



2026:DHC:7013



\$~5

* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of decision: 21st August 2026

CNR No. DLHC011565892016

+ MAC.APP. 460/2016

ORIENTAL INSURANCE CO LTD

.....Appellant

Through: Mr. Pradeep Gaur, Mr. Amit Gaur,
Mr. Kaartikey Parashar, Advocates.

versus

NEETU SABHARWAL & ORS

.....Respondents

Through: Mr. Yashaswi S. K. Chocksey, Mr.
Ankit Singh, Mr. Vijay Rajput,
Advocates for Respondent nos.1 &
2.

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

1. This appeal has been filed by appellant/Insurance Company assailing impugned award dated 30th January 2016, passed by the Motor Accident Claims Tribunal, North-East District, Karkardooma Courts, Delhi [*MACT/Tribunal*] in *MACT No. 49/2010*, whereby compensation of Rs.42,19,450/- along with interest at the rate of 9% per annum, was awarded [*'impugned award'*].

2. *Mr. Pradeep Gaur*, counsel for appellant/Insurance Company, challenges the award on the following three grounds:

Signature Not Verified

Digitally Signed
By: MANISH KUMAR
Signing Date: 25.08.2026
18:06:20

MAC.APP. 460/2016**Page 1 of 6**



2026:DHC:7013



- i. **First**, that the notional income of deceased was taken at Rs.2,59,630/- per annum, on basis of the Income Tax Return [**ITR**] of the deceased for the AY-2008-2009, and included the amount towards '*income from house property*'. Mr. Gaur contends that the income under this head would continue to accrue to the legal heirs of deceased even after his death and, therefore, cannot be considered while calculating the *loss of dependency*;
 - ii. **Second**, that the addition towards *future prospects* was made at 50%, even though it ought to have been made at 40% since the deceased was 36 years of age at the time of the accident and was not engaged in any form of permanent employment;
 - iii. **Third**, that the compensation awarded under the non-pecuniary heads including, *loss of love and affection*, *loss of estate* and *funeral expenses* ought to be aligned with the principles enunciated 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.
3. The contention of Mr. Gaur, counsel for appellant/Insurance Company, with respect to the '*income from house property*' has to be considered in the context of the fact that the appellant/Insurance Company neither took up this issue in its written statement nor while conducting the cross-examinations of **PW-1** [*wife of the deceased*], and **PW-4** [*Ms. Kanchana Bala, Income Tax Inspector*], who came up before the MACT. Therefore, this issue was not raised by appellant/Insurance Company at all, before the MACT, and, accordingly, has not been considered or dealt with by the MACT in the impugned award.



2026:DHC:7013



4. Notwithstanding the above, in the interest of justice, the Court has enquired from the counsel appearing for the claimants, as to the status of said house property. He states, on instructions, that there was an industrial plot under the *Bawana Relocation Scheme*, which had been taken on lease by the deceased and thereafter sub-leased, from which the family was receiving some rental income. He states that, after the death of the deceased, the said rental income ceased and the family has since been embroiled in disputes relating to the said property. Accordingly, he states that any income, if at all, which accrued to the deceased and his family from the said property has since stopped, and there is no immediate prospect of the family receiving any income from the same.

5. Therefore, taking a holistic view of the matter, the Court is not inclined to upset the assessment of notional income made by the MACT. This is, also for another reason, that **PW-1**/wife of the deceased stated that the deceased was running two factories in the name and style of '*Bharat Tyre Re-trading Company*' and '*Sabharwal Trading Company*', and that the total income of the deceased from all sources was about Rs. 90,000/- per month; though she was not able to produce any documentary proof regarding the same, the said assertion was very specific, and stated on affidavit by **PW-1**/wife of the deceased.

6. However, contrary to the aforesaid, the MACT assessed the annual income of deceased at a figure which works out to merely around Rs.2,000/- per month. The Court does not find the said assessment to be excessive or disproportionate in any manner, particularly with respect to a person of 36 years of age who is carrying on some business. Accordingly,



2026:DHC:7013



the plea of appellant/Insurance Company, in this regard, cannot be sustained.

7. As regards the alignment of compensation with the principles enunciated by the Supreme Court in *Sarla Verma (supra)* and *Pranay Sethi (supra)*, the following adjustments shall be made:

- i. *Future prospects* shall be granted 40% since the deceased was 36 years of age at the time of the accident and was not engaged in permanent employment;
- ii. *Loss of love and affection* shall be deleted in terms of decision of the Supreme Court in *United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur and Ors.* (2021) 11 SCC 780;
- iii. *Loss of consortium*, shall be granted at Rs.80,000/- [Rs.40,000/- x 2], considering that there were two claimants;
- iv. *Loss of estate and funeral expenses* shall be granted at Rs.15,000/- each.
- v. The rate of interest shall continue to remain 9% per annum.

8. Accordingly, the revised compensation shall be calculated as under:

S. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
1.	Annual income of deceased (A)	Rs. 2,59,630/-	Rs. 2,59,630/-
2.	Add Future Prospects (B)	Rs. 3,89,445/- [@50%]	Rs. 3,63,482/- [@40%]
3.	Less Personal expenses of the deceased (C) @ 1/3 rd	Rs. 1,29,815/-	Rs. 1,21,161/-
4.	Annual loss of dependency [B-C = D]	Rs. 2,59,630/-	Rs. 2,42,321/-



2026:DHC:7013



5.	Multiplier (E)	15	15
6.	Total loss of dependency (Dx12xE = F)	Rs. 38,94,450/-	Rs. 36,34,815/-
7.	Loss of love and affection (G)	Rs. 1,00,000/-	NIL
8.	Compensation for loss of consortium (H)	Rs. 1,00,000/-	Rs. 80,000/- [40,000x2]
9.	Compensation for loss of estate (I)	Rs. 1,00,000/-	Rs. 15,000/-
10.	Compensation towards funeral expenses (J)	Rs. 25,000/-	Rs. 15,000/-
11.	Total compensation [F+G+H+I+J= K]	Rs. 42,19,450/-	Rs. 37,44,815/-
12.	Interest	9%	9%
13.	Reduced amount	Rs. 4,74,635/-	

Directions

9. For the aforesaid reasons, compensation stands reduced by **Rs.4,74,635/-** [*‘reduced amount’*]

10. The revised compensation shall amount to **Rs. 37,44,815/-** [*‘revised compensation’*]

11. By order dated 30th May 2016, the Court directed appellant/Insurance Company to deposit the entire compensation, along with accrued interest thereon, before the MACT. It further directed release of 10% of the compensation amount in favour of the claimants. Therefore, the excess amount [*Originally deposited amount – Revised compensation*], which has been deposited by appellant/Insurance Company, shall be refunded back to appellant/Insurance Company along with accrued interest thereon.



2026:DHC:7013



12. The revised compensation, along with accrued interest, shall be released in favour of the claimants, through their designated bank accounts, as a lump sum amount, within a period of *four weeks*, considering that the accident occurred way back in 2009. It is informed by counsel for the claimants that the minor child, i.e. claimant no. 2/respondent no.2, has now attained the age of majority.
13. Appeal stands disposed of in above terms.
14. Pending applications, if any, are rendered infructuous.
15. Statutory deposit be refunded to the appellant/Insurance Company.
16. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

AUGUST 21, 2026/ak/ya