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

CNR No. DLHC010173652024

+ **MAC.APP. 193/2024**

RAM MEHAR SINGH Appellant

Through: Mr. Jatin Teotia, Adv.

versus

NEW INDIA ASSURANCE CO LTD AND ORS Respondent

Through: Mr. Sankar N. Sinha, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

20.08.2026

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1. This appeal has been filed seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal [**‘MACT’**], Karkardooma Courts in MACT No. 2464/2016 by impugned award dated 02nd December 2023 at a sum of Rs. 9,62,877/- along with 8% interest.
2. The accident occurred on 06th May 2014 on the *Mumbai-Ahmedabad National Highway No. 8* near *Alipur* when *Pawan Panwar* (**‘deceased’**) who was travelling as a pillion rider on a motorcycle with his friend, *Bharat Bhai*, was hit by a Tractor bearing registration no. GJ-16R-8075 (**‘offending vehicle’**) when it wrongly diverted to the left side and crushed the deceased.
3. *Mr. Jatin Teotia*, counsel appearing for appellant/claimant, states that 25% towards composite negligence has been wrongly deducted by the MACT on the basis that there was negligence of the driver of motorcycle



(*Bharat Bhai*). In this regard, he has drawn attention of this Court to the assessment made by MACT in *paragraphs 8 to 12*. It was noted that though, there was no eyewitness to the said accident, both the driver and pillion rider passed away.

4. Father of the deceased gave evidence as ‘*PWI*’ and stated that the offending vehicle was being driven in a rash and negligent manner and had wrongfully diverted to the left side and crushed the deceased and his friend, who was on the motorcycle.

5. He was cross-examined by the Insurance Company and it is noted that there was no cross-examination on the aspect of composite negligence, which included negligence of the motorcycle driver.

6. The impugned award also takes into account the evidence of *PWI*, along with certified copies of the police documents and evidence of the doctor (*PW2*), who had conducted the *post-mortem*.

7. Moreover, site plan of the place of accident had not been proved and the chargesheet in FIR No. 58/2014, P.S. Chikli established that there was rash and negligent driving of offending vehicle.

8. Respondent no.1/Insurance Company submitted before the MACT that, “*it was evident that the motorcycle struck from behind towards right side of the tractor trolley*”. Merely on this basis, MACT arrived at the conclusion of deducting composite negligence of 25%.

9. In the opinion of this Court, such a conclusion is untenable and unsustainable, there being no evidence led in this regard by the Insurance Company, and also no suggestion of the same was made in the police documents.

10. Reliance in this regard may be placed on Supreme Court’s



observations in *Yashwant Krishna Kumbar v. Divisional Manager, United India Insurance Co. Ltd.* SLP (C) NO. 22599/2024 in order dated 25th November 2025, where the Supreme Court was adjudicating an appeal filed by the pillion rider on the ground that contributory negligence of 50% was attributed by the Tribunal and High Court. Allowing the pillion rider's appeal, the Supreme Court held as under:

“14. The Tribunal appears to have proceeded on the erroneous assumption that because both motorcycles were allegedly on the wrong side of the road, drivers of both vehicles must equally share the blame. The principle of contributory negligence, however, mandates a specific inquiry into the conduct of the injured person and as to how he has contributed his negligence to the accident, and it cannot be inferred vicariously from the conduct of the rider. Even if the riders of both motorcycles are assumed to have been negligent, the present case would fall within the realm of composite negligence, the claimant being a third-party passenger cannot be held to be responsible or having contributed to the accident. In such circumstances, the claimant is entitled to recover the entire compensation from any one of the tortfeasors, and there is no legal warrant for reducing the award on account of apportionment between the riders.”

(emphasis added)

11. Accordingly, the finding of 25% deduction on account of ‘contributory negligence’, as noted in *paragraph 29* of the impugned award, is set aside.

12. Additionally, counsel for appellant/claimant, has raised the issue that minimum wages of an unskilled worker applicable in the State of Gujarat were applied, despite the deceased being a resident of Delhi. For this,



reliance has been placed on the testimony of *PW1 (father of deceased)*, who is a resident of *West Jyoti Nagar, Kardampuri, Shahdara, Delhi- 110094*, as is evident from his affidavits which were filed. Moreover, he stated that he had placed the Aadhaar Card of deceased as *Ex.PW1/1*, as also the payment receipt issued by the *Sports Authority of India* as *Ex.PW1/2* wherein, deceased was taking tennis coaching. Additionally, he produced the original photographs of deceased with other sports teams as *Ex.PW1/3*.

13. The Court has perused these documents, which form a part of the trial court record.

14. The Court has examined the Aadhaar Card, which shows his address as *West Jyoti Nagar, Kardampuri, Shahdara, Delhi*; the receipt issued by *Sports Authority of India* at *Jawahar Lal Nehru Stadium, Lodhi Road, Delhi* showing fees which had been paid and the coaching fee receipt issued by Delhi Development Authority for *Poorv Delhi Khel Parisar* dated 11th March 2008. All these documents categorically show that he was a resident in Delhi.

15. Reliance may also be placed upon decision of this Court in ***Savita & Ors. v. National Insurance Co. Ltd.***, 2026:DHC:3626 where the Court noted that reliance may be placed upon the testimony of family members, in order to determine the income and further, the Courts should not be constrained to consider wages from the lowest tier. Relevant paragraphs of the decision are extracted as under:

“Guideposts

30. Principles which may be culled out from these cases cited above, and be used as guidepost for assessment of benchmark income, can be summarised as under:



A. Lack of documentary proof

...

ii. Where there is lack of documentary proof to support that the victim was working in Delhi, reliance may be placed on facts and circumstances of the case to determine whether, the victim was residing in Delhi on the date of accident, in conjunction with documents such as driver's license, voter ID card, etc. Minimum wages of place of work will be then considered.

iii. If documentary proof has not been filed, the Court can use the minimum wage benchmark of an appropriate category i.e., unskilled, skilled, matriculate, etc., as a benchmark for assessment, but not be constrained to grant the lowest tier.

B. Oral testimony of family members, employers

i. Assessment of income can also be done on the statement of the immediate legal heir of deceased, i.e., wife, father, or immediate family member, along with a statement of the employer, if any. Testimonies of the above-mentioned persons should be consistent and there should be an unsuccessful rebuttal by the Insurance Company or the contesting party....”

(emphasis added)

16. Accordingly, the minimum wages of an unskilled worker in Delhi on the date of accident were Rs.8,554/- which will be considered for calculating loss of dependency.

17. Accordingly, the revised computation is as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A)	Rs. 7,691/-	Rs. 8,554/-
2	Add: Future Prospects (B)	Rs. 3,076/-	Rs. 3422/-



3	Less: Personal expenses of deceased (C)	Rs. 5383.5/-	Rs. 5,988/-
4	Loss of dependency (A+B)-C=D	Rs. 5383.5/-	Rs. 5,988/-
5	Annual loss of dependency (D x 12)= (E)	Rs. 64,602/-	Rs. 71,856/-
6	Multiplier (F)	18	18
7	Total loss of dependency (E x F)= (G)	Rs. 11,62,836/-	Rs. 12,93,408/-
8	Compensation for loss of consortium (H)	Rs. 88,000/-	Rs. 88,000/-
9	Loss of love and affection (I)	Nil	Nil
10	Compensation for loss of estate (J)	Rs. 16,500/-	Rs. 16,500/-
11	Compensation towards funeral expenses (K)	Rs. 16,500/-	Rs. 16,500/-
12	Total compensation (G+H+J+K)= L	Rs. 12,83,836/-	Rs. 14,14,408/-
13	Less: Contributory Negligence @ 25%	Rs. 3,20,959/-	Nil
14	Awarded compensation	Rs. 9,62,877/-	Rs. 14,14,408/-
13	Rate of Interest Awarded	8%	8%

18. Accordingly, compensation has been enhanced by Rs. 4,51,531/- (*‘enhanced compensation’*)

19. Enhanced compensation, along with accrued interest, will be deposited by respondent no.1/Insurance Company within 4 weeks before the MACT, which will be released as a lump sum to appellant/claimant.

20. Accordingly, the appeal is disposed of.

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

22. Copy of this order be sent to the concerned MACT and Bank for information and compliance.



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

ANISH DAYAL, J

AUGUST 20, 2026/MK/sp