$~11 & 13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 09th July 2026***

(11)
\+ MAC.APP. 889/2018 & CM APPL. 41412/2018

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Mr. Pradeep Gaur, Adv.

versus

BALI AHMED & ORS .....Respondents

Through: Mr. Anshuman Bal, Adv.

(13)
\+ MAC.APP. 208/2019

BALI AHMED & ORS .....Appellants

Through: Mr. Anshuman Bal, Adv.

versus

UNITED INDIA INS CO LTD & ORS .....Respondents

Through: Mr. Pradeep Gaur, Adv. for R=1.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

MAC.APP. 889/2018 & MAC.APP. 208/2019

1. These cross-appeals have been filed assailing impugned award dated 14th August 2018, passed by the Presiding Officer, Motor Accident Claims Tribunal, Karkardooma Courts, Delhi [‘***MACT/Tribunal***’], in *MACT No.*

311/16 [‘***impugned award***’]; *MAC.APP. 889/2018* being the appeal filed by Insurance Company seeking *recovery rights* against the driver and the owner [*respondent nos. 4 and 5 respectively*]; *MAC.APP. 208/2019*, being the appeal filed by the claimants seeking enhancement of compensation.

2. These cross-appeals arise out of an accident which occurred on 05th May 2016, when *Rabia Khatoon* [hereinafter, ‘***deceased***’] was travelling, along with other passengers, from *Delhi* to *Jaipur* in vehicle bearing registration no. *RJ 14 TB 7798* [hereinafter, ‘***offending vehicle***’]. The offending vehicle collided with a roadside tree, resulting in multiple injuries to the deceased; another occupant died, while several others sustained grievous injuries.

3. The MACT, while determining the claim for compensation, and after examining the testimonies, arrived at the conclusion that driver of the offending vehicle, which was a *Tavera*, had been negligent in driving and, therefore, awarded compensation at ***Rs.5,67,536/-***.

4. *Mr. Pradeep Gaur*, counsel for the Insurance Company, submits that the *Tavera*/offending vehicle was carrying *11* passengers, whereas the permit had only been issued for *7* passengers. The offending vehicle was, therefore, overloaded and was operating beyond the cover provided by the Insurance Company. He further contends that since there had been a breach of policy, the Insurance Company ought to have been granted *recovery rights* against driver and owner of the offending vehicle.

5. The driver and owner of the offending vehicle failed to appear despite service, and were, therefore, proceeded *ex parte vide* order dated 28th May 2025. It is noted, however, that driver and owner of the offending vehicle had been represented before the MACT.

6. Despite the Insurance Company's contention, as recorded in *paragraph 6* of the impugned award, wherein the testimony of **R3W1** [*officer of the Insurance Company*] has been noted, the MACT failed to examine the issue of breach of Insurance policy while rendering its final finding on the issue of liability.

7. It is, therefore essential, that the MACT determines the aforesaid issue by giving driver and owner of the offending vehicle an opportunity to respond and reply to the same.

8. For this purpose, *MAC.APP. 889/2018* is remanded back to the MACT for assessment of the aforesaid issue, and to return its finding within a period of *three* months.

9. *Mr. Anshuman Bal*, counsel for the claimants, in support of his plea seeking enhancement, essentially points out, that in terms of the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi,*** (2017) 16 SCC 680, the compensation awarded ought to be realigned on the following counts:

(i) *Loss of consortium* was awarded at *Rs.40,000/-*, despite there being *three* legal heirs, i.e., *husband* and *two sons* of the deceased. Therefore, compensation towards *loss of consortium* ought to have been *Rs.40,000 x 3*, that is *Rs. 1,20,000/-*;

(ii) *Future prospects* ought to have been granted at *25%*.

10. Considering that these are standardized parameters enunciated by the Supreme Court, the Court is inclined to consider the enhancement of compensation.

11. On the issue of *loss of estate* being awarded in place of *loss of dependency*, submission of *Mr. Anshuman Bal*, counsel for the claimants,

needs to be examined. MACT, in *paragraph 20* of the impugned award, has made the said determination on the basis of the decision of this Court in ***Keith Rowe v. Prashant Sagar***, 2010 SCC OnLine Del 4686, which has since been reconsidered by this Court, particularly in the recent decision of ***Oriental Insurance Co. Ltd. v. Vinay Jain***, 2026 SCC OnLine Del 4909.

12. In ***Vinay Jain*** (*supra*), this Court, while considering ***Keith Rowe*** (*supra*) and the subsequent decision in ***Indrawati* v. *Ranbir Singh***, 2021 SCC OnLine Del 114, wherein a clarification of ***Keith Rowe*** (supra) had been supplied, held that the principles laid down in ***Keith Rowe*** (supra) do not apply to those falling within the realm of '*dependency*', namely, *parents, spouses,* and *children*. For ease of reference, the relevant portion from ***Vinay Jain*** (*supra*) is extracted as under:

> "***48.*** *The Court relied upon the decision of the Karnataka High Court in A. Manavalagan (supra). Relevant paragraphs of A. Manavalagan (supra), upon which reliance was placed by the Court, note that there were "two categories" of damages in cases involving the death of a person: first, pecuniary loss sustained by family members dependent upon the deceased as a result of such death; and second, loss caused to the estate as a result of the death of the deceased. In the first category, action is brought by the legal representatives as trustees for the dependants claiming entitlement to compensation. In the second category, action is brought by the legal representatives on behalf of the estate of the deceased, and the compensation recovered forms part of the assets of the estate. A distinction was thereafter drawn between "loss of dependency" and "loss of estate". Where the claim was for dependency, the basis for the award of compensation was "loss of dependency", which refers to the contribution made by the deceased to such claimants. Conversely, where the claim was brought by legal representatives of the deceased who were not dependants, compensation was assessed as "loss to the estate", that is,*

loss of savings of the deceased. The method for determination of "loss of estate" was broadly similar to that of "loss of dependency", which includes ascertaining the multiplicand and multiplying the same by the multiplier. As noted in A. Manavalagan (supra), the significant difference lay in the figure adopted as the multiplicand. For the assessment of "loss of dependency", the annual contribution made by the deceased to the family constitutes the multiplicand, whereas, in cases of "loss of estate", the multiplicand comprises the annual savings of the deceased; the selection of multiplier remains the same.

xxx

52. However, in the Supreme Court's decision in Arun Kumar Agrawal (supra), Justice A.K. Ganguly specifically observed, albeit without reference to Keith Rowe (supra), that limiting the income of a "non-earning spouse" to not more than one-third of the income of the earning spouse cannot be justified on any rational basis.

xxx

***55.** From the assessment in Keith Rowe (supra) and the subsequent decisions following it, it transpires that the principles laid down in Keith Rowe (supra) do not apply to those falling within the realm of "dependency", namely parents, spouses, and children. Therefore, the said principles may not be strictly applicable to the case at hand, where the claimant is the husband of the deceased. However, it is necessary to clear the air with respect to these principles.*

***56.** In Indrawati v. Ranbir Singh, 2021 SCC OnLine Del 114, a clarification of Keith Rowe (supra) and Dinesh Adhlak (supra) was supplied by the same judge who authored Keith Rowe (supra). This case involved a claim by parents of the deceased in respect of the death of their child who was 23 years of age.*

***57.** The Tribunal held that they were not entitled to compensation under the head of "loss of dependency", but*

only under the "loss of estate" in terms of principles laid down in Keith Rowe (supra).

58. *However, the High Court concluded that parents of the deceased are considered, in law, as dependent on their children, as children are bound to support their parents in old age. Even if parents are not dependant on their children at the time of accident, they would be both financially and emotionally dependant on their children at later stages of life. On this basis, it was clarified that principles laid down in Keith Rowe (supra) and Dinesh Adhlak (supra) would not apply to a claim for compensation filed by parents in respect of death of their child, and would apply to claims of "loss of estate" made by claimants other than parents, spouse and children.*

xxx

64. *It is, therefore, quite clear that, even though the principles enunciated in Keith Rowe (supra), relying upon A. Manavalagan (supra), have not been deviated from by any judgment of the Supreme Court or any High Court, on the point of law, the principles governing compensation would be split into two worlds. The first pertains to compensation under "loss of dependency", in cases where claim for compensation is brought by dependants, including the spouse, parents and children and, the second, includes claims brought by claimants other than parents, spouse, and children, such as siblings and other relatives to whom loss of estate would be granted.*

65. *Compensation under "loss of dependency" would be calculated in accordance with the principles enunciated in Pranay Sethi (supra) and Sarla Varma (supra). Therefore, the multiplicand would be calculated on the basis of notional income of the deceased, after adding future prospects and deducting personal and living expenses. The same would then be multiplied by the appropriate multiplier, as provided in the standard tabulation. However, to calculate "loss of estate", the element of savings would have to be considered which, depending on the facts of the case, may differ, from*

> *the amount to be considered while calculating the "loss of dependency". Thereafter, the appropriate multiplier would be applied.*
>
> ***66.*** *Furthermore, the Court notes that there is not too much of a difference between these two approaches and that they may, in some cases, lead to a similar calculation. However, for the purposes of classification, we clarify that the terminologies employed in "loss of dependency" and "loss of estate" are different. While "loss of dependency" refers to compensation for the loss of benefit arising from the income/services of the deceased, "loss of estate", in effect, refers to the contribution that the deceased would have made to his or her estate, the benefit of which would now be go to whoever claims for the estate.*
>
> (emphasis added)

13. Therefore, the formula applied by the MACT while considering *loss of estate* is no longer considered to be in vogue, particularly in light of the later judgments of this Court, wherein the notional income of a *housewife* has been taken into account, while adjudicating upon the question of *loss of dependency*. This Court has already taken a detailed view in this regard in ***Uma Rani v. Simranjeet Singh***, 2026 SCC OnLine Del 4907. For the sake of convenience, the relevant portion from ***Uma Rani*** (*supra*) has been reproduced herein below-

> "***28.*** *Further reliance was placed on the decision of Supreme Court in Arun Kumar Agrawal v. National Insurance Company Ltd.; (2010) 9 SCC 218 : (2010) 3 SCC (Civ) 664 : (2010) 3 SCC (Cri) 1313, where the Supreme Court stated that it is not possible to quantify any particular amount considering that a wife/mother does not work by the clock, but some pecuniary estimate has to be made. The Court noted that this decision had been followed in Rajendra Singh v. National Insurance Company Ltd. SLP (C) No. 13964/2018, where notional income of deceased housewife was considered at Rs. 5,000/- per month.*

29. *The Court then went on to make certain observations, which are extracted as under:*

> *"**25.** The sheer amount of time and effort that is dedicated to household work by individuals, who are more likely to be women than men, is not surprising when one considers the plethora of activities a housemaker undertakes. A housemaker often prepares food for the entire family, manages the procurement of groceries and other household shopping needs, cleans and manages the house and its surroundings, undertakes decoration, repairs and maintenance work, looks after the needs of the children and any aged member of the household, manages budgets and so much more. In rural households, they often also assist in the sowing, harvesting and transplanting activities in the field, apart from tending cattle [see Arun Kumar Agrawal [Arun Kumar Agrawal v. National Insurance Co. Ltd., (2010) 9 SCC 218 : (2010) 3 SCC (Civ) 664 : (2010) 3 SCC (Cri) 1313]; National Insurance Co. Ltd. v. Deepika [National Insurance Co. Ltd. v. Deepika, 2009 SCC OnLine Mad 828]. However, despite all the above, the conception that housemakers do not "work" or that they do not add economic value to the household is a problematic idea that has persisted for many years and must be overcome.*
>
> ***30.*** *The issue of fixing notional income for a homemaker, therefore, serves extremely important functions. It is a recognition of the multitude of women who are engaged in this activity, whether by choice or as a result of social/cultural norms. It signals to society at large that the law and the courts of the land believe in the value of the labour, services and sacrifices of homemakers. It is an acceptance of the idea that these activities contribute in a very real way to the economic condition of the family, and the economy of the nation, regardless of the fact that it may have been traditionally excluded from economic analyses. It is a reflection of changing attitudes and mindsets and of our international law obligations. And, most importantly, it*

is a step towards the constitutional vision of social equality and ensuring dignity of life to all individuals.

31. *Returning to the question of how such notional income of a homemaker is to be calculated, there can be no fixed approach. It is to be understood that in such cases the attempt by the court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and circumstances. [See R.K. Malik v. Kiran Pal [See R.K. Malik v. Kiran Pal, (2009) 14 SCC 1 : (2009) 5 SCC (Civ) 265 : (2010) 1 SCC (Cri) 1265, para 9:, (2009) 14 SCC 1 : (2009) 5 SCC (Civ) 265 : (2010) 1 SCC (Cri) 1265].]*

32. *One method of computing the notional income of a homemaker is by using the formula provided in the Second Schedule to the Motor Vehicles Act, 1988, which has now been omitted by the Motor Vehicles (Amendment) Act, 2019. The Second Schedule provided that the income of a spouse could be calculated as one-third of the income of the earning surviving spouse. This was the method ultimately adopted by the Court in Arun Kumar Agrawal [Arun Kumar Agrawal v. National Insurance Co. Ltd., (2010) 9 SCC 218 : (2010) 3 SCC (Civ) 664 : (2010) 3 SCC (Cri) 1313]. However, rationale behind fixing the ratio as one-third is not very clear. [See Arun Kumar Agrawal [Arun Kumar Agrawal v. National Insurance Co. Ltd., (2010) 9 SCC 218 : (2010) 3 SCC (Civ) 664 : (2010) 3 SCC (Cri) 1313]"*

(emphasis added)

30. *The Court also noted decision of the Division Bench of Madras High Court in National Insurance Company Ltd. v. Deepika; 2009 SCC OnLine Mad 828, where the Court held as under:*

"10. The Second Schedule to the Motor Vehicles Act gives a value to the compensation payable in respect of those who had no income prior to the accident and for a

spouse, it says that one-third of the income of the earning surviving spouse should be the value. Exploration on the internet shows that there have been efforts to understand the value of a homemaker's unpaid labour by different methods. One is, the opportunity cost which evaluates her wages by assessing what she would have earned had she not remained at home viz. the opportunity lost. The second is, the partnership method which assumes that a marriage is an equal economic partnership and in this method, the homemaker's salary is valued at half her husband's salary. Yet another method is to evaluate homemaking by determining how much it would cost to replace the homemaker with paid workers. This is called the replacement method."

(emphasis added)

31. *Thereafter, certain observations were made by the Court which are extracted as under:*

*"**34.** However, it must be remembered that all the above methods are merely suggestions. There can be no exact calculation or formula that can magically ascertain the true value provided by an individual gratuitously for those that they are near and dear to. The attempt of the court in such matters should therefore be towards determining, in the best manner possible, the truest approximation of the value added by a homemaker for the purpose of granting monetary compensation.*

35. *Whichever method a court ultimately chooses to value the activities of a homemaker, would ultimately depend on the facts and circumstances of the case. The court needs to keep in mind its duty to award just compensation, neither assessing the same conservatively, nor so liberally as to make it a bounty to claimants [National Insurance Co. Ltd. v. Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 2 SCC (Cri) 205 : (2018) 3 SCC (Civ) 248]; Kajal v. Jagdish Chand [Kajal v. Jagdish Chand, (2020) 4 SCC 413 : (2020) 2 SCC (Cri) 577 : (2020) 3 SCC (Civ) 27]."*

(emphasis added)

xxx

33. *Lastly, the Supreme Court culled out the observations and summarized them as under:*

> *"**41.** Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarised as follows:*
>
> ***41.1.*** *Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.*
>
> ***41.2.*** *Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.*
>
> ***41.3.*** *Various methods can be employed by the court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.*
>
> ***41.4.*** *The court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.*
>
> ***41.5.*** *The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation."*
>
> *(emphasis added)*

34. *Reliance may also be placed upon a decision by the Coordinate Bench of this Court in Oriental Insurance Co. Ltd. v. Dalbir Singh 2025:DHC:917, where this Court was considering the issue of notional income of a deceased housewife, who was rendering gratuitous service to the family. The Court traversed through various decisions inter*

> *alia Lata Wadhwa (supra), Arun Kumar Agrawal (supra), Kirti (supra), Rajendra Singh (supra) and the decision in Arvind Kumar Pandey v. Girish Pandey, Civil Appeal No. 2515/2024 decided on 16th February 2024, which noted that "direct or indirect income of a homemaker cannot be less than the prevailing minimum wages of the State at the time of the accident".*
>
> *xxx*
>
> ***40.** In view of the above discussion, this Court is conscious that domestic work performed by a housewife goes unrecognized in terms of monetizing or calculating her income. While there is no straitjacket formula, Courts have emphasized the need for assessing the position held by a housewife in her family and the duties performed by her in order to assess the loss suffered by the family. Courts must exercise a balance while taking into account the unsaid roles performed by her, without deviating from the principles of just compensation prescribed in the Motor Vehicles Act, 1988 ('**MV Act**').*
>
> (emphasis added)

14. In view of the aforesaid decisions, the *loss of dependency* shall be calculated by applying the following formula: [{Monthly Income of deceased (*Rs. 9,568/-*) + *25%* towards *future prospects*} – 1/3rd towards *personal expenses*] x 12 x Multiplier of *13*]; multiplier of *13* being applicable since the deceased was *46* years of age at the time of the accident.

15. Accordingly, the compensation shall be revised as under:

S. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
1.	Monthly Income of deceased (A) (less Income Tax)	Rs. 9, 568/-	Rs. 9,568/-
2.	Add Future Prospects (B) @ 25%	NIL	Rs. 11,960
3.	Less Personal expenses of the deceased (C) @ 1/3rd	NIL	Rs. 3,987

4.	Monthly loss of dependency [(A +B)-C = D]	NIL	Rs. 7,973
5.	Annual loss of dependency (Dx12)	NIL	Rs. 95,676/-
6.	Multiplier (E)	13	13
7.	Loss of dependency [F]	Rs. 4,97,536/- [1/3 of (A x 12 x E)]	Rs. 12,43,788/- [D x 12 x E]
8.	Compensation for loss of consortium (G)	Rs. 40,000/-	Rs. 1,20,000/- [Rs. 40,000 x 3]
9.	Compensation for loss of estate (H)	Rs. 15,000/-	Rs. 15,000/-
10.	Compensation towards funeral expenses (I)	Rs. 15,000/-	Rs. 15,000/-
11.	Total compensation (F + G + H+I = J)	Rs. 5,67,536/-	Rs. 13,93,788/-
12.	Interest	9%	9%
13.	**Enhanced compensation**	**Rs. 8,26,252/-**	

Directions

16. Accordingly, the compensation shall stand enhanced by ***Rs. 8,26,252/-*** [‘***enhanced amount***’].

17. Enhanced amount along with *9%* interest per annum from the date of filing the petition shall be deposited before MACT within a period of six weeks. It is directed that a lump sum amount of *Rs. 2,00,000/-* shall be released to the claimants from the deposit of enhanced amount within a period of two weeks thereafter. Remaining enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts [‘***FDRs***’] of *Rs. 25,000/-* each for periods of 3 month, 6 months, 9 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimants. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

18. Needless to say, the Insurance Company shall be entitled to claim the *rights of recovery* in respect of the enhanced amount as well.

19. The aforesaid enhancement has been made only to align the compensation awarded by the Tribunal with the prevailing position of law. The absence or non-appearance of the driver and the owner shall, therefore, have no bearing on said issue.

20. Statutory amount shall be refunded to the Insurance Company.

21. *MAC.APP.889/2018* is remanded back to the MACT, to be listed before MACT on 05th August 2026.

22. *MAC.APP.208/2019* is allowed in terms of *paragraphs 15-17* above.

23. The appeals are disposed of, accordingly.

24. Pending applications, if any, are rendered infructuous.

25. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 9, 2026/mk/ya