



2025:DHC:4263



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 14.05.2025

+ **MAC.APP. 522/2023**

SAVITRI DEVI AND ORS

.....Appellants

Through: Mr. Pankaj Gupta, Ms. Priyank S.
Aneja, Advs.

versus

ORIENTAL INSURANCE CO. LTD AND ORSRespondents

Through: Mr. R.K. Tripathi, Adv. for R-1

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

CM APPL. 60807/2023 [Condonation of delay in filing the Appeal]

1. This is an Application filed by the Appellants seeking condonation of delay of 177 days in filing the Appeal.
2. Learned Counsel for the Respondent No.1 submit that they have no objection if the prayer in the present Application is allowed.
3. The Application is accordingly allowed. The delay is condoned.

MAC.APP. 522/2023

4. The present Appeal has been filed by the Appellants under Section 173 of the Motor Vehicles Act, 1988 [hereinafter referred to as 'MV Act'] seeking to challenge an award dated 13.02.2023 passed by Ld. Presiding Officer, Motor Accident Claims Tribunal, Patiala House Court, Delhi [hereinafter referred to as 'Impugned Award']. By the Impugned Award, the



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Appellant/Claimants have been granted compensation in the sum of Rs.28,17,654/- along with 7.5% interest per annum.

5. Learned Counsel for the Appellants submits that the deceased was a bachelor and was the only earning member in his family of five members comprising an aged mother and father, a handicapped brother, another unmarried brother and an unmarried sister, both of whom are still studying. Learned Counsel for the Appellants submits that the Appellant No.1/Mother of the deceased appeared as PW-1 before the learned Tribunal and gave her evidence.

5.1 Learned Counsel for the Appellants further submits that the fact that there was no other earning member in the family of the deceased did not get reflected in the cross-examination of the Appellant No.1. Reliance is placed upon the cross-examination of Appellant No.1, which is extracted below:

“On SA

I tender my examination in chief by way of affidavit Ex. PW1/A bearing my thumb impressions at points A and B. I rely upon the documents as mentioned in my affidavit.

XXX by Sh. R.K. Tripathi, Ld. Counsel for Insurance Company.

I reside at the above mentioned address with my husband and children. I am well aware about the contents of affidavit filed by my counsel.

*I am not eye witness of the accident. The deceased Arvind was my son. At the time of accident, he was driving TSR. **After the accident of my son, my husband is not working anywhere. After the death of my son Arvind, I have now three children. I have no proof with regard to employment and income of my deceased son. I do not have any proof of expenses incurred on last rites of my deceased son. The deceased was unmarried at the time of accident.***

It is wrong to suggest that the present accident had occurred due to negligence of my deceased son. It is wrong to suggest that I am deposing falsely.

XXX by Sh. Akshay Kumar, Ld. Counsel for R-1 and R-2.



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I adopt the above cross examination.”

5.2 Learned Counsel for the Appellants seeks to rely upon the judgment passed by the Supreme Court in ***Sarla Verma & Ors vs. Delhi Transport Corp.& Anr***¹ to submit that in cases such as that of the Appellant where the deceased, although being a bachelor, has dependent family members, who are not otherwise employed, the Supreme Court has directed that the deduction shall be 1/3rd.

6. Learned Counsel for the Respondent No.1, on the other hand, seeks to rely upon the Impugned Award, more specifically paragraph 18, to submit that 50% of the earning of the deceased shall be deducted in terms of the judgment passed by the Supreme Court in ***Sarla Verma*** case and in ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.***². Learned Counsel further submits that the ***Sarla Verma*** judgment provides for a 50% deduction for assessment of compensation.

7. This Court has perused the evidence that has been placed on record by the Appellants. The Appellant No.1/mother of the deceased (PW-1 before the learned Tribunal), who appeared on behalf of her family submitted that her husband is suffering from heart diseases and after the accident, he is not working. The Appellant No.1 has further submitted that she is a housewife while her other son is handicapped and the other two children, being Appellant No.4 and 5, are studying for their graduation and MA degree respectively. The Appellant No.1 has further deposed that the Appellants were fully dependent on the income of the deceased, as he was the only earning member in the family. The relevant extract of the Affidavit in

¹ (2009) 6 SCC 121



Evidence of Appellant No.1 (PW-1) in this behalf, is extracted below:

“4. I say that my son Arvind Kumar left behind myself as **his mother Smt.Savitri Devi, Aged 51 years, his father Sh. Veerpal, Aged 61 years, his brother Jayaprakash, Aged 29 years who is Handicapped, his unmarried and unemployed brother Raj Kumar, Aged 25 years and his sister unmarried and employed sister Kumari Sarvesh, aged 23 years who are the only legal heirs of the deceased. Petitioner No.1 is a house wife, petitioner No.2 is suffering from heart patient other diseases, Petitioner no.3 is handicapped and surfing form 80% permanent disability, petitioner no.4 is studding in Graduation and Petitioner No.5 is studding in M.A. Thus all the petitioners were fully dependent upon the income and guidance of the deceased. He was only earning member in the family there is no other source of income whatsoever. The entire life of the petitioners has become dark and gloomy. There is sadness in the family of the petitioners. The losses suffered by the petitioners are quite irreparable and no amount can compensate the losses suffered by the petitioners.**”

[Emphasis Supplied]

7.1 This is also reflected from the examination of PW-1 as conducted on 07.12.2022 by the learned Trial Court. The relevant extract is below:

“07.12.2022

...

I am mother of deceased Sh. Arvind Kumar in the present matter. I am a housewife. **My deceased son was auto driver and was earning around Rs. 20,000/- to Rs. 25,000/- per month. I have two sons and one daughter. My elder son Sh. Jai Prakash aged about 34 years is handicap and my younger son Sh. Raj Kumar, aged about 26 years is preparing for competitive examination. My daughter Ms. Sarvesh, aged about 24 years is unmarried and is preparing for Ph. D examination. I had taken loan of around Rs. 3 lakhs from my relatives. My household and other expenses are around Rs. 15,000/- to Rs. 20,000/- per month...**”

[Emphasis supplied]

8. In addition, the testimony of the Appellant No.1, as can be seen from paragraph 5.1 above, shows that the factum that the deceased was the only earning member of the family has gone un rebutted.

² (2017) 16 SCC 680



9. In the **Sarla Verma** case, the Supreme Court has held that where the family of the bachelor is large and is dependent on the income of the deceased, the personal and living expenses may be restricted by the Court to one-third of the income of the deceased and the contribution to the family can be taken as two-third of the income of the deceased. The relevant extract of the **Sarla Verma** case is below:

“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]

9.1. The Supreme Court in the **Pranay Sethi** case while relying on the **Sarla Verma** case and **Reshma Kumari v. Madan Mohan**³, has held that so far as deduction for personal and living expenses is concerned, the Tribunals shall ordinarily follow the standards prescribed in paras 30, 31 and 32 of the judgment in **Sarla Verma** case. The relevant extract of the **Pranay Sethi** case is as follows:

“40. The conclusions that have been summed up in Reshma Kumari [Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826] are as follows : (SCC p. 91, para 43)

“43.1. In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above, the Claims Tribunals shall select the multiplier as indicated in Column (4) of the Table prepared in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] read with para 42 of that judgment.

³ (2013) 9 SCC 65



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43.2. In cases where the age of the deceased is up to 15 years, irrespective of Section 166 or Section 163-A under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the Table in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] should be followed.

43.3. As a result of the above, while considering the claim applications made under Section 166 in death cases where the age of the deceased is above 15 years, there is no necessity for the Claims Tribunals to seek guidance or for placing reliance on the Second Schedule in the 1988 Act.

43.4. The Claims Tribunals shall follow the steps and guidelines stated in para 19 of Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] for determination of compensation in cases of death.

43.5. While making addition to income for future prospects, the Tribunals shall follow para 24 of the judgment in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002].

43.6. Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paras 30, 31 and 32 of the judgment in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] subject to the observations made by us in para 41 above.

41. On a perusal of the analysis made in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] which has been reconsidered in Reshma Kumari [Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826], we think it appropriate to state that as far as the guidance provided for appropriate deduction for personal and living expenses is concerned, the tribunals and courts should be guided by Conclusion 43.6 of Reshma Kumari [Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826]. We concur with the same as we have no hesitation in approving the method provided therein."

[Emphasis Supplied]



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10. The Appellants have brought on record the fact that the deceased was the sole earning member of the family and has left behind a family of five members who were dependent on the deceased. The dependents include the mother of the deceased who is a house wife, father of the deceased who is suffering from heart diseases and is not working, one brother of the deceased who is handicapped, one brother and unmarried sister of the deceased both of whom are still pursuing their education. The Appellant No.1 has deposed that the deceased was the only earning member of the family and this statement has gone unrebutted.

10.1. Clearly, the deceased was the sole earning member in the family and had a large family of dependent members who were dependent on the income of the deceased.

11. In light of the principals as set down in *Sarla Verma* case this Court deems it appropriate to consider that the personal and living expenses of the deceased can be restricted to one-third and contribution to the family will be taken as two-third.

12. Accordingly, and in view thereof, the Impugned Award is modified to the extent that instead of 50% deduction in personal and living expenses, 1/3rd deduction shall be considered for the purposes of calculation of the compensation to be awarded.

12.1 The Impugned Order is set aside to the limited extent as discussed above and the matter is remanded to the learned Tribunal to re-calculate the amount of compensation.

13. The parties shall appear before the learned Tribunal on 03.06.2025 along with their respective calculations.



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14. The learned Tribunal shall examine the calculations filed by the parties and pass the award based on 1/3rd deductions towards personal and living expenses of the deceased.
15. The present Appeal is accordingly disposed of in the foregoing terms.
16. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 14, 2025/jn/ ha

Click here to check corrigendum, if any