



2026:DHC:5780



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 21st July 2026*+ **MAC.APP. 836/2013**

UTTARAKHAND TRANSPORT CORPORATION Appellant

Through: Mr. Daleep Dhyani, Adv.

versus

SMT SAVITA & ANR

.....Respondents

Through: Mr. S.N. Parashar and Mr. Ritik Singh, Advs.

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

1. This appeal has been filed by the appellant/Uttarakhand Transport Corporation [*UTC/Corporation*] assailing judgment dated 21st May 2013, passed by the Motor Accident Claims Tribunal, Karkardooma Courts, New Delhi [*MACT/Tribunal*], in *MACP No. 247/2011*, whereby compensation of Rs.9,79,599/- along with interest at the rate of 7.5% per annum, was awarded [*impugned award*].

2. The cross appeal, being *MAC.APP. 198/2014*, was decided by this Court *vide* judgement dated 09th April 2026, and accordingly, the aforesaid compensation was enhanced by Rs.6,09,461/- to Rs.15,89,060/- along with interest at the rate of 7.5% per annum.



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3. *Mr. Daleep Dhyani*, counsel for appellant/Corporation, assails the impugned award on the ground that negligence has been attributed to the offending vehicle.

4. The accident took place on 23rd April 2011, at about 2:30 pm, when *Bharat Kumar* [hereinafter '**deceased**'] was coming home on his motorcycle bearing no. *DL-13S-5452* from UP Border via Shahdara Flyover. When the deceased reached GT Road Flyover, Shahdara, a bus bearing no. *UA-07H-8815* owned by appellant/Corporation [hereinafter, '**offending vehicle**'], being driven in a rash and negligent manner, hit the motorcycle of deceased from the *back side*, resulting in grievous injuries to the deceased. He was taken to GTB Hospital, Shahdara, where he was declared as '*brought dead*'.

5. *Mr. Daleep Dhyani*, counsel for appellant/Corporation, states that the impugned award relies upon the testimony of the alleged eyewitness [**PW2**], in order to reach the conclusion that driver of the offending vehicle was negligent; however in the FIR which was registered, it has been specifically stated that no eyewitness was found. He further states that, during his cross-examination, **PW2** stated that he was residing in the same residential area as that of the deceased and, therefore, he was an interested witness.

6. *Mr. S.N. Parashar*, counsel for the claimants, however, points out to the site plan, and the evidence by way of affidavit rendered by **R1W1** [*driver of the offending vehicle*]. The case set up by **R1W1**, as per *Mr. Parashar*, counsel for the claimants, was that the deceased was the motorcyclist, overtaking the offending vehicle from the *left/wrong side*; due to high speed, the deceased lost his balance and slipped on the road, sustaining fatal injuries.



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During cross-examination of **R1W1**, he admitted that he had not filed any complaint at any police station, but had given a *letter complaint* to the *incharge*, who had issued duty slips to intimate that that no accident had taken place with his vehicle. He further stated that he had seen a motorcyclist “*coming in the back side of his bus*”. The motorcyclist was driving the motorcycle at a high speed, and therefore, slipped. **R1W1** stated that the motorcyclist was trying to either overtake the offending vehicle “*or some TSR*”, which was being driven at a distance of about *15-20 metres* ahead of the bus.

7. On this basis, *Mr. Parashar*, counsel for the claimants, contends that the story which has been put forward by **R1W1** cannot be sustained, since it is not corroborated by the site plan and the Mechanical Inspection Report.

8. In order to assess the relative contentions, the site plan is extracted as under for reference:

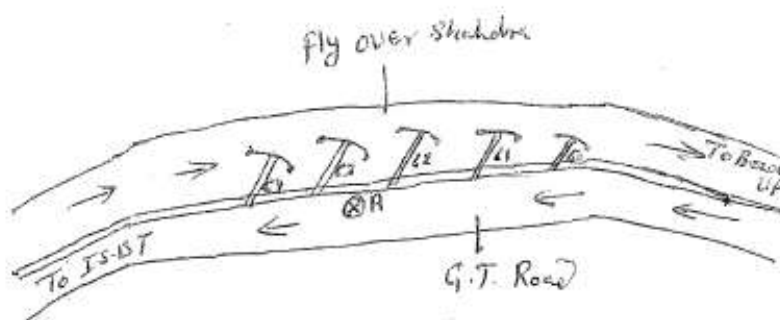


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 दिल्ली दक्षिण में जा रहा हूँ जो U.A. 07-H-8815-7
 Motorcycle No DL-13-S-5452 को मैंने हिट
 करने में Accident किया है।

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9. The note under the site plan records that the motorcycle had been hit from the back, which indicates that it had been involved in a *rear-end collision*. The site plan also indicates that the collision had occurred on the *rightmost* part of the lane, on which both the vehicles were driving, and which was next to the divider. The assertion of **R1W1** that the motorcycle was overtaking the offending vehicle from 'left side' may, therefore, not synchronise with the site plan, considering that the vehicles were on the *right*

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side, and the question of overtaking from the '*left side*' does not arise.

10. Moreover, the Mechanical Inspection Report confirms that the collision occurred from the *rear-end*, since it records that the silencer box cover was dented, and the upper plastic of the tail light was broken. The assertion made by driver of the offending vehicle that [R1W1], the deceased had come under the *left* tyre of the offending vehicle is, therefore, not corroborated by the site plan and the Mechanical Inspection Report.

11. Further, there is no doubt that the testimony of PW2 cannot be considered credible, as rightly pointed out *Mr. Dhyani*, counsel for appellant/Corporation, since the FIR records that there was no eyewitness, and PW-2 could have been an interested witness.

12. However, the issue of negligence has to be decided on a '*preponderance of probabilities*'. Therefore, upon an examination of the aforesaid records, this Court does not see any reason to displace the conclusion rendered by the MACT, even though the MACT relied on the testimony of PW-2 for this purpose.

13. *Mr. Dhyani*, counsel for appellant/Corporation, further raises an issue regarding the quantum of compensation. He contends that the monthly income was incorrectly taken as Rs.7,826/-, since there was no proof of any income being generated by the deceased, who was a still student pursuing *B.A.* from the *School of Open Learning, University of Delhi*.

14. However, the Court finds that assessment made by the MACT, in fact, records that since there was no conclusive proof regarding income of the deceased, who was *23 years old* at the time of death, it would be calculated in



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terms of the minimum wages applicable to a matriculate.

15. The Court does not see any reason to displace the aforesaid finding, as it conforms with the principles enunciated in various decisions of this Court. 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



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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)

16. As regards the compensation awarded towards *loss of affection, loss of estate, future prospects*, and the *rate of interest*, these aspects have already been dealt with in the cross-appeal, *vide* judgement and order dated 09th April 2026, and the requisite components have accordingly been aligned with principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680.

17. By order dated 11th September 2013, the Court had directed the appellant/Corporation to deposit the entire compensation amount, along with accrued interest before the Registrar General of this Court.

18. Orders for release have already been passed by this Court *vide* judgment dated 09th April 2026, and they shall be complied with.

19. Accordingly, the appeal stands dismissed.

20. Statutory deposit be refunded to appellant/Corporation.



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21. Pending applications, if any, are rendered infructuous.
22. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 21, 2026/mk/ya