



2026:DHC:7308



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 31st August 2026

CNR No. DLHC012393642014

+ MAC.APP. 1168/2014 & CM APPL. 21071/2014

BEENA MALIK

.....Appellant

Through: Mr. Kamaldeep & Ms Jasmin,
Advocates.

versus

RAJBIR GOSWAMI & ORS (UNITED INDIA INS CO LTD)

.....Respondent

Through: Mr. Pradeep Gaur, Adv with Mr.
Amit Gaur, Mr. Karrikey Parashar,
Advocates (through VC) for R-3.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGEMENT**ANISH DAYAL, J. (ORAL)**

1. This appeal has been filed seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Patiala House Courts, New Delhi (*'MACT'*) awarding Rs. 25,74,028/- with interest at 7.5% to the legal representatives (*'LRs'*) of *Rishi Malik* (hereinafter, *'deceased'*).

2. The accident in question occurred on 30th March 2012, when the deceased, who was driving a motorcycle reached in front of gate no.3 DMS booth, Maharishi Raman Marg, a bus bearing no. DL-1PC-9126 (hereinafter, *'offending vehicle'*) hit his motorcycle. As a result, the



2026:DHC:7308



deceased came under the rear wheel of the bus and was dragged by the bus for some distance. He was taken to JPN Apex Trauma Centre, AIIMS where he was declared brought dead.

3. *Mr. Kamal Deep*, counsel for appellant/claimant, has challenged the assessment of notional income which was taken at Rs.1,97,178/-. This income was assessed as per the income tax return ('*ITR*') for financial year ('*FY*') 2010-11/assessment year ('*AY*') 2011-12, which returned an income of Rs.2,00,196/- and tax of Rs.3,018/- was deducted. Two more ITRs were placed on record *i.e.*, FY 2008-09/*AY* 2009-10 which returned an income of Rs.1,44,170/- and FY 2011-12/*AY* 2012-13 which returned an income of Rs.4,63,950/-.

4. *Mr. Kamal Deep* states that since deceased's income progressively increased, income from FY 2011-12/*AY* 2012-13 ought to have been taken. The date of accident was 30th March 2012, which is at the end of FY 2011-2012. The last ITR of FY 2011-2012/*AY* 2012-13 was filed for the earnings which were earned in FY 2011-12. Return for the FY 2011-12/*AY* 2012-13 was filed by the father of deceased.

5. *Mr. Pradeep Gaur*, counsel for Insurance Company, has drawn attention of this Court to the testimony of the mother of deceased/*Beena Malik* ('*PW3*') who did not give any evidence regarding the work that her son was doing at the time of accident. She only stated that he was 29 years old and had he been alive, he would be earning more than Rs. 7,00,000/- per annum, keeping in view the recent trends and the increase in income.

6. In her cross-examination, she stated that the deceased was not working anywhere. He had left his job sometime before the accident and



2026:DHC:7308



was receiving offers from abroad, however, in this respect, no documents had been filed regarding the offers received by her son. She further stated that she had not filed any document to prove that her son was conducting tuition classes.

7. To the contrary, *Mr. Kamal Deep*, relies upon the ITR filed for FY 2011-12/AY 2012-13. Considering the accident took place on 30th March 2012, deceased was earning his livelihood for almost all of the FY 2011-12 and the ITR had been subsequently filed by his father.

8. A perusal of the ITR would show that he earned an income of Rs. 1,35,000/- from *Soloman Engineers and Traders*, Rs. 41,293/- from *Religare Securities Limited* and Rs. 1,21,800/- from coaching classes. Another income of Rs. 1,65,270/- was recorded from capital gains.

9. Reliance may be placed upon decision of this Court in ***Savita & Ors. v. National Insurance Co. Ltd.***, 2026:DHC:3626 where the Court noted some amount of guesswork can be done while assessing benchmark income and the Courts should not be constrained to consider wages from the lowest tier. Relevant paragraphs of the 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:

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

....

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. For the purpose of assessment of his benchmark income, this Court is inclined to consider income earned from his salary and from coaching classes, taking into account the fact that, previously he had been engaged in a different set of jobs and had not been continuing in his job at the time of accident.



2026:DHC:7308



11. Therefore, considering that he was residing in Delhi, income generated from the above sources would have certainly supplemented his livelihood, as pleaded by *Mr. Kamal Deep*, counsel for appellant/claimant. Accordingly, the benchmark income will be considered at Rs.2,98,093/- (Rs. 1,35,000/- + Rs. 41,293/- + Rs. 1,21,800/-).

12. *Future prospects* have been granted at 50%, which ought to be considered at 40%, considering that the deceased was not working in a permanent job. Accordingly, the same shall be considered at 40% as per the principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680.

13. Further alignments shall be made in view of the decision in *Pranay Sethi* (*supra*) and *United India Insurance Co. Ltd. v. Satinder Kaur* (2021) 11 SCC 780. *Loss of consortium* shall be granted at Rs. 80,000/- (40,000 x 2), considering there were two claimants; *loss of love and affection* will stand deleted. *Loss of estate* will be granted at Rs.15,000/- and *funeral expenses* will be at Rs. 15,000/-.

14. Further, *Mr. Kamal Deep*, has challenged the interest rate granted at 7.5%. Reliance in this regard can be placed upon the judgment of the Supreme Court in *Kaushnuma Begum (Smt.) & Ors. v. New India Assurance Co. Ltd. & Ors.*, (2001) 2 SCC 9 wherein, while interpreting the powers of the Tribunal under Section 171 of the Motor Vehicles Act, 1988 to award simple interest on compensation from the date of institution of the claim petition, it was observed that the rate of interest awarded by nationalised banks on fixed deposits ought to serve as the guiding factor while determining the rate of interest payable on compensation amounts.



2026:DHC:7308



15. Considering that the rate of interest in 2014-15 was in the range of 8.25-8.50% the interest rate shall be considered at 8.5% since the claim petition was filed in September 2014.

16. Accordingly, the compensation will be revised as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A)	Rs. 1,97,178/-	Rs. 2,98,093/-
2	Add Future Prospects (B)	Rs. 49,294.5/-*	Rs. 1,19,237.2/-
3	Less: Personal expenses of deceased (C)	Rs. 98,589/-	Rs. 2,08,665/-
4	Loss of dependency (A+B)-C=(D)	Rs.1,47,884/-	Rs. 2,08,665/-
5	Multiplier (E)	17	17
6	Total loss of dependency (D x E) = (F)	Rs. 25,14,028/-	Rs. 35,47,305/-
7	Compensation for loss of consortium (G) (40,000x2)	Nil	Rs. 80,000/-
8	Compensation for loss of estate (H)	Rs. 10,000/-	Rs. 15,000/-
9	Compensation towards funeral expenses (I)	Rs. 25,000/-	Rs. 15,000/-
10	Compensation for loss of love and affection (J)	Rs. 25,000/-	Nil
11	Total compensation (G+H+I+J)= (K)	Rs. 25,74,208/-	Rs. 36,57,305/-
12	Rate of Interest Awarded	7.5%	8.5%

* Wrongly mentioned after deduction of personal expenses

Directions

17. For the aforesaid reasons, compensation has been enhanced by Rs. 10,83,097/- [*“enhanced amount”*].



2026:DHC:7308



18. Enhanced amount along with 8.5% interest per annum from the date of filing the petition shall be deposited before MACT within a period of four weeks, which shall be released to appellant/claimant as a lumpsum within two weeks thereafter.

19. The interest on the original compensation shall now be calculated at 8.5% per annum and a '*revised amount*' arrived at. The excess amount leftover, with interest, shall be deposited by the Insurance Company before the MACT within four weeks, which shall also be released to appellant/claimant as lumpsum within two weeks thereafter.

20. Accordingly, the appeal is disposed of. Pending applications, if any, are rendered infructuous.

21. Copy of this judgement be sent to concerned MACT.

22. Copy of this judgement shall also be sent to concerned bank.

23. Judgment be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 31, 2026/RK/sp