



**3.** The case arises out of a motor vehicular accident that occurred in the early hours of 11.06.2013. The deceased, Akash Kumar, aged about 20 years, was travelling in a Wagon-R car bearing registration No. DL-6CH-6143, driven by his roommate, Nikhil Kumar Jain. At about 3:00 a.m., when the vehicle reached near Andrews Ganj Bus Stop on the BRT Corridor, Delhi, it collided with a truck bearing registration No. HR-55B-0379.

**4.** According to the claimants, the truck had been stationed in the middle of the road without any parking lights, indicators, reflectors or warning signs and, owing to the darkness and absence of any cautionary indication, it was not visible to the driver of the car. As a result of the collision, Akash Kumar sustained fatal injuries and succumbed thereto, while Nikhil Kumar Jain also suffered injuries. In connection with the accident, FIR No. 90n of 2013 came to be registered at Police Station Defence Colony and, upon investigation, a charge-sheet was filed against the truck driver under Sections 279, 337 and 304A of the Indian Penal Code, 1860<sup>3</sup>.

**5.** A Detailed Accident Report<sup>4</sup> came to be instituted before the Tribunal on 11.09.2013. Thereafter, the parents of the deceased instituted a claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988<sup>5</sup> seeking compensation on account of the untimely death of their son. It was pleaded that the deceased was a bachelor aged 20 years, pursuing Chartered Accountancy<sup>6</sup> (Final), and undergoing articleship with M/s ASA & Associates.

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<sup>3</sup> For short, 'IPC'

<sup>4</sup> For short, 'DAR'

<sup>5</sup> For short, 'MV Act'

<sup>6</sup> For short, 'CA'

According to the claimants, besides his articleship stipend between Rs. 8,000/- to Rs 11,000/-, the deceased was also earning approximately Rs. 25,000/- from private tuition and had bright professional prospects, which deserved due consideration while assessing compensation.

**6.** The claim petition was contested by the driver, owner and insurer of the offending truck. Their defence was that the truck had suffered puncture in its rear tyres and had been parked on the extreme left side of the road, and that the accident occurred solely due to rash and negligent driving of the Wagon-R, which rammed into the truck from behind. The insurer, while admitting the insurance coverage of the offending vehicle, denied liability and supported the plea that negligence was attributable to the driver of the car.

**7.** In support of the claim, the claimants examined Nikhil Kumar Jain, the driver of the Wagon-R and an injured eyewitness to the occurrence. He deposed that the truck had been stationed on the road without indicators, reflectors or any warning signs and that the street lights on the road were also not functional at the relevant time, rendering the vehicle practically invisible. The Tribunal also considered the site photographs and the material collected during investigation. Significantly, neither the truck driver nor the owner entered the witness box to rebut the evidence led by the claimants.

**8.** Upon appreciation of the evidence on record, the Tribunal recorded a finding that the accident had occurred due to the negligence of the truck driver in leaving the vehicle stationed on the road without adequate warning

or precautionary measures. The Tribunal rejected the plea that the driver of the Wagon-R was negligent or contributorily negligent.

9. On the question of compensation, the Tribunal examined the evidence led by the claimants concerning the educational and professional profile of the deceased. Apart from the testimony of the claimants themselves, the Tribunal also examined Dr. Surender Pal (PW-3), Joint Director of CA Institute who had stated that students after completing CA got salaries between 1 to 2 lakhs per month and average salary offered to CA was around Rs 7.37 Lakhs during campus placement in year 2013-2014. The Tribunal also took note of the fact that the deceased was pursuing CA Final and undergoing articleship with M/s ASA & Associates. Upon appreciation of such evidence, the Tribunal noted that the deceased had already reached the final stage of a professional course and was at the threshold of entering the profession. Though the actual stipend received by the deceased was placed on record as in the range of Rs. 3,595/- to Rs. 14,410/- per month, the Tribunal considered his future professional prospects and assessed his income at Rs. 55,500/- per month on the basis of likely earnings of an entry-level Group-A officer, having regard to his educational and professional trajectory. After making deductions towards income tax and personal expenses, adding future prospects of 50% and applying the multiplier of 18, as well as providing under various conventional heads, the Tribunal awarded a total compensation of Rs. 81,21,900/- along with interest @ 9% per annum from the date of institution

of the DAR, fastening the liability upon the insurer by award dated 30.11.2017. The distribution of compensation awarded by the Tribunal under various heads is reflected in table below:

<b>HEADS</b>	<b>MACT</b>
Monthly Income	Rs. 55,500/-
Income Tax deduction of 10%	Rs 55,500 – 10% of Rs 55,500 = Rs 49,950/-
Income after future prospects of 50%	Rs 49,950 + 50% of Rs 49,950 = Rs 74,925/-
Deduction (1/2th for two claimants)	Rs 74,925/2 = Rs 37,462.5/-
Multiplier	18
Loss of dependency	Rs 37,462.5 * 18 * 12 = Rs 80,91,900/-
Loss of Estate	Rs 15,000/-
Funeral Expenses	Rs 15,000/-
<b>TOTAL COMPENSATION</b>	<b>Rs. 81,21,900/-</b>

**10.** Aggrieved by the said award, the insurer preferred MAC.APP. No. 79 of 2018 before the High Court under Section 173 of the MV Act, principally contending that the Tribunal erred in fastening negligence upon the truck driver and in assessing the income of the deceased on hypothetical considerations, resulting in an excessive award. The claimants, on the other hand, preferred MAC.APP. No. 702 of 2018 seeking enhancement of compensation on the ground that the future earning potential of the deceased had not been adequately assessed.

**11.** Both appeals were heard together and came to be dismissed by the High Court by the impugned common judgment dated 08.08.2022. The High Court affirmed the finding of the Tribunal that the truck had been negligently stationed on the road without warning indicators and upheld the conclusion that there was no contributory negligence on the part of the Wagon-R driver. The High Court also found the assessment of compensation to be just and reasonable and, consequently, maintained the award in its entirety.

**12.** It is in these circumstances that the insurer has approached this Court assailing the concurrent findings on negligence and the quantum of compensation, whereas the claimants seek enhancement of the compensation awarded, giving rise to the present cross-appeals for consideration.

**13.** Having heard learned counsel for the parties and upon perusal of the material on record, the controversy in the present cross-appeals lies in a narrow compass. The insurer questions the concurrent finding of negligence returned by the Tribunal and affirmed by the High Court, besides assailing the quantum of compensation awarded. The claimants, on the other hand, seek enhancement of compensation on the ground that the future earning potential of the deceased was not adequately assessed and that compensation under the conventional heads has not been fully granted.

**14.** Insofar as the question of negligence is concerned, we find no reason to take a view different from that concurrently taken by the Tribunal and the High Court. The evidence on record, particularly the testimony of Nikhil

Kumar Jain, who himself was an injured eyewitness to the occurrence, establishes that the offending truck had been stationed on the road without parking lights, indicators, reflectors or any cautionary signs. The accident having occurred at about 3:00 a.m., the absence of such warning measures assumes significance. The said testimony has remained materially unshaken.

**15.** The defence set up by the driver and owner of the offending truck was that the vehicle had suffered puncture in its rear tyres and had been stationed on the extreme left side of the road. However, neither the driver nor the owner entered the witness box to substantiate such plea. In the absence of any evidence from the side of the truck driver, the Tribunal was justified in drawing an adverse inference against them. The site photographs and the attendant circumstances also do not support the case that the truck had been stationed with due care and caution.

**16.** The mere fact that the Wagon-R collided with the truck from behind cannot, by itself, lead to an inference of negligence on the part of its driver. The issue of negligence has to be examined in the totality of circumstances. A stationary vehicle occupying the road in the dead of night without any warning indication poses an evident hazard to road users. The Tribunal and the High Court have, on appreciation of the evidence, rightly concluded that the proximate cause of the accident was the negligent act of the truck driver in leaving the vehicle unattended on the road without adequate precautionary measures.

**17.** The submission on behalf of the insurer that the accident was occasioned due to rash and negligent driving of the Wagon-R and that the case was one of contributory negligence does not merit acceptance. Save and except the plea raised in the written statement, no evidence worth the name has been adduced to establish negligence on the part of the driver of the Wagon-R. In the absence of cogent material, the plea of contributory negligence cannot be accepted on mere conjecture.

**18.** It is well settled that this Court, in exercise of jurisdiction under Article 136 of the Constitution of India, does not ordinarily interfere with concurrent findings of fact unless such findings are shown to be perverse, manifestly erroneous or based on no evidence. We find none of these infirmities in the present case. The challenge laid by the insurer to the finding of negligence therefore deserves to fail.

**19.** Turning to the issue of quantum, we find that the Tribunal took due notice of the educational advancement of the deceased, who was pursuing CA (Final) and undergoing articleship at the relevant time. The actual stipend received by the deceased during articleship was brought on record as in the range of Rs. 3,595/- to Rs. 14,410/- per month. However, instead of confining the assessment to the proved income, the Tribunal proceeded to determine the monthly income of the deceased at Rs. 55,500/- by taking into account his educational progression, professional prospects and likely career

advancement. The High Court, upon reappreciation, found such methodology to be fair and reasonable.

**20.** Upon examining the methodology adopted by the Tribunal in computing compensation, as affirmed by the High Court, we find that while determining the monthly income of the deceased at Rs. 55,500/-, the Tribunal had already departed from the actual stipend proved on record and proceeded to assess the income by taking into account the deceased's professional prospects and educational progression, his imminent entry into the profession of CA and the likely increase in earning capacity attendant thereto. In other words, the multiplicand itself was arrived at on a forward-looking assessment of the deceased's professional future. In ***National Insurance Company Limited vs. Pranay Sethi and Others***<sup>7</sup>, this Court has explained that the addition towards future prospects is intended to be made to the established income of the deceased so as to account for the normal rise in income over time, and even in the case of self-employed or fixed-salary individuals, such addition is structured as a standardised percentage over the proven income. In the present case, apart from this aspect of calculation of future income of deceased, a further addition of 50% towards future prospects on the same foundation has been awarded by the Tribunal. The adjudication of compensation in the present matter cannot be viewed in sterile mathematical terms alone detached from human element underlying such claims. The case

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<sup>7</sup> (2017) 16 SCC 680 at Para 54 to 57

before us concerns the loss of a young life with promising professional potential, and the determination of compensation under the MV Act is ultimately guided by the principle of awarding 'just compensation'. This principle is not one of exact mathematical equivalence, rather it is an attempt by the law to provide a measure of solace, within human limitations, to those who have suffered an irreparable loss. In the present case, a young student has died on the threshold of a professional career, whose life and potential stand extinguished forever. The claimants are parents who lost their young son in an accident that occurred in the year 2013 and the award was rendered by the Tribunal in 2017. For nearly a decade, the compensation determined by the Tribunal and affirmed by the High Court has held the field.

**21.** Though this Court undoubtedly possesses the jurisdiction to interfere where computation results in manifest excess or legal infirmity, the exercise of such power must ultimately subserve the ends of justice. In the facts of the present case, we are of the considered view that reducing the compensation payable to the claimants at this stage on account of what is essentially a technical overlap in the methodology adopted by the Tribunal would not advance the cause of substantive justice. The loss suffered by the parents of the deceased cannot be measured with arithmetical precision, and the compensation awarded, viewed holistically, cannot be said to transgress the bounds of 'just compensation' under the MV Act. The beneficial character of the legislation, the long passage of time since the accident, the concurrent

assessment made by the Tribunal and the High Court, and the impossibility of placing a precise monetary value upon the loss of a young life, together persuade us not to disturb the compensation awarded towards loss of dependency. Viewed holistically, we are of the considered view that no interference is called for with the compensation awarded towards loss of dependency.

**22.** It is no doubt true, as we have emphasised in the preceding paragraphs, that the determination of compensation under the MV Act is guided by the principle of awarding 'just compensation', which must account for the future prospects of the deceased. At the same time, such determination cannot travel into the realm of conjecture. In the present case, while there was evidence of the stipend being earned by the deceased, no cogent material was placed on record to establish the alleged income from private tuition. Equally, the assertion of the claimants that the deceased would certainly qualify as a Chartered Accountant and thereafter earn substantially higher income remains a matter of future uncertainty. Compensation cannot be founded on assumptions of assured professional success or on salary benchmarks of unrelated successful professionals.

**23.** In fact, as stated earlier, the Tribunal has already taken an exceptionally liberal and beneficial view in favour of the claimants by not restricting the assessment to the actual proved income and by adopting a substantially enhanced benchmark reflective of the deceased's future earning

potential. Such determination was not arrived at in vacuum, rather the Tribunal had examined the oral and documentary evidence led by the claimants, including the testimony of Dr. Surender Pal (PW-3), Joint Director, along with other witnesses, while assessing the future earning potential of the deceased. That exercise, in our considered view, sufficiently accounts for the professional promise of the deceased and leaves no room for further enhancement on the aspect of loss of dependency. We say so especially on the peculiar facts of this case. Any further increase on that basis would cease to be compensatory and would enter the impermissible domain of speculation. At the same time, while it has been argued by the insurer that the compensation so assessed appears to be on the higher side considering that the accident took place in 2013, we are not inclined to interfere with the same by reducing the award under any heads. The life of a young individual and the loss suffered by his family cannot be measured in precise monetary terms, and the determination of 'just compensation' under the MV Act does not admit of mathematical exactitude.

**24.** However, upon examining the award of the Tribunal, as affirmed by the High Court, we find that no amount has been awarded under the conventional head of consortium. In ***Pranay Sethi*** (*supra*), this Court recognised consortium as one of the conventional heads under which compensation is required to be awarded in cases of death.<sup>8</sup> The said principle has thereafter

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<sup>8</sup> As per Para 46, 52 and 59.8 of ***Pranay Sethi*** judgment.

been explained and expanded by this Court in ***Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and Others***<sup>9</sup> to include the entitlement of parents in the case of death of an unmarried son or daughter under the head of 'filial consortium'.

**25.** The MV Act being a beneficial legislation, the duty of the Court is to ensure that just compensation is awarded, even if a legitimate conventional head has been omitted by the courts below. In the facts of the present case, the claimants, being the parents of the deceased unmarried son, are entitled to compensation under the head of 'filial consortium'. The omission of the Tribunal and the High Court in this regard requires correction.

**26.** Accordingly, in addition to the compensation already awarded, the claimants shall be entitled to an amount of Rs. 40,000/- each towards filial consortium, in terms of the principles, governing compensation under the conventional heads, as laid down in ***Pranay Sethi (supra)***.

**27.** In view of the foregoing discussion, we reach to the following conclusion:

- a) The Appeal preferred by the insurer is ***dismissed***.
- b) The Appeal preferred by the claimants is ***partly allowed*** to the limited extent indicated above. Accordingly, the compensation awarded by the Tribunal, as affirmed by the High Court, shall stand enhanced by an amount of Rs. 80,000/- towards filial consortium,

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<sup>9</sup> (2018) 18 SCC 130 at Para 21 to 24

payable to the claimants in equal measure, together with interest at the rate awarded by the Tribunal.

**28.** Consequently, in terms of the findings recorded hereinabove, the compensation awarded by the Tribunal, as affirmed by the High Court, stands modified. The revised computation of compensation is set out hereunder:

<b>HEADS</b>	<b>MACT</b>	<b>HIGH COURT</b>	<b>THIS COURT</b>
Monthly Income	Rs. 55,500/-	<b>Upheld the award of MACT</b>	<b>Confirmed with further addition as below</b>
Income Tax deduction of 10%	Rs 55,500 – 10% of Rs 55,500 = Rs 49,950/-		
Income after future prospects of 50%	Rs 49,950 + 50% of Rs 49,950 = Rs 74,925/-		
Deduction (1/2th for two claimants)	Rs 74,925/2 = Rs 37,462.5/-		
Multiplier	18		
Loss of dependency	Rs 37,462.5 x 18 * 12 = Rs 80,91,900/-		
Loss of Estate	Rs 15,000/-		
Funeral Expenses	Rs 15,000/-		
Loss of Filial Consortium (Parents/Claimants)	<b>Not considered</b>		
<b>TOTAL COMPENSATION</b>	<b>Rs. 81,21,900/-</b>		<b>Rs 82,01,900/-</b>

**29.** The amount awarded under the conventional heads, namely, loss of consortium, loss of estate and funeral expenses, should be enhanced at the rate of 10% in every three years.<sup>10</sup>

**30.** Accordingly, the total compensation payable to the claimants shall stand enhanced from Rs. 81,21,900/- to Rs. 82,01,900/- along with interest in terms of the award of the Tribunal. The insurer shall deposit the enhanced amount before the Tribunal within a period of four weeks from today.

**31.** The Appeals are decided in the above terms.

.....**J.**  
**(PRASHANT KUMAR MISHRA)**

.....**J.**  
**(N.V. ANJARIA)**

**NEW DELHI;**  
**JUNE 23, 2026.**

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<sup>10</sup> As per Para 59.8 of **Pranay Sethi** judgment.