



2026:DHC:5922



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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. 635/2015

ORIENTAL INSURANCE CO LTD

.....Appellant

Through: Mr. Pradeep Gaur, Ms. Sweta Sinha
Advocates.

versus

SUMAN DEVI & ORS

.....Respondents

Through: Mr. Naresh Gupta, Advocate.

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

1. This appeal has been filed by the Insurance Company seeking reduction of compensation awarded at Rs.28,45,000/- along with interest at 9% by the Motor Accident Claims Tribunal, North District, Rohini Courts, Delhi (*'MACT/Tribunal'*) vide impugned award dated 16th May 2015.

2. The accident occurred on 4th July 2008 at 80 Foota Road near Kasturi Ram School, Narela when Anil Kumar (hereinafter, *'deceased'*), riding on a motorcycle as a pillion rider with his colleague, *Sompal*, was hit by a truck bearing no. HR-42D-0411 (hereinafter, *'offending vehicle'*). Due to the accident, both of them fell down on road and suffered grievous injuries and were taken to M.B. Hospital, where Anil Kumar was declared as *'brought dead'*.



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3. *Mr. Pradeep Gaur*, counsel for Insurance Company, has challenged the impugned award on three counts; **first**, that notional income has been wrongly calculated at Rs.10,000/-, since no proof was placed with respect to the deceased's employment ; **second**, *future prospects* have been wrongly awarded at 50% and ought to have been 40%, considering that the deceased was 29 years of age on the date of the accident and was working in a private job after applying the principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680 and; **third**, an amount of Rs.1,00,000/- has been awarded towards *love and affection*, in view of *United India Insurance Co. Ltd. v. Satinder Kaur*, (2021) 11 SCC 780, which needs to be aligned.

4. As regards notional income, MACT relied upon the salary slip dated 15th September 2008 provided by the employer, which showed that the deceased was drawing monthly salary of Rs.10,000/- and was working as a Sales Executive with *M/s Oyster International*. *Mr. Pramod Jain*, proprietor of *M/s Oyster International* tendered his evidence as **PW-3** and in the cross examination, he stated that did not have any other documentation to substantiate the salary slip. Income Tax Return ('**ITR**') of *M/s Oyster International* was tendered as **Ex.PW3/R1** to which, *Mr. Gaur* pointed out that the entry of wages paid does not synchronise with the kind of salary mentioned for the deceased.

5. Perusal of the testimony of **PW-3** would show that he had voluntarily said that he had only employed one person in his firm who used to do all chores of his business, including repairing and sales. An additional worker had been employed one and a half months prior to the date of the accident. It was further stated in the testimony that due to the small size of the firm



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there was no formal documentation and no records of salary had been maintained which was paid in cash. It was also stated in the salary slip that the deceased had been working for the last five years.

6. In the opinion of this Court, MACT was not amiss in considering the testimony of **PW-3** as credible and holding that the notional income was Rs.10,000/- for calculating *loss of dependency*.

7. *Mr. Gaur*, counsel for Insurance Company, pointed out that MACT had also taken note of minimum wages of skilled labour applicable in 2008 when the accident took place, which were in the range of Rs.4,000/- to Rs.7,000/-, therefore, Rs.10,000/- was an exaggerated amount.

8. Reliance may be placed upon decision of this Court in ***Savita & Ors. v. National Insurance Co. Ltd.***, 2026:DHC:3626 where the Court noted scenarios where there is no documentary proof of income in an informal sector and oral testimony of family members has been provided, therefore, some amount of guesswork can be done 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:

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



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part of the inquiry proceedings and not on exactitude....”

(emphasis added)

9. In these circumstances, the Court is not inclined to displace the benchmark income which has been taken at Rs.10,000/-, though grant towards *future prospects* will have to be aligned at 40%, in view of the principles enunciated in **Pranay Sethi** (*supra*) considering it was private job and not a permanent employment.

10. The amount of Rs.1,00,000/- awarded towards *love and affection* shall be deleted, since it has been subsumed under the head of loss of consortium as discussed by the Supreme Court in **Satinder Kaur** (*supra*).

11. Other alignments towards *funeral expenses* and *loss of estate* each will be granted at Rs.15,000/- and *loss of consortium* will be granted at Rs.2,00,000/- (40,000 × 5 dependents) in view of the principles enunciated in **Pranay Sethi** (*supra*).

12. Accordingly, revised compensation is as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A)	Rs. 10,000/-	Rs. 10,000/-
2	Add: Future Prospects (B)	Rs. 5,000/-	Rs. 4,000/-
3	Less: Personal expenses of deceased (C)	Rs. 3,750/-	Rs. 3,500/-
4	Loss of dependency (A+B)-C=D	Rs. 11,250/-	Rs. 10,500/-
5	Annual loss of dependency (D x 12)= (E)	Rs. 1,35,000/-	Rs. 1,26,000/-
6	Multiplier (F)	17	17



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7	Total loss of dependency (E x F)= (G)	Rs. 22,95,000/-	Rs. 21,42,000/-
8	Compensation for loss of consortium (H)	Rs. 10,000/-	Rs. 2,00,000/-
9	Loss of love and affection (I)	Rs. 5,00,000/-	Nil
10	Compensation for loss of estate (J)	Rs. 10,000/-	Rs. 15,000/-
11	Compensation towards funeral expenses (K)	Rs. 30,000/-	Rs. 15,000/-
12	Total compensation (G+H+I+J+K)= L	Rs. 28,45,000/-	Rs. 23,72,000/-
13	Rate of Interest Awarded	9%	9%

Directions

13. Accordingly, compensation has been reduced by Rs. 4,73,000/- [*'reduced compensation'*]

14. By order dated 07th August 2015, this Court directed the Insurance Company to deposit the entire amount of compensation with the Registrar General of this Court and further directed release of 50% amount to claimants in terms of the directions of MACT in the impugned award.

15. Considering that compensation has been reduced, it is directed that the excess compensation (*original compensation – reduced compensation*), along with accrued interest, be refunded to Insurance Company. Balance amount, along with accrued interest, be released to claimants as lump sum considering the appeal is of 2015 and the accident is of 2008. This will be as per the apportionment directed by the MACT.

16. Appeal is disposed of in the above terms.

17. Pending applications, if any, are rendered infructuous.



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18. Copy of this judgment be sent to the Bank for information and compliance.
19. Statutory deposit, if any, shall be refunded to Insurance Company, only if the order of deposit has been complied with.
20. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 24, 2026/ak/sp