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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Decided on: 20.12.2025*+ **MAC.APP. 929/2013****SUSHMA SHARMA @ SUSHMA KUMARI
SHARMA & ORS.**

.....Appellants

Through: Mr. Santosh, Advocate.

versus

VIJAY SINGH & ORS.

.....Respondents

Through: Ms. Suman Bagga, Ms. Mouli
Sharma, Advocates for R-3.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The appellants, who were the claimants before the Motor Accident Claims Tribunal ["the Tribunal"], have preferred the present appeal, assailing an award dated 19.12.2012, passed by the Tribunal in MACT No. 225/08/10. The proceedings arose from a fatal accident which led to the death of one Mr. Yogesh Chand Sharma. By the impugned award, the appellants have been awarded compensation of Rs. 9,98,160/-, alongwith interest at the rate of 9% per annum. They seek enhancement of the said compensation.

A. FACTS & IMPUGNED AWARD

2. The facts of the case, as narrated in the award, are that on 30.11.2007, the deceased, Mr. Yogesh Chand Sharma, was travelling on a motorcycle bearing registration No. DL-8S-AK-3094. At about 12:30



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A.M., when he reached S-Block Chowk, Mangol Puri, his motorcycle was hit by a truck bearing registration No. HR-55E-7497 (“offending vehicle”) coming from the side of Machhali Market, Sultan Puri. The offending vehicle struck the motorcycle of the deceased with great force, as a result of which the deceased was thrown onto the road, and the truck came to a halt only after dragging the motorcycle for a considerable distance. The deceased sustained grievous injuries in the accident. He was first taken to Sanjay Gandhi Memorial Hospital and was thereafter shifted to Lok Nayak Jai Prakash Narain Hospital, Sushruta Trauma Centre, where he succumbed to his injuries on 05.12.2007. At the time of the accident, the deceased was about 40 years and four months of age.

3. The claimants before the Tribunal were the wife and two sons of the deceased (who were minors at the time of the accident). The parents of the deceased were arrayed as respondents No. 4 and 5 before the Tribunal. The driver, owner, and insurer of the offending vehicle were arrayed as respondents No. 1, 2, and 3.

4. The accident resulted in criminal proceedings against the driver of the offending vehicle - Mr. Vijay Singh (Respondent No.1 herein). FIR No. 849/2007, under Sections 279, 337, and 304A of the Indian Penal Code, 1860, was registered on 30.11.2007 at P.S. Mangol Puri on the basis of the information given by Mr. Rajesh Kumar, who was one of the eye-witnesses to the accident.

5. The Tribunal returned a finding of rash and negligent driving against the driver, and assessed compensation payable to the claimants at Rs. 9,98,160/-, alongwith interest at the rate of 9% per annum, under the following heads:



Sr. No	Heads	Amount
1.	Loss of dependency	Rs. 8,18,160/-
2.	Funeral Charges	Rs. 10,000/-
3.	Loss of Estate	Rs. 10,000/-
4.	Loss of consortium	Rs. 10,000/-
5.	Loss of love, company and affection etc.	Rs. 1,00,000/-
6.	Loss of gratuitous service	Rs. 50,000/-
Total		Rs. 9,98,160/-

B. SUBMISSIONS

6. I have heard Mr. Santosh, learned counsel for the appellants, and Ms. Suman Bagga, learned counsel for the respondent No.3 - IFFCO Tokio General Insurance Co. Ltd. [“Insurance Company”].

7. Mr. Santosh submits that the compensation awarded by the Tribunal ought to be enhanced on the following grounds:

- a. That the Tribunal has erroneously assessed loss of dependency by adding future prospects at the rate of 30%, instead of 50%, and by applying a multiplier of 14, instead of 15 as per the judgment in *Sarla Verma v. DTC*¹,
- b. The Tribunal awarded non-pecuniary damages only to the extent of Rs. 10,000/- towards loss of consortium, despite the deceased having five dependants. Further, the award of Rs. 10,000/- each towards funeral expenses and loss of estate is inconsistent with the

¹ (2009) 6 SCC 121, [hereinafter, “*Sarla Verma*”].



principles laid down in *National Insurance Co. Ltd. v. Pranay Sethi*².

8. Ms. Bagga, on the other hand, submits that the Tribunal has overestimated future prospects by computing the same at 30%, whereas, in the facts of the present case, the appropriate addition ought to have been 25%. She further contends that the Tribunal erred in awarding compensation of Rs. 1,00,000/- towards “loss of love, company and affection” and Rs. 50,000/- towards “loss of gratuitous services”.

9. Each of the above aspects is dealt with below.

C. LOSS OF DEPENDENCY

10. There is no challenge in the present appeal as to the income of the deceased, assessed by the Tribunal to be Rs. Rs. 4,995/- per month. This assessment was supported by the testimony of appellant No. 1, the wife of the deceased, who appeared as PW-1, as well as by the deposition of Mr. Jugal Kishore, Assistant Manager of PACL India Pvt. Ltd., (PW-2) where the deceased was employed. PW-2 proved the salary certificate of the deceased on record as Exhibit PW-2/1, which showed an income of Rs. 4,995/- being drawn by the deceased.

11. The first challenge, however, lies in the addition made towards future prospects, inasmuch as, while computing the loss of dependency, the Tribunal applied future prospects at the rate of 30%. The decision of the Constitution Bench in *Pranay Sethi* lays down the following rates for enhancement of income on account of future prospects:

“59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where

² (2017) 16 SCC 680, [hereinafter, “*Pranay Sethi*”].



the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

*59.4. **In case the deceased was self-employed or on a fixed salary**, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. **An addition of 25% where the deceased was between the age of 40 to 50 years** and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”³*

Having regard to the above, the Tribunal was required to grant future prospects at the rate of 25% in the facts of the present case, where the deceased was on a fixed salary, and was between 40 and 50 years of age at the time of death.

12. The next ground of challenge relates to the selection of the multiplier. As per the record, the date of birth of the deceased was 27.07.1967, which stands admitted in the cross-examination by learned counsel for the Insurance Company, and is corroborated by the documentary evidence on record, including the PAN card of the deceased [Ex. PW 1/6]. Having regard to the age of the deceased, which was short of 41 years of age, the applicable multiplier was incorrectly taken as 14. The deceased falls within the 36-40 years age bracket and the applicable multiplier should therefore be 15. This is in terms of the selection of multipliers, as laid down by the Supreme Court in *Sarla Verma*⁴, and reiterated in several later judgments, including in *Pranay Sethi*⁵.

13. There is no challenge to the deduction of one-fourth on account of personal expenses as computed by the Tribunal. This is consistent with

³ Emphasis supplied.

⁴ Paragraph 42.



the judgments in *Sarla Verma v. DTC*, *Reshma Kumari v. Madan Mohan*⁶, and *Pranay Sethi*, as the deceased was married and had four to six dependants.

14. The computation on account of loss of dependency is, therefore, modified to the following extent:

S. No.	Heads	Amount
1	Monthly income of the deceased [A]	Rs. 4,995/-
2	Future prospects [25% of A = B]	Rs. 1,248.75/-
3	Monthly income of the deceased (including future prospects) [A+B = C]	Rs. 6,243.75/-
4	Personal expenses [1/4 th of C =D]	Rs. 1,560.94/-
5	Monthly loss of dependency [C – D = E]	Rs.4,682.81/-
6	Annual loss of dependency [E x 12 = F]	Rs. 56,193.72/-
7	Multiplier [G]	15
Total loss of dependency [F x G]		Rs. 8,42,906/-

D. NON-PECUNIARY DAMAGES

15. With regard to non-pecuniary heads of damages, in accordance with *Pranay Sethi*, learned counsel for the parties agree that funeral expenses and loss of estate must be awarded at Rs. 15,000/- each. The compensation under these heads is accordingly fixed at Rs.15,000/- each,

⁵ Paragraphs 42-44 and 59.6.

⁶ (2013) 9 SCC 65.



in place of the earlier amounts of Rs. 10,000/- each towards funeral expenses and loss of estate.

16. Compensation for loss of love, company, and affection and loss of gratuitous service has been awarded by the Tribunal at Rs.1,00,000/- and Rs. 50,000/-, respectively. The Supreme Court, in *United India Insurance Company Ltd. v. Satinder Kaur & Ors.*⁷, has made it clear that no amount is to be awarded on these heads separately, as these heads are subsumed under loss of consortium. The awards under these heads are, therefore, deleted.

17. The Tribunal's award of Rs. 10,000/- on loss of consortium, however, requires to be enhanced. As noted above, the deceased was survived by his wife, two sons (who were minors at the time of the accident), and his parents. They are all entitled to loss of consortium of Rs. 40,000/- each, in accordance with the judgments in *Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram & Ors.*⁸, and *Satinder Kaur*, wherein three aspects of consortium have been identified - spousal consortium, parental consortium, and filial consortium - payable respectively to the spouse, children, and parents of the deceased. The subsequent decision of the Supreme Court in *National India Assurance Company Limited v. Somwati*⁹, has reiterated this position and affirmed that each eligible claimant is entitled to a separate and independent award under the head of loss of consortium. The award on this account is, therefore, enhanced to Rs. 2,00,000/-.

⁷ (2021) 11 SCC 780.

⁸ (2018) 18 SCC 130.

⁹ (2020) 9 SCC 644.



E. CONCLUSION

18. As a result of the above discussion, the award of the Tribunal is modified to the following extent:

Heads of compensation	Awarded by Tribunal	Awarded by this Court	Difference
Loss of dependency	Rs. 8,18,160/-	Rs. 8,42,906/-	(+) Rs. 24,746/-
Loss of consortium	Rs. 10,000/-	Rs. 2,00,000/-	(+) Rs. 1,90,000/-
Loss of love and affection	Rs. 1,00,000/-	Deleted	(-) Rs. 1,00,000/-
Loss of gratuitous service	Rs. 50,000/-	Deleted	(-) Rs. 50,000/-
Loss of estate	Rs. 10,000/-	Rs. 15,000/-	(+) Rs. 5,000/-
Funeral expenses	Rs. 10,000/-	Rs. 15,000/-	(+) Rs. 5,000/-
Total	Rs. 9,98,160/-	Rs. 10,72,906/-	(+) Rs. 74,746/-

19. In sum, therefore, the impugned award is enhanced by a sum of Rs. 74,746/-, from Rs. 9,98,160/- to Rs. 10,72,906/-. The entire award will carry interest at the rate of 9% per annum, as awarded by the Tribunal.



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The Insurance Company is directed to deposit the balance amount, alongwith up-to-date interest @9% per annum, within eight weeks from today.

20. Having regard to the fact that the appeal is of the year 2013 and the period of five years contemplated by the Tribunal for retention of the amounts in FDRs has already elapsed, the entire balance compensation amount along with accrued interest be released forthwith.

21. Pursuant to the Tribunal's award and the subsequent order of this Court dated 19.08.2014, appellant No. 1, wife of the deceased, has already been permitted to withdraw part of her share of the compensation alongwith accrued interest, lying in FDR with the State Bank of India, for construction of her house. The said withdrawal shall be duly adjusted against her entitlement under the present judgment.

22. The amount of Rs. 40,000/- each, awarded towards loss of consortium to the parents of the deceased (respondent Nos. 4 and 5 in the present appeal), will be disbursed to them. The remaining compensation amount, after adjusting the amount already released to appellant No. 1, shall be disbursed in equal shares to remaining appellants.

23. Statutory deposits, if any, be refunded to the appellants.

24. The appeal is accordingly disposed of.

PRATEEK JALAN, J

DECEMBER 20, 2025

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