



2026:DHC:5983



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 24th July 2026+ MAC.APP. 456/2026 & CM APPL. 47275-47276/2026

THE ORIENTAL INSURANCE COMPANY LIMITED

.....Appellant

Through: Mr. Vikas Gupta & Ms. Nidhi Garg,
Advocates

versus

SUBHADRA MANDAL & ORS.

.....Respondents

Through: Mr. Vikas Bhatia, Advocate

CORAM:**HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed assailing impugned award dated 05th May 2026, passed by the Motor Accident Claims Tribunal, Patiala House Courts, New Delhi [*'MACT/Tribunal'*], in *Misc. DJ No.176/2023*, whereby compensation of *Rs.57,00,068/-* along with interest at the rate of 7.5% per annum was awarded to the legal representatives of the deceased [hereinafter, *'claimants'*].

2. The impugned award was passed in respect of an accident which occurred on 18th November 2022, near *Naraina, Delhi*. The said accident involved a truck bearing registration no. *RJ-52GB-2582* [hereinafter, *'offending vehicle'*], which was being driven by respondent no. 3, and was insured with the appellant/Insurance Company.



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3. The deceased used to drive an *Eeco van*, which was being run as a prepaid taxi from the Indira Gandhi International Airport [*‘IGI Airport’*]. He was *52 years* of age on the date of the accident. On basis of the deposition of **PW1** [*son of the deceased*], the MACT assessed notional income of the deceased at *Rs.60,000/-* per month. The basis of said assessment by the MACT is set out in *paragraph nos. 16 to 26* of the impugned award. **PW1** had stated that the deceased was enrolled with the *Airport Authority Taxi Union*, and used to have *three/four* pick-ups and drops in a day, thereby earning about *Rs.3,200/-* per day, and about *Rs.96,000/-* per month. He further deposed that after deduction of expenses, earning of the deceased would amount to *Rs.60,000/-* per month, which would have increased during his lifetime.

4. Testimony of **PW2** [*Official authorised by Joint Secretary, IGIAT-II, Taxi Owner and Operation Union*] was also placed on record. He brought on record the driver badge of the deceased, which was issued by the Transport Department, exhibited as **Ex.PW2/2**. **PW2** deposed that the deceased was running a taxi, picking up and dropping passengers from the IGI Airport since the last two decades. The prepaid taxi service was available outside gate no. 12 of the IGI Airport, and the credit invoice for the destination of customers was issued from the prepaid booth. He further deposed that the fare for destinations, normally, ranged from *Rs.500/-* to *Rs.1,400/-* depending upon the distance of each ride; *Rs.50/-* used to be deducted as charges for the prepaid booth and the remaining payment in cash was given to the driver/taxi holder.

5. As per the testimony of **PW2**, the deceased being an experienced driver “*took 4 to 5 routes of passenger in a day and he was earning around Rs. 2,500/- to Rs. 3,000/- per day in cash*”. The sample slips issued from



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the prepaid booth were exhibited as **Ex.PW-2/3 (Colly)**. During his cross examination, he stated that he had not brought any documentary proof regarding the deceased, and also rebutted the suggestion that he had deposed merely because the deceased was known to him.

6. Counsel for the claimants, points out that **PW2** had been authorized by the '*Joint Secretary*' of *IGIAT-II, Taxi Owner and Operation Union*, to depose regarding the deceased, and therefore, the question of him being a friend does not arise.

7. Counsel for appellant/Insurance Company, contends that assessment of notional income of the deceased at *Rs.60,000/-* per month, is highly amplified considering that there was no proof in this regard, and neither any tax returns nor any bank statements have been filed.

8. There is no doubt, that the Court can assess the notional income of a deceased on basis of the testimony of their legal representatives, and when there exists lack of documentary proof, the same can be made up for by some guesswork done by the Court.

9. This Court, in *Savita v. National Insurance Co. Ltd.*, 2026 SCC OnLine Del 2365, has already examined the principles that ought to inform the Tribunal in assessment of benchmark income. For ease of reference, relevant portion from said judgement is 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. In view of the aforesaid, and keeping in mind the principle of ‘just compensation’, considering that the accrual from two to three trips in a day,



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would amount to at least around Rs. 2,500/-, as borne out of the combined testimonies of **PW1** and **PW2**, even if it is assumed that the deceased worked 6 days a week, that is around 24 days in a month, his monthly income, at the very least, would be around Rs. 60,000 per month.

11. It is essential to point out that *paragraph 21* of the impugned award specifically sets out the manner in which monthly income of the deceased has been assessed by the MACT. A perusal of the said paragraph makes it clear that the MACT relied upon testimony of **PW1**, to assess income of the deceased at Rs. 60,000/- per month after making a deduction towards *expenses*. However, in the opinion of this Court, the Tribunal has erred in making such deduction while assessing the income itself, as opposed to making the deduction while calculating the *loss of dependency*, in accordance with the manner and principles laid down by the Supreme Court in *Sarla Verma Vs. DTC*, (2009) 6 SCC 121, and *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680. The Supreme Court, while standardising the computation of compensation in the aforesaid decisions, has already provided for deduction towards *personal expenses* after the addition towards *future prospects* has been made.

12. Accordingly, monthly salary of the deceased would be taken at Rs.60,000/-. Consequently, the annual salary of deceased would be Rs. 60,000 x 12, that is Rs. 7,20,000/- per annum. Deduction towards income tax would be made to the aforesaid annual income, in accordance with the tax liability rates prevalent in the financial year [*'FY'*] 2022-2023, which would amount to Rs. 35,880/-. Accordingly, the monthly salary of the deceased, after deduction towards income tax, shall be as under:



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S. No.	Heads	Amount
1.	Monthly Income of deceased before deduction (A)	Rs. 60,000/-
2.	Annual Income of deceased before deduction (B)	Rs. 7,20,000/-
3.	Less Income Tax (C)	Rs. 35,880/-
4.	Annual Income of deceased after deduction [(B-C)=D]	Rs. 6,84,120/-
5.	Monthly Income of deceased after deduction (E)	Rs. 57,010/-

13. It is further noted that as per the testimony of **PW1**, he had a ‘bachelor degree’ in *Business Administration*. He was working as a ‘Production Manager’ in *M/s Innodata India Pvt. Ltd.*, and earning Rs. 75,000/- per month. His brother, as per **PW1**, was working in *Amazon India Pvt. Ltd.*, and his sister was married. Therefore, neither he nor his brother and sister, were dependent upon their deceased father. Accordingly, deduction towards *personal expenses* shall be taken at *one-half*.

14. 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)	Rs. 57,010/-	Rs. 57,010/-
2.	Add Future Prospects (B) @10%	Rs. 62,711/-	Rs. 62,711/-
3.	Less Personal expenses of the deceased (C)	Rs.20,903.667/- [$@1/3^{\text{rd}}$]	Rs. 31,355.5/- [$@1/2$]
4.	Monthly loss of dependency [B-C = D]	Rs.41,807.333/-	Rs. 31,355.5/-
5.	Annual loss of dependency (Dx12)	Rs.5,01,688/- (rounded off)	Rs. 3,76,266/-



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6.	Multiplier (E)	11	11
7.	Total loss of dependency (Dx12xE = F)	Rs. 55,18,568/-	Rs. 41,38,926/-
8.	Compensation for loss of consortium (G) (48,400x3)	Rs. 1,45,200/-	Rs. 1,45,200/-
9.	Compensation for loss of estate (H)	Rs. 18,150/-	Rs. 18,150/-
10.	Compensation towards funeral expenses (I)	Rs. 18,150/-	Rs. 18,150/-
11.	Total compensation (F+G+H+I = J)	Rs. 57,00,068/-	Rs. 43,20,426/-
12.	Interest	7.5%	7.5%
13.	Reduced amount	Rs. 13,79,642/-	

Directions

15. For the aforesaid reasons, compensation has been reduced by **Rs. 13,79,642/-**. The revised compensation shall amount to **Rs. 43,20,426/-** [*revised compensation*].

16. Accordingly, if not already deposited, the revised compensation, along with interest at the rate of 7.5% per annum from the date of filing the petition shall be deposited before the MACT within a period of *six weeks*.

17. If an amount in excess of the revised compensation has already been deposited before the MACT, the amount in excess of the revised compensation, along with the accrued interest thereon, shall be refunded to the Insurance Company. Conversely, if an amount lower than the revised compensation has been deposited, the balance amount, along with the accrued interest thereon, shall be deposited before the MACT within a period of *six weeks*.

18. It is directed that a lump sum amount of **Rs. 5,00,000/-** shall be



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released to the claimant from the deposit of the compensation amount within a period of *two weeks* thereafter. Remaining amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (**FDRs**) of Rs. 40,000/- each for periods of 1 month, 2 months, 3 months and so on, in succession as maybe 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.

19. Accordingly, this appeal is disposed of in the above terms.
20. Pending applications, if any, are rendered infructuous.
21. Statutory deposit, if any, be refunded to appellant/Insurance Company, only if the order of deposit has been complied with.
22. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 24, 2026/sm/ya