



2026:DHC:5582



§~53 & 54

* IN THE HIGH COURT OF DELHI AT NEW DELHI

%(53)

Date of decision: 13th July 2026+ MAC.APP. 402/2026 & CM APPL. 41585/2026 CM APPL. 41586/2026

IFFCO TOKIO GENERAL INSURANCE CO LTD Appellant

Through: Mr. A.K. Soni, Mr. Pavan Kumar,
Advocates.

versus

RAM VATI & ORS. Respondents

Through: Mr. Pankaj Gupta, Ms. Divyanshi
Sharma, Advocates for Respondent
nos.1 & 2.

(54)

+ MAC.APP. 403/2026 & CM APPL. 41692/2026 CM APPL. 41693/2026

IFFCO TOKIO GENERAL INSURANCE CO LTD Appellant

Through: Mr. A.K. Soni, Mr. Pavan Kumar,
Advocates.

versus

SITA DEVI & ORS. Respondents

Through: Mr. Pankaj Gupta, Ms. Divyanshi
Sharma, Advocates for Respondent
nos.1 & 2.**CORAM:**
HON'BLE MR. JUSTICE ANISH DAYAL**JUDGMENT**



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ANISH DAYAL, J (ORAL)

1. These appeals have been filed by the Insurance Company seeking reduction of compensation awarded by the impugned award dated 07th March 2026 and 06th March 2026 passed by the Motor Accident Claims Tribunal, North West, Rohini Courts, Delhi (*'MACT/Tribunal'*) in MACT No. 34/2021 and MACT No. 33/2021, respectively, relating to an accident which occurred on 12th December 2020, when the two deceased, namely *Ved Prakash Pandey* and *Kuldeep Kumar Pandey*, were hit by a truck bearing no HR-55-N-5649.

2. Compensation of *Rs.39,13,100/-* along with interest at 7.5% per annum was awarded in MACT No. 34/2021 in respect of *Ved Prakash Pandey*, and compensation of *Rs. 28,11,419/-* along with interest at 7.5% per annum was awarded in MACT No. 33/2021 in respect of *Kuldeep Kumar Pandey*.

MAC.APP. 402/2026 (Re: Ved Prakash Pandey)

3. The issue asserted by *Mr. A.K. Soni*, counsel for the Insurance Company, relates to the determination of the benchmark income which has been taken at *Rs.25,000/-* basis an estimation which has been done by the MACT, as concluded in *paragraph no. 43* of the impugned award.

4. *Mr. Soni* states that there was no proof placed regarding the income except for the testimonies of **PW1** (father of deceased) and **PW2** (brother of deceased). Moreover, **PW5's** testimony was incomplete, and **PW6's** testimony was not credible.

5. The Court has perused the cross-examination of **PW1** (mother of the



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deceased), who had stated that the son was earning Rs.25,000/- as a delivery executive at *Pan HR Solution Pvt. Ltd.* as well as Rs.14,508/- by working as a pizza delivery person at *Domino's Pizza, Palam Vihar, Gurugram, Haryana.*

6. **PW3**, Mr. Ramesh Kumar, Manager, *Jubliant Food Works Ltd.* (master franchisee for Domino's Pizza across India), had been examined, who had placed the salary slips of the deceased for the months of September 2020, October 2020 and November 2020 as **Ex.PW3/6 (colly)**.

7. Further, the Court has perused the testimony of **PW5**, Mr. Shish Pal Singh, Compliance Executive, *Pan HR Solution Pvt. Ltd.*, who also placed the salary structure of *Ved Prakash Pandey* as **Ex.PW5/2** along with the offer-cum-appointment letter as **Ex.PW5/1**. He was also cross-examined extensively. Additionally, **PW6** (brother of deceased) produced the education certificate of the deceased as **Ex.PW6/2 (colly)**.

8. On an extensive appreciation of the evidence, though some parts of the testimonies of the above-stated witnesses were not fully robust, the MACT resultantly ended up doing some guesswork to compute the dependency based on the estimated notional income and crystallised it at Rs.25,000/- per month.

9. The Court has considered aspects of estimation of income in a recent judgment in *Savita & Ors. v. National Insurance Co. Ltd.* 2026:DHC:3626, where certain principles and guideposts have been culled out. Relevant paragraphs of the judgment are extracted as under:

“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

i. In the informal sector, it may not always be possible to produce documentary proof of employment and payment of wages, which are usually paid in cash.

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.

ii. If the testimonies are not reliable, 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.

C. Proof of employment

i. If documents in support of employment inter alia, Salary/Wage Certificate, Income Tax Returns ('ITRs') have been filed, same shall be considered.

ii. In the absence of such proof, assessment done by the Court has to be based on some intelligent guesswork and may not be restricted to the minimum wage parameter after taking into account a holistic



analysis of the evidence on record. For example, place of employment, testimony of co-workers, or any other person who testifies in favour of the injured/deceased employee.

iii. The entire assessment is ultimately imbued with an element of approximation and guesswork, as part of the inquiry proceedings and not on exactitude.

iv. Reliance may be placed on State specific legislations, as well as Minimum Wage Notifications to lean on for support, in order to determine what qualifies as a skilled worker and an unskilled worker, with respect to the vocation of the victim.

D. Age, occupation and educational background of the victim

i. In cases where the victim was a student and the evidence on record suggests that the victim would have engaged in employment after completing education, had the accident not taken place; the Courts must consider the educational background keeping in view the missed future opportunities.

ii. Reliance to be placed on documents and testimonies indicating the prior educational background of the victim, if no proof has been placed with regards to the employment details.

E. Standard of living of deceased persons

i. When a claim petition has been filed by the surviving dependents of a deceased, where the deceased was the breadwinner of the family, Courts must attempt to ascertain the benchmark income keeping in view the void left by the breadwinner's death and income must be determined keeping in view the standard of living enjoyed by the family before the accident took place. While monetary compensation is a means to filling the financial hole left by the deceased, an estimate may be required to be done in order to support the remaining family members."

(emphasis added)

10. Considering that this is not a case where there was no evidence at all presented on behalf of the claimants relating to the income being generated



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by the deceased, the Court has to do some intelligent guesswork.

11. It seems from the testimonies on record that the deceased was pursuing a B.A. Part II and had also done a course of *fitter* from NCVT. Further, it can also be seen that in order to possibly take himself through his education, pay for his costs and earn additional income, he was not only working as a delivery executive with *PAN HR Solution Pvt. Ltd.* but also with *Domino's Pizza* as pizza delivery boy.

12. Also, there is no rebuttal by the respondent to the testimonies of the petitioners' witnesses.

13. Considering the income is being estimated for the year 2020 for a person who was taking initiatives to earn some good money for his livelihood and for the support of his family, the estimation by the MACT need not be reduced. The process adopted by the MACT is to award just and reasonable compensation. Holistically considering the circumstances and facts which are on record, the Court is of the opinion that the MACT was not amiss

14. Accordingly, the appeal is dismissed, and the MACT's award stands confirmed.

15. Pending applications are rendered infructuous.

16. Statutory deposit, if any, be released to appellant/Insurance Company.

MAC.APP. 403/2026 (Re: Kuldeep Kumar Pandey)

1. As noted above, two people were involved in the accident, namely *Ved Prakash Pandey* and *Kuldeep Kumar Pandey*. The compensation awarded to *Ved Prakash Pandey* has already been discussed above.



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2. As regards *Kuldeep Kumar Pandey*, Mr. Soni, counsel for Insurance Company, has pointed out to *paragraph no.43* of the impugned award, where the income of the deceased has been taken as *Rs.17,713.75/-* per month based on the income of the deceased from *Jubliant Food Works Ltd.* (master franchisee for Domino's Pizza across India) at *Rs.6,764.75/-* per month and from *Machino Plastic Ltd.* at *Rs.10,949/-* per month.
3. The Court has perused the award and notes that the MACT has assessed it on the basis of the testimonies which have been placed on record, including that of **PW1**, *mother of the deceased*, **PW3**, *Executive from Jubliant Food Works Ltd.*, and **PW4**, *Executive from Maschino Plastics Ltd.*
4. Also, there is no rebuttal by the respondent to the testimonies of petitioners' witnesses.
5. Accordingly, the Court finds no reason to displace the assessment made by the MACT, and the appeal in this regard also stands dismissed.
6. Accordingly, the appeal is dismissed and the MACT's award stands confirmed.
7. Pending applications are rendered infructuous.
8. Statutory deposit, if any, be refunded to the appellant/Insurance Company.
9. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 13, 2026/ak/bp