



2025:DHC:682



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 03rd February, 2025

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MAC.APP. 92/2025**RASEED BEG & ANR.**

.....Appellants

Through: Mr. Amit Bodh & Mr.
Harsh Pant, Advocates.

versus

**AKBAR KHAN & ORS. (TATA AIG GENERAL
INSURANCE COMPANY LTD.)**

.....Respondent

Through: Mr. Parvez Haider & Mr.
Rafiq Ahmad, Advocates
for Respondent Nos.1 & 2.
Mr. Vaibhav Singh & Mr.
Kamaldeep, Advocates for
Respondent No.3.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)****CM APPL. 6301/2025 (for exemption from filing certified copies
in the present appeal)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The appellant challenges the award dated 30.09.2024 passed by the learned Presiding Officer, Motor Accident Claims Tribunal-02 ('MACT'), South West District, Dwarka Courts, New Delhi, in MACT No.1500/2017 on two grounds:

- i. The learned counsel for the appellant submits that the income of the appellant has been assessed as ₹7,107/- per month which is on the lower side.
- ii. The interest awarded is only 7.5% per annum whereas the same should have been at least 9% per annum.

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4. The learned Tribunal held that the victim sustained fatal injuries and one Mr. Faheem Bag sustained injuries in the accident that took place on 22.09.2016 due to the rash and negligent driving of the offending vehicle. The offending vehicle was insured with the respondent/Insurance company who were, therefore, held liable to pay compensation to the family members of the deceased. The deceased at the time of accident was 18 years of age.

5. In regard to the assessment of the income, the learned Tribunal noted that the claimants have not been able to produce any proof regarding the income of the deceased. The learned Tribunal noted that even though it was stated by the claimants that the deceased was working in a factory and was earning ₹20,000/- per month, however, the employer of the deceased was also not brought as a witness. The deceased was a resident of Uttar Pradesh and the accident also happened in Uttar Pradesh.

6. The learned Tribunal, in the absence of any proof, assessed the income of the victim as minimum wages payable to the unskilled labourer at the time of accident in Uttar Pradesh which was ₹7,107/- per month.

7. The learned counsel for the appellant submits that mere inability of the claimants to produce documentary evidence to show the monthly income of the deceased cannot be the reason for the assessment of income as minimum wages.

8. He relies upon the judgment passed by the Hon'ble Apex Court in the case of ***Chandra alias Chanda alias Chandraram v. Mukesh Kumar Yadav : (2022) 1 SCC 198*** to contend that in



the absence of salary certificate, the Minimum Wages notification though can be a yardstick but the same cannot be an absolute one to fix the income of the deceased. It was held that the learned Tribunal is required to make some guess work and the same should not be detached from reality.

9. The Hon'ble Apex Court in the facts of the said case held that there was no reason to discard the oral evidence of the wife of the deceased who has deposed that her late husband was earning around ₹15,000/- per month. The observation was made by the Hon'ble Apex Court noting that the deceased possessed a Heavy Motor Vehicle driving licence.

10. The Hon'ble Apex Court also relied upon the judgement in the case of *Minu Rout v. Satya Pradyumna Mohapatra : (2013) 10 SCC 695* wherein the salary of the driver of light motor vehicle had been taken as ₹6,000/-. The Hon'ble Apex Court consequently noted that there is enormous growth of vehicle population and demand for good drivers and after considering the oral evidence, the income of the deceased in *Chandra alias Chanda alias Chandraram v. Mukesh Kumar Yadav (supra)* was arrived at ₹7,467/- per month.

11. In the present case, the only evidence sought to be produced in regard to the income of the deceased being ₹20,000/- per month is the deposition of PW1/the father of the deceased. It was only mentioned that the deceased was working as a labourer and was earning ₹20,000/- per month. Nothing else was stated in the petition. Not even the name of the employer or the place where the deceased was working was mentioned.



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12. It is also relevant to note that the deceased, at the time of an accident, was eighteen years of age. It was not the case of the claimant that the deceased, at the time of the accident, was married. Thus, the only evidence which was relied upon by the claimant, was the statement of the father, which as noted above, was not even supported by any pleadings or documents. The father of the deceased is also not stated to be a senior citizen. Therefore, it also cannot be said that the family of the victim was dependent on him for their livelihood.

13. In such circumstances, assessing the income of the victim as minimum wages as was applicable in the State of Uttar Pradesh is reasonable.

14. In regard to the interest being awarded, this Court notes that different rate of interest are awarded by the learned Tribunal in different cases. In some cases, this Court has come across that an interest @9% per annum has been awarded by the learned Tribunal.

15. This Court, thus, considers it apposite to award a simple interest @9% per annum from the date of institution of the case till the date of passing of the present order. In case the amount is not deposited with the tribunal within a period of four weeks, a simple interest @12% per annum is also directed to be paid by the Insurance Company to the claimants for the period of delay.

16. The appeal is disposed of with the aforesaid observations.

AMIT MAHAJAN, J