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

CNR No. DLHC010138402019

+ **MAC.APP. 345/2019 & CM APPL. 11152/2019**

THE ORIENTAL INSURANCE CO LTD Appellant

versus

TEJ PAL SINGH & ORS Respondents

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CNR No. DLHC010237312026

+ **MAC.APP. 349/2026**

TEJPAL SINGH AND ANR Appellants

versus

THE ORIENTAL INSURANCE CO LTD AND ORS
.....Respondents

Appearance : Mr. Pradeep Gaur, Mr. Amit Gaur, Ms. Sweta Sinha,
Mr. Kaartikey Parashar, Advocates (through VC).

Mr. Sanjay Kumar Upadhyay, Mr. Krishan Kumar, Mr.
Saket Gautam, and Ms. Suchita Kumari, Advocates for
Respondent nos. 1 & 2.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
24.09.2026

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1. These cross-appeals have been filed with respect to award dated 15th January 2019 passed by Motor Accident Claims Tribunal, North, Rohini Courts [**‘MACT/Tribunal’**] in MACT No. 6695/2016, whereby compensation of Rs.12,23,562/- along with the interest at the rate of 9% per



annum was awarded.

2. **MAC.APP. 345/2019** has been filed by the Insurance Company challenging the award, while **MAC.APP. 349/2026** has been preferred by the claimant seeking enhancement of compensation. The appeals arise out of an accident that occurred on 04th July 2016. The deceased, Sachin, who was a minor aged 17 years, was riding a scooter with two friends as pillion riders when it was hit by a Haryana Roadways bus bearing registration No. HR-58A-8350 (**'offending vehicle'**), which was being driven in a rash and negligent manner. Due to the impact, they suffered injuries. Subsequently, *Sachin*/deceased succumbed to his injuries.

3. Various issues raised by *Mr. Pradeep Gaur*, counsel for Insurance Company and *Mr. Sanjay Kumar Upadhyay*, counsel for claimants, are discussed hereunder:

4. **Firstly**, the notional income was taken at *Rs.15,000/-* per annum on the basis of Schedule II annexed with Section 163A of the Motor Vehicles Act, 1988, on the basis of the Second Schedule appended to Section 163A of the Motor Vehicles Act, relying upon the judgment in ***Chetan Malhotra v. Lala Ram***, MAC APP 554/2010.

5. This Court has already taken a view in ***Rubi Devi And Anr vs The New India Assurance Com. Ltd. And Ors.*** 2026:DHC:3674, after traversing various decisions, that in cases involving the death of a minor, the minimum wages of a skilled worker as on the date of the accident, i.e., ***Rs. 11,622/-*** per month, ought to be taken as the basis for assessing notional income. To this notional income, an addition of **40%** towards future prospects is to be made. Since the deceased was a bachelor at the time of his death, 1/2 ought to be deducted on account of personal expenses and the multiplier of **18** will be applicable.



6. Accordingly, the loss of dependency will be recalculated as per this assessment.

7. **Secondly**, it is contended by the counsel for insurance company that the deceased was triple riding along with his friends, not wearing helmet, and therefore, contributory negligence ought to be attributed to him.

8. The Courts have already held in various decisions that triple riding and not wearing a helmet, in itself, will not come under the purview of *contributory negligence* unless it has been proved that this particular aspect caused the accident.

9. Further, the Court has already taken a view in **Hitesh Singh v. Ravi** 2026:DHC:7881 regarding the issue of triple riding. The relevant paragraphs are as under:

“11. This Court does not resonate with the view taken by the Karnataka High Court in this regard, in view of the various other judgments on the subject. However, that is not the issue before this Court. The issue arising in the present case, on the basis of the submission of Mr. Khattar, is materially different. Mr. Khattar appears to contend that the scooter being driven by an unlicensed driver, ought to be treated as being solely negligent and that the compensation ought consequently to be recovered from the owner of the scooter, who was negligent in handing over the vehicle to his younger brother.

12. Firstly, this plea is untenable for the reason that the owner of the scooter would be liable only if it is established that the driver of the scooter was negligent and that such negligence contributed to the accident. Secondly, no such case was established by the driver or owner of the offending vehicle before the MACT, as no evidence was led by them.

13. In any event, even if it were found that the driver of the scooter was driving without a valid driving licence, that fact by itself would not lead to a finding of



*contributory negligence unless the same is established by cogent evidence. In this regard, Mr. Pruthi places reliance upon **Saraswati Palariya v. New India Assurance Co. Ltd.**, 2018 SCC OnLine SC 3988, wherein the Supreme Court held that the finding of contributory negligence recorded by the High Court merely on the ground that the deceased was driving the vehicle without a driving licence was unsustainable. Driving without a driving licence may expose a person to other liabilities, but no inference of contributory negligence can be drawn on that basis alone. This principle has also been followed by a Coordinate Bench of this Court in **Saleem Ahmed v. Jaipal**, 2024:DHC:9760. The Court, therefore, has to examine whether negligence on the part of the offending vehicle was established from the facts and circumstances of the present case.*

*18. This Court has considered the Supreme Court in **Mohd. Siddique v. National Insurance Co. Ltd.**, (2020) 3 SCC 57 where it was held that triple riding a motorcycle, does not by itself make a person guilty of contributory negligence but only guilty of violation of law.....*

19. For contributory negligence to be established, the same must first be specifically alleged and thereafter proved. In the present case, however, neither the driver nor the owner took any such position before the MACT, nor did they lead any evidence whatsoever in support thereof.

*20. On the issue of contributory negligence arising from the victim not possessing a valid driving licence, this Court in **Reliance General Insurance Co. Ltd v Smt. Kusum and Ors.** 2026:DHC:6915 has considered the said issue....*

21. Moreover, in the same judgment, the Court had culled out the principles as regards contributory negligence which are also extracted below for ease of reference:



“15. The following principles as regards contributory negligence can be culled out from the aforementioned judgments:

I. Contributory negligence requires proof of negligence on the part of the victim which has materially contributed to the accident or the resulting injury.

II. The determination of contributory negligence is essentially dependent upon the facts and circumstances of each case. The relevant test is whether, by exercising reasonable care, the victim could have avoided the consequences of the negligence which caused the accident.

III. A mere violation of law by the victim does not, by itself, constitute contributory negligence. There must be a causal connection between such violation and either the occurrence of the accident or the impact/injury suffered by the victim.

IV. The burden of establishing contributory negligence lies upon the party alleging it. Such negligence must be established by cogent material demonstrating that an act or omission attributable to the claimant/victim materially contributed to the accident or the injury suffered.

V. The mere absence, invalidity, non-production of a driving licence, or possession of only a learner's licence, by itself, do not constitute contributory negligence. Such violation may entail statutory consequences, but a finding of contributory negligence can be made only where it is established by cogent evidence that such violation has a causal connection with the occurrence of the accident or the injuries suffered by the victim.

VI. Where negligence is attributable to both parties, the Court may apportion the loss between them in such proportion as is just and



equitable. However, such apportionment necessarily presupposes a finding of contributory negligence on the part of the claimant; in its absence, no deduction from compensation is warranted.”

(emphasis supplied)

22. In view of the position of law as noted above, the plea of the Insurance Company on the issue of contributory negligence is unsustainable.”

(emphasis added)

10. **Thirdly**, with respect to the rate of interest, *Mr. Gaur* contends that the prevailing rate of interest in the year 2016, when the accident occurred, was much less than the rate awarded by the Tribunal. On this aspect, applying the principles laid down in ***Kaushnuma Begum (Smt.) & Ors. v New India Assurance Co. Ltd. & Ors.*** (2001) 2 SCC 9 and taking into account the rate of interest issued by the Reserve Bank of India, the rate of interest is modified to 7.5% per annum.

11. It is noted that the amount the tribunal awarded an amount of Rs. 6,11,782.48/- towards non-pecuniary damages, which also includes the component of future prospects. Since there is no such head of non-pecuniary damages in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680, the following alignments need to be made in light of principles enunciated in ***Pranay Sethi*** (*supra*):

- i. No amount was awarded towards *loss of consortium*. Since there are two claimants namely the mother and the father of the deceased, an amount of Rs. 80,000/- (Rs. 40,000/- x 2) is awarded towards *loss of consortium*.
- ii. No amount was awarded towards *funeral charges*; accordingly, an amount of Rs. 15,000/- is awarded towards *funeral charges*.



- iii. Likewise, no amount was awarded towards *loss of estate*;
accordingly, an amount of *Rs. 15,000/-* is awarded towards *loss of estate*

12. Accordingly, the compensation is revised as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court
1.	Annual income of the deceased (A)	Rs. 15,000/-	Rs. 1,39,464/-
2.	Add-Future Prospects (B)	NA	40% of 1,39,464/- = Rs. 55,785.60/-
3.	Less-personal expenses of the deceased (C)	1/3	1/2 of Rs. 1,95,249.60/- = Rs. 97,624.80/-
4.	Annual loss of dependency [(A+B) - C] = D]	NA	Rs. 97,624.80/-
5.	Multiplier (E)	18	18
6.	Total loss of dependency (D x E) = (F)	Rs. 12,23,564.96*	Rs. 17,57,246.40
7.	Compensation for loss of love and affection (G)	NIL	NIL
8.	Compensation for loss of consortium (H)	NIL	Rs. 80,000/-
9.	Compensation for loss of estate (I)	NIL	Rs. 15,000/-
10.	Compensation towards funeral expenses (J)	NIL	Rs. 15,000/-
11.	Total Compensation (F+G+H+I+J = K)	Rs. 12,23,564.96/-	Rs. 18,67,246.40/- (rounded to Rs. 18,67,250/-)
12.	Interest Awarded	9% per annum	7.5% per annum
13.	Enhanced Compensation	Rs. 6,43,685.04/-	

*this amount has not been arrived at using the formula given in the table

13. Accordingly, the compensation is enhanced by *Rs. 6,43,685.04/-*.

14. Enhanced amount, along with interest at 7.5% per annum from the date of filing the petition, shall be deposited before MACT within a period of four weeks.

15. It is directed that upon such deposit, a lump sum amount of *Rs. 2,00,000/-* shall be released to the claimant 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. 20,000/- each for periods of 1 month, 2 months, 3 months and so on, in succession as may be calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

16. By order dated 11th March 2019, this Court directed the Insurance Company to deposit 60% of the awarded amount with the MACT, which was released to the beneficiaries in consonance with the terms of the award.

17. The compensation originally awarded shall be recalculated by applying interest at the rate of 7.5% per annum. The balance amount, being the difference between the compensation so calculated and the amount already deposited, shall be deposited with the learned MACT.

18. The Tribunal has directed apportionment equally between the claimants, i.e. the parents of the claimants.

19. Accordingly, the appeal stands disposed of. Pending applications, if any, are rendered infructuous.

20. Statutory deposit, if any, be refunded to Insurance Company only if the order of deposit has been complied with.

21. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 24, 2026/sm/bp