



2026:DHC:5397



\$~10

* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of decision: 06th July 2026+ MAC.APP. 319/2021

BIBI MASUMA AND ORS

.....Appellant

Through: Ms. Aruna Mehta, Mr. Lakshay
Mehta, Advocates.

versus

MANOJ RAY AND ORS

.....Respondents

Through: Mr. Himanshu Bhushan, Ms. Shagun
Srivastava, Advocates for
Respondent no.3 (Insurance
Company).

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENTANISH DAYAL, J (ORAL)

1. This appeal has been filed seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Rohini Courts, Delhi ('*MACT/Tribunal*') vide impugned award dated 30th September 2020 in MACT No.6920/2016 awarding Rs.19,30,000/- along with interest at the rate of 9% per annum to LR's of deceased (hereinafter, '*claimants*').

2. The accident occurred on 10th December 2014 at 2:30 p.m. near *Narpat Ganj, Thana Chowk, Bihar* when one, *Mohd. Meenaj* (hereinafter, '*deceased*') who was travelling on a motorcycle, along with his mother, was hit by a truck bearing registration no. BR-01-GC-4818 (hereinafter,



2026:DHC:5397



‘*offending vehicle*’) being driven rashly and negligently from behind. Due to the impact of the accident, deceased fell down on the road and his head was crushed under the front wheels of the offending vehicle, resulting in his death.

3. *Ms. Aruna Mehta*, counsel for appellants/claimants, seeks enhancement on the sole ground that, *loss of dependency* was calculated on the basis of minimum wages of an unskilled worker, whereas, deceased was a skilled mason, as evident from the testimony of his wife/*Bibi Masuma (PW-1)* and testimony of his co-worker/*Jamrul (PW-3)*.

4. To the contrary, *Mr. Himanshu Bushan*, counsel for respondent no.3/Insurance Company, points out that the assessment done by MACT in *paragraph nos. 15 to 17* of the impugned award, bears out that the testimonies were not corroborative and these witnesses had not been able to withstand their statements in the cross-examination.

5. For this purpose, it is important to examine the testimony of *PW-1*. She stated that the deceased had been learning the work of a mason from his father since childhood and eventually became an expert mason and used to repair houses, as well as, take contracts for construction of houses either on daily basis or on contract basis. She further stated the deceased had been working in this profession for about 15 years and was known for his expertise. He charged a fee of about Rs.800/- per day and used to support the household expenditure to the tune of Rs.16,000/- per month. She further stated that the deceased wanted to expand his business by doing construction of old houses on floor-wise basis, which had been demolished, and was aspirational about increase in his income.



2026:DHC:5397



6. In cross-examination conducted by respondent no.3/Insurance Company, she stated that she does not have any documentary proof since her husband had spent his entire income and did not have any savings. She further stated that he did not have any certificate of mason and was not maintaining any account of monthly expenditure. *Mr. Bhushan*, points out that **PW-1** further stated that she was not aware of the place of working of her deceased husband.

7. In this regard, the testimony of deceased's co-worker/*Jamrul* (**PW-3**) is also important. He stated that he had been working as a mason in Delhi for the last 10 years and used to repair and construct houses on a daily basis or on contract basis. He knew the deceased and his father very well, since both of them were expert masons, however, the father had been doing less work due to his old age. He stated that he used to take the services of deceased, whenever he received a bulk order and there was a *quid pro quo* between them on that account.

8. In cross-examination conducted by respondent no.3/Insurance Company, he stated that he does not have any documentary proof of his own income as he does not have any savings and was unable to deposit any amount in his bank account. As regards the premises he had been working together with the deceased, he volunteered and provided details of three properties.

9. In the opinion of this Court, there is enough corroboration in the testimonies of **PW-1** and **PW-3**. Not only, the deceased's background of being an expert mason has been clearly spelled out in testimonies of both **PW-1** and **PW-3**, but also the status of being a co-worker with **PW-3**, along with the address of properties where they worked together.



2026:DHC:5397



10. The objection raised by *Mr. Bhushan* that there was no record of earnings and that the wife of deceased had no idea, as to where her husband was working, are unfortunately realities of such economic strata of society, where money is earned in cash for daily work and is subsequently spent, with hardly any savings accruing to them. It is not uncommon that families of this strata do not save money in bank accounts, but manage their affairs in cash, considering that there is hardly a margin of savings.

11. The issues of assessment of income in cases of categorical evidence not being provided, has been considered by this Court in *Savita & Ors. v. National Insurance Company Ltd.* 2026:DHC:3626 wherein, this Court culled principles for assessment of minimum wages. Noting scenarios where there is no documentary proof of income in informal sector and oral testimony of family members has been provided, minimum wages should be used as a yardstick and the Courts should not be constrained to consider wages from the lowest tier. Relevant paragraphs of the said 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

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



2026:DHC:5397



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.

31. Needless to say, these are merely guidepost, illustrative and not exhaustive. However, there is no denying that individual cases would turn on its own peculiar facts.”

(emphasis added)

12. In light of the observations of this Court, the appellant's plea for enhancement of compensation is accepted. Minimum wages for a skilled worker in Delhi as on the date of accident, will be taken at Rs.10,478/-.



2026:DHC:5397



13. Accordingly, revised computation is as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A)	Rs. 8,632/-	Rs. 10,478/-
2	Add: Future Prospects (B)	Rs. 3,452.8/-	Rs. 4,191.2/-
3	Less: Personal expenses of deceased (C)	Rs. 3,021.2/-	Rs. 3,667.3/-
4	Loss of dependency (A+B)-C=D	Rs. 9,063.6/-	Rs. 11,002/-
5	Annual loss of dependency (Dx12) = (E)	Rs. 1,08,763.2/-	Rs. 1,32,024/-
6	Multiplier (F)	16	16
7	Total loss of dependency (E x F)= (G)	Rs. 17,40,200/- (rounded off)	Rs. 21,12,384/-
8	Compensation for loss of consortium (H)	Rs. 1,60,000/-	Rs. 1,60,000/-
9	Compensation for loss of estate (I)	Rs. 15,000/-	Rs. 15,000/-
10	Compensation towards funeral expenses (J)	Rs. 15,000/-	Rs. 15,000/-
11	Total compensation (G+H+I+J) =K	Rs. 19,30,000/- (rounded off)	Rs. 23,02,400/- (rounded off)
12	Rate of Interest Awarded	9%	9%

Directions

14. For aforesaid reasons, compensation has been enhanced by Rs. 3,72,400/- [*‘enhanced amount’*].

15. Enhanced amount along with 9% interest per annum from the date of filing the petition shall be deposited by respondent no.3/Insurance Company before the MACT within a period of four weeks. It is directed that a lump sum amount of Rs.1,00,000/- shall be released to wife of deceased/*Bibi Masuma* from the deposit of enhanced amount within a period of two weeks



2026:DHC:5397



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 appellants/claimants. The amount of FDRs on maturity would be released to the Savings Bank Account of appellants/claimants upon due verification.

16. Accordingly, the appeal is disposed of in the above terms.
17. Pending applications, if any, are rendered infructuous.
18. Copy of this judgment be sent to the concerned MACT.
19. Copy of this judgment be sent to the concerned bank for information and compliance.
20. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 6, 2026/ak/sp