment, which is impermissible under the law.

1213. Parties are left to bear their own costs.

1214. Memo of costs be prepared accordingly.

1215. Record be sent back.

1216. Keeping in view the voluminous nature of this judgment, the Registry is directed to place the relevant portion of this judgment, from para-1 to para-40 in each file and thereafter, to, extract and place only the relevant excerpts, pertaining to the particular appeal, on the file of the corresponding appeal, in all the connected matters.

(Virender Singh)
Judge

30th September, 2026
(rajni / ps / pramod)