



2025:DHC:4885



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

Date of Decision: 16.05.2025

+ MAC.APP. 38/2021, CM APPL. 2064/2021

NATIONAL INSURANCE CO. LTD.Appellant

Through: Mr. Manu Luv Shahlia, Advocate.

Versus

RAJAN SINGH & ORS.Respondents

Through: Mr. M. Maini and Ms. Anjali Singh,
Advocates for R-1 to 4.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. This Court had partly heard the matter on 14.05.2025 and passed the following directions:

“4. The present Appeal has been filed on behalf of the Appellant under Section 173 of the Motor Vehicle Act, 1988 impugning the Award dated 18.01.2020 [hereinafter referred to as "Impugned Award"] passed by the learned Presiding Officer, MACT, North West District, Rohini Courts, Delhi. By the Impugned Award, compensation in the sum of Rs. 12,59,000/- has been awarded to Respondent Nos. 1 to 4/Claimants along with interest at the rate of 9% per annum.

5. Learned Counsel appearing on behalf of the Appellant restricts his challenge in the present Appeal to only two grounds. He submits that firstly, the deduction on loss of dependency has been wrongly calculated and secondly, the award on loss of love and affection has been wrongly made.

6. So far as concerns the second contention, learned Counsel appearing on behalf of the Respondent Nos. 1 to 4 fairly concedes that the award on loss of love and affection cannot be given in terms of the judgment of the Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi & Ors.**; (2017) 16 SCC 680.



7. Learned Counsel appearing on behalf of the Appellant submits that although the deceased was a bachelor of 40 years, his legal representatives were his brothers and sisters and that there is no evidence on record to prove that the brothers and sisters were in fact dependent upon him. In addition, it is contended by learned Counsel appearing for the Appellant that each of the brothers and sisters of the deceased would have been married and living with their separate families.

8. Learned Counsel appearing on behalf of the Respondent Nos. 1 to 4 on the other hand, submits that the Respondent Nos. 1 to 4/Claimants were dependent upon the deceased. He requests for some time to place on record judgments in support of his contentions.”

2. By an order dated 19.01.2021, a Coordinate Bench of this Court had directed deposit of the entire decretal amount by the Appellant/Insurance Company and had released 50% of the awarded amount in terms of the scheme of dispersal as provided for in the Impugned Award.

3. Learned Counsel for the Appellant submits that the deceased was a bachelor and his siblings were older to him. He seeks to rely upon the judgment in the *National Insurance Company Limited v. Pranay Sethi & Others*¹ which, while discussing the judgment of *Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another*², has held that where the deceased was a bachelor survived by parents, normally 50% would be deducted as personal and living expenses because it is assumed that a bachelor would tend to spend more on himself. However, in the absence of evidence to the contrary, brothers and sisters will not be considered as dependants because they will either be independent and earning, or married, or be dependent on the father.

4. Learned Counsel for the Respondents on the other hand submits that

¹ (2017) 16 SCC 680

² (2009) 6 SCC 121



the facts as were applicable in the *Sarla Verma case* and the *Pranay Sethi case* are not applicable in the present case. He submits that in the present case, as can be seen from the record, the deceased was of the age 40 years and a bachelor. Being a bachelor, he was residing with his siblings who were of ages 66, 67, 71 and 52 years. He further submits that the siblings were being supported by the deceased.

5. In this regard, learned Counsel for the Respondent seeks to rely upon the evidence as given of PW-1 being one of the brothers of the deceased. Reliance is placed on Paragraph 5 of the Affidavit of evidence dated 13.01.2016 of PW-1 which is set out below:

5. That before accident my deceased brother Sh. Surender was residing with me and he was working as a Labourer and he was earning Rs. 12,000/-P.M and he was giving Rs. 10,000/- P.M to all the claimants. We all the petitioners were totally dependent upon the income of my deceased brother Sh. Surender. The income of my deceased brother Sh. Surender was increasing every year.

5.1 Learned Counsel for the Respondent further seeks to rely upon the cross-examination of PW-1 (brother of the deceased) conducted by the Appellant wherein PW-1 has stated that he is dependant on the income of the deceased.

6. Learned Counsel for the Respondent also seeks to rely upon two judgments of Coordinate Benches of this Court in the matter of *Oriental Insurance Company Ltd v. Rajender Singh & Ors.* and *Raj Kumar Rustagi and Others v. Sanjeev Kumar and Others*³.

7. The Supreme Court in the *Pranay Sethi case* while discussing the

³ 2013 ACJ 2816



Sarla Verma case does lay down that normally 50% would be deducted as personal and living expenses in the case of a bachelor. However, it also directs that in the absence of the evidence to the contrary, the brothers and sisters will not be considered. Paragraph 37 of this is set out below:

"37. Before we proceed to analyse the principle for addition of future prospects, we think it seemly to clear the maze which is vividly reflectible from Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] , Reshma Kumari [Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826] , Rajesh [Rajesh v. Rajbir Singh, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149] and Munna Lal Jain [Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347 : (2015) 3 SCC (Civ) 315 : (2015) 4 SCC (Cri) 195] . Three aspects need to be clarified. The first one pertains to deduction towards personal and living expenses. In paras 30, 31 and 32, Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] lays down : (SCC p. 136)

"30. 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 [UP SRTC v. Trilok Chandra, (1996) 4 SCC 362] , the general practice is to apply standardised 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 dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

*31. 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. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and*



earning, or married, or be dependant on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

[Emphasis supplied]

8. A Coordinate Bench of this Court while deciding a similar matter in ***Oriental Insurance Company case*** has held as follows:

“3. It is noted that the first claimant (first respondent) Rajinder Singh appearing as witness (PW-3) on the basis of his affidavit had stated that the claimants were financially dependent on the deceased and during cross-examination, explained that both he (Rajinder Singh) and the deceased (Dharampal) being the elder brothers were looking after and supporting the rest of the family financially. The case of Keith Rowe (*supra*) is distinguishable as it concerned the claim of the husband in a case where wife had died. The evidence of PW-3 about the dependency loss has remained unimpeached. The contention of the insurance company that brothers can never be treated as dependents being unacceptable as a thumb rule.”

[Emphasis supplied]

9. A similar view has been taken by a Coordinate Bench in the ***Raj Kumar Rustagi case*** wherein the brothers of the deceased were held to be dependant upon the deceased and consequently, the amount of compensation was enhanced. The relevant extract has been reproduced below:

“9. Normally, only a sum of 15 per cent is awarded as loss to estate when the legal heirs are not financially dependent as held in Sudhakar (*supra*) and a Division Bench judgment of Karnataka High Court in *A. Manavalagan v. A. Krishnamurthy*, 2005 ACJ 992 (Karnataka). At the same time, it has to be noticed that the deceased was getting a very handsome salary of over Rs. 6,00,000 per annum. He was a teacher by profession and, in the circumstances, it would



be difficult to say that he could spend more than 50 per cent of his income on himself. Since the deceased was staying with his brothers, either he would be helping his brothers on month to month basis or would save that amount which would ultimately go to them as loss to estate.

11. The compensation thus stands enhanced by Rs. 11,64,380/- which shall carry interest @ 7.5% per annum from the date of the filing of the Petition till its payment.”

[Emphasis supplied]

10. A perusal of the Affidavit of evidence and testimony of the PW-1 i.e., one of the brother of the deceased clearly shows that PW-1 has stated that all the Respondents/Claimants were dependant on the income of the deceased. It is undisputed that the deceased was a bachelor and that he was residing with his siblings. The siblings were aged 66, 67 and 71 and one of them was aged 52. The siblings were clearly much older than the deceased and three of them were senior citizens as well. Since the deceased was the only earning member, they were dependant on his income.

11. The Supreme Court in the ***Pranay Sethi*** case has held that normally in the case of bachelors, 50% is the standardised deduction for personal and living expenses and in the absence of evidence to the contrary, brothers and sisters will not be considered as dependants. However, in the present case, the siblings were almost of the age of parents of the deceased. No evidence has been brought on record by the Appellant/Insurance Company to show that the siblings of the deceased were not dependant on the income of the deceased.

12. Clearly and in light of the judgment of the ***Sarla Verma case*** and the ***Pranay Sethi case***, it has been held that subject to the evidence of the contrary, the deduction will be 50%. Here evidence to the contrary has been



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shown by the Respondent/Claimant.

13. Accordingly, and in view of the discussion above, the challenge made by the Appellant/Company on the ground that compensation for loss of dependency has been wrongly calculated is without merit. However, in view of the concession of the Respondents as set out in paragraph 1 above, in terms of the settled position in law, the compensation awarded for loss of love and affection cannot be sustained.

14. Accordingly, the Impugned Award is modified and after deduction of Rs.2 lacs of amount awarded for loss of love and affection, the Claimants/Respondents shall be entitled to compensation in the sum of Rs.10,59,000/- along with interest at the rate of 9% per annum in terms of the Impugned Award.

15. By order dated 19.01.2021, this Court had directed dispersal of 50% of the awarded amount. The balance 50% amount along with the interest accrued thereon till today shall be released in favour of the Respondents in terms of the Award as modified by the Court. In the event that there is any balance excess amount, the same shall be released in favour of the Appellant/Insurance Company. The Respondent is also entitled to 9% interest from the date of filing of the Detailed Accident Report.

16. The Appeal is disposed of in the foregoing terms. Pending Applications shall stand closed.

17. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 16, 2025/pa