



2026:DHC:2141



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 10th March 2026***

(9)

+ **MAC.APP. 453/2015 & CM APPL. 9931/2015**

NATIONAL INSURANCE CO LTDAppellant

Through: **Ms. Ridhima Gaur & Ms. Ring
Baliyan, Advs. for Ms. Archana
Gaur, Adv. for Insurance Co.**

versus

GEETA TRIPATHI & ORSRespondents

Through: **Mr. Manish Maini, Ms. Aastha
Chauhan and Ms. Anjali Singh, Advs.
for R-1 to 5.**

(10)

+ **MAC.APP. 14/2016**

GEETA TRIPATHI & ORSAppellants

Through: **Mr. Manish Maini, Ms. Aastha
Chauhan and Ms. Anjali Singh, Advs.**

versus

NATIONAL INSURANCE CO LTD & ORSRespondents

Through: **Ms. Ridhima Gaur & Ms. Ring
Baliyan, Advs. for Ms. Archana
Gaur, Adv. for Insurance Co.**

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. These cross-appeals have been filed respectively by the Insurance Company and the claimant, assailing the impugned award dated 22nd April

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2015 passed by the Motor Accident Claims Tribunal (*MACT/Tribunal*), North-west District, Rohini, whereby a compensation of *Rs.16,03,790/-*, along with interest at 8% per annum, was awarded to the claimants, who are legal representatives of the deceased *Sh. C. N. Tripathi*, who had succumbed to injuries sustained in a road traffic accident which occurred on 13th June 2011.

2. *Ms. Archana Gaur*, Counsel for the Insurance Company, states that the benchmark income taken at *Rs.12,000/-* per month was not based on any documentary proof, and, accordingly, minimum wages ought to have been taken. On the other hand, *Mr. Manish Maini*, counsel for the claimant, seeks enhancement of the said benchmark income on the basis of the Income Tax Returns (*ITRs*) which were filed and the testimony of the wife, **PW1**, *Smt. Geeta Tripathi*.

3. From the record, it can be seen that the MACT assessed the income on the basis of the testimony of **PW1**, who stated that her deceased husband had graduated as a *Shastri* from *Rashtriya Sanskrit Sansthanam*, Delhi in the year 1982 and obtained a post-graduation degree (*Acharya*) from *Rashtriya Sanskrit Sansthanam* in the year 1984. The marksheets, appended as **Ex.PW1/4** before the MACT, were not disputed.

4. **PW1** further stated that the deceased husband was a *professional astrologer* and *priest* and was running a *Yagya Shala* at *Burari Village* under the name and style of *Manokamna Sidh Peeth*, for which a photocopy of the sale deed was produced as **Ex.PW1/5** before the Tribunal.

5. She further deposed that he had an astrology office at *Wazirpur Industrial Area* under the name and style of *Bhagirathi Jyotish Mandir*, for which a copy of the lease deed was appended as **Ex.PW1/6**.



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6. For the Financial Year 1st April 2010 to 31st March 2011 (Assessment Year 2011-2012), the year in which the deceased passed away, a ledger account was produced by **PW1**, certified by the Chartered Accountant, stating that there was a net surplus profit of Rs.2,58,204/- in that year.
7. Further, she deposed that he had deposited cash of Rs.1,52,900/- in Savings Bank Account in his name *State Bank of India* and Rs.1,36,900/- in *Canara Bank*, thereby depositing a total amount of Rs.2,89,800/- (Rs. 1,52,900 + Rs. 1,36,900) in the Financial Year 1st April 2010 to 31st March 2011 and an amount of Rs. 59,000/- in the Financial Year 1st April 2011 to 4th July 2011.
8. She stated that he was contributing Rs.2,40,000/- towards household expenses and his earnings were increasing every year.
9. Taking this into account, the MACT assessed that the deceased must be earning at least Rs.400/- *per day*. On that basis, Rs.12,000/- *per month* was taken as the benchmark income.
10. On one hand Insurance Company states that there was no basis for calculating this benchmark income of Rs.12,000/- per month. On the other hand, there is the testimony of **PW1**, and the ledger account certified by the Chartered Accountant.
11. Considering that the assessment of the MACT at Rs. 12,000/- per month amounts to Rs. 2,40,000/- *per year*, whereas the claimant asserts an income of Rs. 2,58,204/- per year, this Court considers it appropriate to sustain the assessment made by the MACT, since the figures fall within approximately the same range of Rs. 2,50,000/- per year.
12. However, as regards the *multiplier*, which was adopted as 9 by the MACT, as per the assessment in *Smt. Sarla Verma & Ors v. Delhi Transport*



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Corporation & Anr. (2009) 5 SCC 121 and *National Insurance Company Ltd. vs. Pranay Sethi & Ors.* (2017) 16 SCC 680, it ought to be 11 since the deceased had not completed the age of 56 years but was 55 years 10 months on that date, therefore, he would fall in the bracket of 51-55 years.

13. *Ms. Gaur*, counsel for the Insurance Company, contends that since he was closer to the age group of 56 years, the multiplier of 9 was correctly applied.

14. Countering this submission, *Mr. Maini*, counsel for the claimant, relies upon the decision of the Supreme Court in *Shashikala & Ors. v. Ganga Lakshamma & Anr.* 2015 ACJ 1239, where, in paragraph 17, the Court, while assessing the multiplier, has noted that the deceased had “completed only 45 years” even though his age was 45 years, 5 months and 28 days on the date of the accident and therefore, the appropriate multiplier would have been 14.

15. In the opinion of this Court, the multiplier has to be applied as per the defined age bracket provided in the table supplied in *Sarla Verma (supra)* and *Pranay Sethi (supra)*, which are categorised on the basis of specific determined age groups/completed years of age. If courts were to assess age on the basis of the number of months after completion of a particular year of age, it would introduce a significant degree of subjectivity.

16. Age is universally accepted on the basis of completed years and not on the basis of the number of months which have been completed after the completion of a certain number of years. For example, if a person who has completed 55 years and 5 months or in fact 10 months would still be termed as a 55 years old, and not a 56 year old.



17. Accepting *Ms. Gaur's* submission in this regard would introduce a large degree of subjectivity in the application of multiplier or, in fact, assessing compensation.

18. Accordingly, *multiplier of 11* ought to apply.

19. *Ms. Gaur*, counsel for the Insurance Company, also raises an issue regarding the fact that the four children are all major and, therefore, the deduction towards *personal expenses* should have been $1/2$ rather than $1/4$.

20. To this, *Mr. Maini*, counsel for the claimant, counters by relying upon a decision of the Coordinate Bench of this Court in ***Kamlesh Mittal and Ors v. Oriental Insurance Co. Ltd. And Ors.*** 2014:DHC:4389, where a similar issue was considered, and the Court recorded as under:

“10. Now, coming to the second and last contention of the appellant regarding deduction of 50% earning towards personal expenses to assess the loss of dependency. The tribunal noted that appellant No.2 is a major son and appellant No.3 is a married daughter of the deceased and not financially dependent. Hence, based on the judgment of the Supreme Court in the case of Sarla Verma and Ors v. DTC and Anr., MANU/SC/0606/2009; AIR 2009 SC 3104 the tribunal took 50% deduction in the earning towards personal expenses.

11. To appreciate the submission of the learned counsel for the appellant, reference may be had to some of the relevant paragraphs of the judgment of the Supreme Court in the case of Sarla Verma v. DTC (supra). Relevant portion of paragraph 7 reads as under:

“7. The matter of arriving at the damages is to ascertain the net income of the deceased available for the support of himself and his dependants, and to deduct therefrom such part of his income as the deceased was accustomed to spend upon himself.



as regards both self-maintenance and pleasure, and to ascertain what part of his net income the deceased was accustomed to spend for the benefit of the dependants. Then that should be capitalized by multiplying it by a figure representing the proper number of year's purchase."

12. In para 12, the Supreme Court held as follows:-

"12. We have already noticed that the personal and living expenses of the deceased should be deducted from the income, to arrive at the contribution to the dependents. No evidence need be led to show the actual expenses of the deceased. In fact, any evidence in that behalf will be wholly unverifiable and likely to be unreliable. Claimants will obviously tend to claim that the deceased was very frugal and did not have any expensive habits and was spending virtually the entire income on the family. In some cases, it may be so. No claimant would admit that the deceased was a spendthrift, even if he was one. It is also very difficult for the respondents in a claim petition to produce evidence to show that the deceased was spending a considerable part of the income on himself or that he was contributing only a small part of the income on his family. Therefore, it became necessary to standardize the deductions to be made under the head of personal and living expenses of the deceased. This lead to the practice of deducting towards personal and living expenses of the deceased, one-third of the income if the deceased was married, and one-half (50%) of the income if the deceased was a bachelor. This practice was evolved out of experience, logic and convenience. In fact one-



third deduction, got statutory recognition under Second Schedule to the Act, in respect of claims under Section 163A of the Motor Vehicles Act, 1988 ('MV Act' for short)."

13. *The conclusion on the issue of deduction towards personal and living expenses is given in para 14 and para 15 which read as follows:-*

"14. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six. 15. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically."

14. *Hence, the Supreme Court has laid down a standard formula/guideline to ensure consistency in the Awards of various tribunals. However, a perusal of the guidelines laid*



down shows that a situation like this has not been dealt with namely, where the deceased is married and has children who are all settled and the widow is the only person who could be considered as dependent. I may, however, note that the Supreme Court noted that in case of a bachelor where deduction of 50% was stated, the Court noted that this was because it was assumed that a bachelor would tend to spend more on himself. Further there is a possibility of his getting married in a short time in which event the contribution to the parents/siblings was likely to be cut drastically.

15. In my opinion, in a situation like the present one, the situation of the deceased cannot be treated at par with a bachelor. There is merit in the said submission of learned counsel for the appellant that a man of 54 years of age who is professionally well qualified with two settled children and a wife would not be spending 50% of his wages for personal living expenses. He would be inclined to accumulate wealth for his old age days and also for the benefit of his wife and children. One cannot also ignore that being a father of a married daughter and a son, who is likely to get married he would have spent on the marriage of the son, on his grand children after they were born. These are expenses which a man who has grown to that age and who is well settled would normally be incurring. These expenses cannot be ignored. Keeping in view these facts and circumstances in my opinion, the appropriate deduction to be made from the income of the deceased in the facts and circumstances of this case was 1/3rd and not 50% as done by the tribunal. Hence, 1/3rd is only to be deducted from personal expenses.

16. The loss of dependency would now be Rs.23,83,337 [(325000- 1/3)x11]"

(emphasis added)



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21. The Court resonates with the opinion taken by the Coordinate Bench of this Court in **Kamlesh Mittal** (*supra*).

22. The submission of *Ms. Gaur* that 50% deduction ought to have been applied is not tenable. As noted in the said judgment, referring to *Sarla Verma*, the 50% deduction principle applies primarily to *bachelors*, on the assumption that a *bachelor* would spend more on himself.

23. In the present case, the deceased is survived by a widow and four major children. Some contribution, apart from providing for the wife, would naturally be made towards the children as well.

24. However, since they were major, the MACT ought not to have treated them as falling within 4-6 dependants and then deducted 1/4th towards *personal expenses*.

25. It will be appropriate that the deduction would be taken at 1/3 to align with the principles enunciated by the Supreme Court in **Sarla Verma** (*supra*).

26. A number of other alignments have to be done as per the principles enunciated in **Pranay Sethi** (*supra*):

(i) *Loss of consortium*, which was awarded at Rs.1,00,000/-, would be at Rs.2,00,000/- (Rs.40,000/- x5), towards *four* children and one widow.

(ii) *Loss of love and affection* at Rs.1,00,000/- ought to be *nil* in terms of **United India Insurance Co. Ltd. v. Satinder Kaur** (2021) 11 SCC 780.

(iii) *Funeral expenses* at Rs.25,000/-, ought to be reduced to Rs.15,000/-.

(iv) *Loss to estate*, which was not awarded, ought to be granted at Rs.15,000/-.



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27. As regards the plea on interest rate, which was granted at 8% *per annum*, this Court is not inclined to enhance the same to 9% *per annum*.

28. Accordingly, the revised compensation be recomputed as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A) (less Income Tax)	Rs. 12,000/-	Rs. 12,000/-
2	Add Future Prospects (B)	15% of Rs. 12,000/- =Rs. 13,800/-	15% of Rs. 12,000/- =Rs. 13,800/-
3	Less Personal expenses of the deceased (C)	1/4 of Rs. 13,800/- = Rs 3,540/-	1/3 of Rs. 13,800/- =Rs. 4,600/-
4	Monthly loss of dependency [(A +B)-C = D]	Rs. 10,350/-	Rs. 9,200/-
5	Annual loss of dependency (Dx12)	Rs. 1,24,200/-	Rs. 1,10,400
6	Multiplier (E)	9	11
7	Total loss of dependency (Dx12xE = F)	Rs. 11,17,800/-	Rs. 12,14,400
8	Medical expenses (G)	Rs. 2,60,990/-	Rs. 2,60,990/-
9	Compensation for loss of consortium (H)	Rs. 1,00,000/-	Rs.40,000/- x5 = Rs. 2,00,000/-
10	Compensation for loss of care and guidance to children (I)	Rs. 1,00,000/-	NIL
11	Compensation for loss of estate (J)	NIL	Rs. 15,000/-
12	Compensation towards funeral expenses (K)	Rs. 25,000/-	Rs. 15,000/-
13	Total compensation (F+G+H+I+J+K = L)	Rs. 16,03,790/-	Rs. 17,05,390/-
14	Rate of Interest Awarded	8% <i>per annum</i>	8% <i>per annum</i>

29. In terms of the order dated 25th May 2015, directions had been issued for the deposit of 60% of the awarded amount along with interest, and a sum of Rs. 2,00,000/- had been directed to be released.



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30. As per the revised computation, the balance amount along with accrued interest from the date of filing of petition be deposited before the Registry of this Court.
31. Out of the fresh deposited an amount of Rs.5,00,000/- be released as per the directions of the MACT in *paragraph 10* of the award. The balance shall also be released as per the direction of MACT in *paragraph 10* of the award.
32. Copy of this judgment be sent to the concerned MACT.
33. Appeal stands disposed of with above directions.
34. Pending applications, if any, are rendered infructuous.
35. Statutory deposit, if any, be refunded to appellant.
36. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

MARCH 10, 2026/mk/bp