



2025:DHC:7606



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 07.08.2025

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MAC.APP. 287/2022**MANKU VANSHKAR AND ORS****.....Appellants**

Through: Mr. Manish Maini, Mr. R.K. Jain, Ms.
Aastha Chauhan and Ms. Anjali
Singh, Advocates.

versus

NATIONAL INSURANCE COMPANY LTD.Respondent

Through: Mr. Manu Luv Shahalia, Advocate.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed on behalf of the Appellants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 29.03.2022 [hereinafter referred to as "Impugned Award"] passed by learned Presiding Officer, MACT, North West, Rohini Courts, Delhi in Petition.

1.1 The challenge in the present Appeal is for enhancement of the amount of compensation awarded in the sum of Rs. 15,04,040/- along with 6% interest per annum to the Appellants amounting to Rs.22,65,335/-.

2. The challenge in the present Appeal by the Appellants is on two grounds. Firstly, that the deduction that was taken by the learned Tribunal was taken as 1/3rd instead of 1/4th since the Appellant No.4 was the married daughter of the deceased. Secondly, that the interest that has been awarded at 6% is also not in accordance with the bank rate as prevalent in 2013.



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3. Briefly the facts are that on 06.08.2013, one Mr. Munni Lal was walking along with his son [Appellant No.2] towards his residence after some purchases and he was hit by a motorcycle driven by Respondent No.2 in rash and negligent manner which resulted in fatal injuries and the said Mr. Munni Lal passed away as a result of the accident.

3.1 It is the case of the Appellants that the deceased was 45 year old man and in good health, and was self-employed earning a sum of Rs.10,000/- per month. The claim petition was filed by his widow and his three children being his son, unmarried daughter as well as his married daughter, who at the time of the accident was 27 years of age.

3.2 Although, the offending vehicle was duly insured, since the driver of the offending vehicle did not have a valid driving licence, the learned Tribunal granted recovery rights to the Insurance Company. The learned Trial Court gave a finding that all the Respondents are jointly and severally liable for payment of compensation to the Appellants.

4. As stated above, the only ground for challenge by the Appellants is on quantum. Learned Counsel for the Appellants submits that the deceased was survived by the following legal heirs:

S.NO.	NAME	AGE (approx.) in 2017 in terms of Joint Statement	RELATION
APPELLANTNO.1	MANKU VANSHKAR	42 YEARS	WIDOW
APPELLANTNO.2	HARI NARAYAN	21 YEARS	SON
APPELLANTNO.3	USHA	19 YEARS	DAUGHTER



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APPELLANTNO.4	SUSHILA	27 YEARS	MARRIED DAUGHTER
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4.1 The learned Tribunal held that the married daughter [Appellant No.4] cannot be held to be a dependent on the income of the deceased and only the Appellant Nos.1,2 and 3 [who are the widow and the unmarried children] were considered as dependants and, based thereon, a personal deduction of 1/3rd was made in the Impugned Award.

5. Learned Counsel for the Appellants submits that the finding of the learned Tribunal is that the married daughter would not be a dependent is not in consonance with the judgments passed by the Coordinate Benches of this Court and of the Kerela and Karnataka High Court. Reliance is placed by the learned Counsel for the Appellants on the judgments in ***Ram Charan & Ors. v. New India Assurance Co. Ltd. & Ors.***¹ and ***New India Assurance v. Manju Chandra***², in this behalf.

5.1 In addition, it is contended that the judgments of the Kerela High Court in ***United India Insurance Co. Ltd. v. Shalumol***³ as well as the Karnataka High Court, have also taken a view that just because a girl is married, she does not stop being dependent on her father.

6. Learned Counsel for the Respondent submits that the dependency as taken by the learned Tribunal was in terms of the judgment of the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi and Ors.***⁴; and thus, is in accordance with law.

¹2022 SCC OnLine Del 5146

²2024 SCC OnLine DEL 9016

³2021 SCC OnLine KER 3209

⁴(2017) 16 SCC 680



7. The learned Tribunal has held that where legal representatives have attained the age of majority and are not financially dependent, no deduction is required to be made for them. The learned Tribunal has thus found that the dependency would be only of the widow and the son and the unmarried daughter, and thus, 1/3rd deduction of the income of the deceased towards personal and living expenses should be considered and only for contribution towards maintenance of the wife and unmarried son. The relevant extract of the Impugned Order is as follows:

“14.6 In the light of aforesaid opinion expressed by Hon’ble Apex Court in the cases of National Insurance Company vs Meghji Naran Soratiya & Ors CIVIL (supra) and New India Assurance Co. Ltd vs Vinish Jain And Ors Etc (supra) it can be safely concluded that in cases where the legal representatives of a deceased/victim have attained the age of majority and are not totally financially dependent upon the deceased then the deceased is likely to spare more of his income for his personal and living expenses and to contribute less towards household expenses. In the present matter, deceased Munni Lal is survived by his wife and two major daughters as well as one major son, out of whom one daughter of the deceased, namely, Sushila was married at the time of the alleged case accident and in these circumstances the primary duty of the deceased was to provide maintenance to his wife, namely, Manku Bai and his unmarried son, namely, Hari Narayan @ Harman as well as to his unmarried daughter Usha Devi. Although, Hari Narayan and Usha Devi were also major and were aged about 21 and 19 years respectively, however, it is the case of the petitioners that said Hari Narayan and Usha Devi were dependent on the income of the deceased. Despite cross examining PW1 Manku Bai, wife of the deceased and PW2 Hari Narayan son of the deceased at length no suggestion has been given to them by learned counsels for the respondents that Hari Narayan Advocate Usha Devi were not dependent on the income of the deceased. Thus, in view of the fact that only three of the legal representative of the deceased, namely, Manku Bai, Hari Narayan and Usha Devi were financially dependent upon the deceased, therefore, this court is of the opinion that 1/3 of the income of the deceased should be deducted towards his personal and living expenses and the remaining 2/3 should be considered to be his contribution towards maintenance of his wife and unmarried son Hemant.”

[Emphasis Supplied]



8. Learned Counsel for the Appellants submits that the loss of dependency was also considered in the judgement passed by the Coordinate Bench in **Ram Charan** case wherein relying on the judgment of the Karnataka High Court in **Reliance General Insurance Company Ltd v. Gangappa & Ors**⁵ and on the judgment of the Supreme Court in **National Insurance Company Limited v. Birender and Ors**⁶, to hold that the dependency could be of various types and the legal representatives of the deceased including married daughters and earning sons have a right to apply for compensation, and that it would be the duty of the Tribunals to examine whether such a legal representative would be dependent on the deceased. It is apposite to set out the relevant extract of the **Ram Charan** case below:

“12. The Karnataka High Court vide order dated 04.08.2022 in MFA No.102868/2014 titled as Reliance General Insurance Company Ltd Vs Gangappa & Ors also had an occasion to examine whether the major married daughters can be treated as dependents of the deceased mother. Relying upon Birender (supra), the Hon’ble Karnataka High Court held as follows:

“23. The Apex Court in the said judgement further held even married sons are also entitled for compensation. This Court also cannot make any discrimination whether they are married sons or married daughters and hence, very contention that married daughters of deceased are not entitled for compensation cannot be accepted and the Court has to take note of the rationale behind in coming to the conclusion of even married sons and major sons are eligible to claim compensation and hence the married daughters also entitle for compensation on all the heads and not to limit only for conventional heads.”

24. Counsel for respondents/claimants also relied upon a judgement of Kerala High Court in the case of Shalumol supra. In paragraph Nos.50 and 51 of the said judgement, Kerala High

⁵2022 SCC OnLine Kar 1801.

⁶(2020) 11 SCC 356.



Court also held that bond between the mother and daughter is eternal and further observed that even if the dependency is relevant criterion to claim compensation for loss of dependency, it does not mean financial dependency is the 'ark of the covenant'. Dependency includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency so on and so forth, which can never be equated in terms of the money.

25. Having considered the principles laid down in the judgements referred to supra, this Court has taken note of recent judgement of the Apex Court in Birender, wherein it is held that even married sons are entitled for compensation not only on conventional heads but also on loss of dependency. Hence, the very contention of the appellant-insurance company cannot be accepted."

[Emphasis Supplied]

8.1 The Supreme Court in **Birender case**, while dealing with the issue as to whether the major sons of the deceased are to be paid compensation has held as follows:

"12. The legal representatives of the deceased could move application for compensation by virtue of clause (c) of Section 166 (1). The major married son who is also earning and not fully dependant on the deceased would be still covered by the expression "legal representative" of the deceased. This Court in *Manjuri Bera* (supra) had expounded that liability to pay compensation under the Act does not cease because of absence of dependency of the concerned legal representative. Notably, the expression "legal representative" has not been defined in the Act.

13. In paragraph 15 of the *Manjun Bera* 2007 (10) SCC 643, while advertng to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is distinction between "right to apply for compensation" and "entitlement to compensation". The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning.



14. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependant on the deceased and not to limit the claim towards conventional heads only. The evidence on record in the present case would suggest that the claimants were working as agricultural labourers on contract basis and were earning meagre income between Rs.1,00,000/ and Rs.1,50,000/ per annum. In that sense, they were largely dependent on the earning of their mother and in fact, were staying with her, who met with an accident at the young age of 48 years.”

[Emphasis Supplied]

9. The issue of dependency of married daughters also came up for hearing before a Coordinate Bench of Kerala High Court in the ***Shalumol*** case, where the entitlement of married daughters to claim under the head of loss on dependency was discussed. It was held that in a case of married daughters, a mother render services to her daughter. It was further held that there was no reason showed for denying the compensation to a married daughter under the head of dependency as the dependency would be of various types and it would include gratuitous service of dependency, physical dependency, emotional dependency, psychological dependency and so on which can never be equated in terms of money. The relevant extract of ***Shalumol*** case is set out below:

“50. It is trite that the Courts in construing a social welfare legislation has to adopt a beneficial rule of construction which would fulfil the policy of the legislation favourable to those in whose interest the enactment has been passed.

51. It would be preposterous to accept the contention of the learned counsel for the appellant that a 25 year old daughter would be no longer dependent on her 49 year old mother because she was given in marriage. The bond between a mother and a daughter is eternal. I reminisce the quotation of Cardinal Mermillod - “No matter how old she may be, sometimes a girl just



needs her mom.”

52. Even if dependency is a relevant criterion to claim compensation for loss of dependency, it does not mean financial dependency is the ‘ark of the covenant’. Dependency includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money.”

[Emphasis Supplied]

10. A similar view was taken by the Karnataka High Court in ***Reliance General Insurance Company Ltd. v. Gangappa & Ors.***⁷, where it was held that no discrimination can be made between the married sons and married daughters and that the rationale for acceptance that married daughters are not entitled for compensation cannot be accepted. The relevant extract of the ***Gangappa*** case is set out below:

“23. The Apex Court in the said judgment further held even married sons are also entitled for compensation. This Court also cannot make any discrimination whether they are married sons or married daughters and hence, very contention that married daughters of deceased are not entitled for compensation cannot be accepted and the Court has to take note of the rationale behind in coming to the conclusion of even married sons and major sons are eligible to claim compensation and hence the married daughters also entitle for compensation on all the heads and not to limit only for conventional heads.

24. Counsel for respondents/claimants also relied upon a judgment of Kerala High Court in the case of *Shalumol*, *supra*. In paragraph Nos. 50 and 51 of the said judgment, Kerala High Court also held that bond between the mother and daughter is eternal and further observed that even if the dependency is relevant criterion to claim compensation for loss of dependency, it does not mean financial dependency is the ‘ark of the covenant’. Dependency includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency so on and so forth, which can never be equated in terms of the money.”

11. As stated above, the learned Tribunal held that the deceased was survived by his wife, two major daughters and one major son and one of his

⁷2022 SCC OnLine Kar 1801



daughters was already married, as is reproduced in paragraph 7 above. The learned Tribunal has held that so far as concerns financial dependency upon the deceased, the primary duty was of the deceased to his wife and two younger and unmarried children, thus, deduction should be 1/3rd towards personal and living expenses. The learned Counsel for the Appellants has not been able to show that the married daughter was residing with the deceased and thus there should not be a deduction towards personal and living expenses so far as concerns his married daughter.

11.1 However, on the ground of consortium, and on account of loss of love and affection, the learned Tribunal has awarded compensation to all four claimants including the married daughter. A sum of Rs.1,00,000/- has been awarded as compensation to the married daughter of the deceased [Sushila].

It is apposite to refer to the relevant extract below:

“22.1 ...Keeping in view the facts and circumstances of the case, the statements made by the petitioners, it is hereby directed that on realization of the entire award amount, an amount of Rs. 10,04,040/- be given to Smt. Manku Bai/Banshkar (wife of the deceased) and sum of Rs.2,00,000/- each to Hari Narayan Banshkar and Ms. Usha Devi Banshkar, that is, unmarried son and daughter of the deceased and a sum of Rs.1,00,000/- to Smt. Sushila (married daughter of the deceased) respectively...”

[Emphasis supplied]

11.2 Relying on the judgments discussed above, this Court finds no infirmity with the Impugned Award on this ground.

12. The second contention that is raised by the learned Counsel for the Appellants is that the award of interest at the rate of 6% p.a. is not in accordance with the view that has been taken by the Court. Learned Counsel for the Appellant seeks to rely upon the judgment of the Supreme Court in



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Baby Sakshi Greola v. Manzoor Ahmad Simon and Another⁸ to submit that interest enhanced to 9% was in order.

12.1 Learned Counsel for the Appellants further seeks to rely upon the judgment of the Coordinate Bench in ***Oriental Insurance Co Ltd v. Sangeeta Devi***⁹ wherein the Coordinate Bench has held that the directions of interest at the rate of 7.5% were modified to enhanced rate at 9% p.a.

13. The facts in the present case reflect that the accident happened on 06.08.2013 and the decision of the learned Tribunal court was delivered on 29.03.2022. The learned Tribunal relied on the judgment of the Supreme Court in its judgement ***Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy***¹⁰ had awarded an interest @ 9% per annum to give a finding that since the interest rates of fixed deposits of nationalized banks has fluctuated during the pendency of the proceedings before the learned Tribunal and deemed it apposite to grant the interest @ 6% per annum from the date of the filing of the DAR. The relevant extract of the Impugned Award is set out below:

“20.1 In respect of entitlement of the petitioner to interest on the awarded amount, it is noteworthy that the Hon'ble Apex Court had in the case of Municipal Corporation of Delhi vs. Association of Victims of Uphaar Tragedy, 2012 ACJ 48 (SC) observed that the victims of Uphaar Tragedy be awarded compensation with interest @ 9% per annum. The present matter is pending trial since 22.05.2018 and the rate of interest of fixed deposits in Nationalized banks has fluctuated/dropped several times during the pendency of the present proceedings. Therefore, in the interest of justice, in the present case, this court is of the opinion that the claimant/petitioner is entitled to interest at the prevailing bank rate of 6% per annum from the date of filing of DAR/petition, that is, with effect from

⁸2024 SCC OnLine SC 3692.

⁹2016 SCC OnLine Del 1221.

¹⁰2012 ACJ 48 (SC)



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22.10.2013 till realisation of the compensation amount.”

[Emphasis Supplied]

14. So far as concerns the rate of interest, the learned Trial Court has awarded interest @ 6% per annum from the date of filing of DAR/Petition, i.e., 22.10.2013, the law is settled as *qua* the interest.

14.1 The award of interest is usually determined at the prevailing bank rate of interest on a case to case basis and at the rate which is just and fair and reasonable. The Supreme Court in the judgment of ***Dharampal & Ors v U.P. State Road Transport Corporation***¹¹ after discussing the law as laid down held that interest has to be awarded at the prevailing bank rate of interest at the relevant time as per the facts and circumstances of each case.

14.2 In addition, in the case of ***Savita Devi & Ors. v. SBI General Insurance Company Ltd. & Ors.***¹² the Supreme Court has held that for determining ‘just compensation’ interest must be based on fairness, reasonableness and equitability. The interest awarded in the *Savita Devi* case was enhanced from 6% to 9% per annum by the Supreme Court.

15. The learned Trial Court has awarded interest at the rate of 6% per annum. Learned Counsel for the Respondent, on this aspect, fairly admits that 6% is lower than the usual rate, however submits that interest at the rate of 7.5% would be apposite.

16. Accordingly, this Court deems is apposite to enhance the rate of interest to 8% p.a. from the date of filing of the Claim Petition.

17. The Respondent/Insurance Company shall deposit the enhanced

¹¹ AIR 2008 SC 2312

¹² Civil Appeal No. 10053-10054 of 2024 order dated 02.09.2024



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amount with the Registrar General of this Court within six weeks from today.

18. Upon deposit, the amounts inclusive of up-to-date interest may be released to the Appellants in accordance with the Scheme, as is set out in the Impugned Award.

19. The Appeal is disposed of in the foregoing terms.

20. The parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

AUGUST 7, 2025/pa/ha