



2025:DHC:11191



\$~65

* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Decided on 09.12.2025*

+ MAC.APP. 920/2013

IFFCO TOKIO GENERAL INSURANCE CO. LTD.Appellant

Through: Mr. Pankaj Seth, Advocate.

versus

RAMWATI & ORS

.....Respondents

Through: Mr. S.N. Parashar & Mr. Ritik
Singh, Advocates for R-1 to 4.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The appellant – IFFCO Tokio General Insurance Co. Ltd. [“the Insurance Company”] has preferred the present appeal against an award dated 07.08.2013, passed by the Motor Accident Claims Tribunal [“the Tribunal”] in MACT No. 307/09/13/11. The proceedings arose from a fatal accident which led to the death of one Mr. Vijay Pal. By the impugned award, his wife and children [hereinafter, “the claimants”] have been awarded Rs.9,29,389/-, alongwith interest at the rate of 9% per annum.

2. The facts of the case, as stated in the award, are that on 02.02.2009, at about 8:30 PM, the deceased was travelling from the Nangloi Subji Mandi to his house on a bicycle, when a tractor [bearing No. UP-82K-0558] [“the insured vehicle”] hit the deceased’s bicycle from the front, leading to the deceased falling and sustaining grievous injuries. The deceased was then taken to the Maharishi Balmiki Hospital, Pooth Khurd, but was later transferred to Ram Manohar Lohia Hospital, where he



eventually succumbed to his injuries.

3. The respondent Nos. 1 to 4, being the wife, son and two daughters of the deceased, were the claimants before the Tribunal. The Insurance Company, driver and owner of the insured vehicle [respondent Nos. 5 and 6 herein] were arrayed as respondents before the Tribunal.

4. Criminal proceedings were also instituted against respondent No. 5 *vide* FIR No. 21/2009 under Sections 279 and 304A of the Indian Penal Code, 1860, at Police Station Shahbad Dairy. After investigation, a charge sheet dated 18.04.2009 was filed in the criminal proceedings.

5. The Tribunal returned a finding of rash and negligent driving against respondent No. 5, and assessed compensation payable to the claimants, and against the Insurance Company without any recovery rights, at Rs. 9,29,389/-, alongwith interest at the rate of 9% per annum, under the following heads:

<i>Pecuniary Damages:</i>	
Loss of dependency	Rs. 6,44,389/-
Funeral charges	Rs. 25,000/-
Loss of estate	Rs. 10,000/-
Loss of consortium	Rs. 1,00,000/-
<i>Non- Pecuniary Damages:</i>	
Loss of love, company and affection etc.	Rs. 1,00,000/-
Loss of gratuitous services	Rs. 50,000/-
TOTAL	Rs. 9,29,389/-

6. The present appeal relates only to the quantum of compensation.

7. I have heard Mr. Pankaj Seth, learned counsel for the Insurance Company, and Mr. SN Parashar, learned counsel for the claimants.

8. In support of the appeal, Mr. Seth submits as follows:

a. That the Tribunal has erroneously computed the loss of



dependency on the basis of an incorrect addition of future prospects at 30%, and a deduction of only 1/4th [25%] towards personal and living expenses. In fact, he submits that future prospects should be added at 25%, as laid down by the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi*¹, and that the two major married daughters and the major son [respondent Nos. 2 to 4] ought not to have been taken as dependents. According to Mr. Seth, this would lead to deduction of 1/2 [50%] towards personal expenses.

- b. That the Tribunal has erroneously granted compensation for funeral charges at Rs. 25,000/-, instead of Rs. 15,000/-, as laid down by the Supreme Court in *Pranay Sethi*.
- c. That the Tribunal has also erred in granting compensation for “*loss of love, company and affection*” at Rs.1,00,000/-, and for “*loss of gratuitous services*” at Rs. 50,000/-.

9. With regard to the computation of loss of dependency, Mr. Parashar, on the other hand, submits that the wife of the deceased [respondent No. 1 herein], who gave evidence before the Tribunal, stated that her children were dependant on the deceased, and her testimony withstood cross-examination. However, he does not dispute the reduction of future prospects from 30% to 25%. In addition, he submits that the Tribunal has erroneously awarded inadequate sums under the heads, loss of estate at Rs.10,000/- and loss of consortium at Rs.1,00,000/-. He refers me to the judgment of the Supreme Court in *Pranay Sethi*, which holds that these figures are required to be revised to Rs. 15,000/- and Rs. 1,60,000/-, respectively.

¹ (2017) 16 SCC 680 [hereinafter, “*Pranay Sethi*”].



10. Each of the aforesaid grounds is dealt with below.

A. DEDUCTION FOR PERSONAL EXPENSES

11. The determination of this issue turns on the dependency, as far as the children of the deceased are concerned.

12. The contention of the claimants before the Tribunal was that the deceased had four dependants at the time of the accident, being his wife, two daughters aged about 18 and 20 years, and son aged about 21 years.

13. Respondent No. 1, i.e. wife of deceased examined herself as PW-1, and in her affidavit of evidence, she stated as follows:

“2.At the time of accident, the age of my husband was 43 years and was vegetable vendor and was earning Rs 10,000/-p.m., out of which he used to give me Rs 9000/-p.m. for household expenses and I was maintaining the entire house. My husband was hale and hearty and he was teetotaler. If my husband had not died in the said accident, he must have earned Rs 20,000/- p.m. in future as his income was increasing every year and also due to inflation and rise in price index every year. I am a household woman. The original receipt issued by doctors of Ram Manohar Lohia Hospital, New Delhi regarding admission of my husband and his death is EX.PW1/1. The original dead body receipt of my husband is EX.PW1/2 and original death certificate is EX.PW1/3.

3. That my husband left behind myself Ramwati (widow) aged 40 years, Satbir (son)aged 21 years ,Raj kali (daughter) aged 20 yrs and Kusum (daughter) aged 18 years, as dependents/legal heirs. My father-in-law and mother-in-law are pre-deceased. We all were fully dependent upon the income of my husband for day-to-day expenses. The photocopy of our ration card is EX PW1/4.”²

14. Respondent No. 1 [PW-1] reiterated in her examination in chief that she and her three children were the only dependents left behind by the deceased. She was also cross-examined by learned counsel for the driver and owner of the insured vehicle, where she stated that her son is unmarried, whereas both her daughters are married, but residing with her



due to strained matrimonial relations. She further stated that all her children are unemployed and dependents.

15. After considering the aforesaid evidence, the Tribunal held as follows:

“13. As per the petition, the deceased was married and he left behind his widow, one major son and two major married daughters of deceased. In the normal course, the major son and major/married daughters cannot be said to be dependent upon the deceased but in this case the married daughters are having disputes with their inlaws and are residing in their parental house, further the major son is unemployed and also financially dependent upon his parents. Hence there were four dependents upon the deceased at the time of his death.”

16. The status of married daughters as dependents has already been settled by this Court in *Ram Charan & Ors. v. The New India Assurance Co. Ltd. & Ors.*³, and more recently in *Jagdish & Ors. v. Om Pal Singh & Ors.*⁴, wherein this Court has held that married daughters may also be entitled for compensation under the head of “loss of dependency”. The position of a major son is equally clear. The Supreme Court in *National Insurance Co. Ltd. v. Birender*⁵ held that even major married and earning sons of the deceased, as legal representatives, have the right to claim compensation, even if they were not fully dependent on the deceased. In *Seema Rani & Ors. v. The Oriental Insurance Co. Ltd. & Ors.*⁶ the Supreme Court has further clarified as follows:

“9. We have heard the learned counsel for the Appellants. We are unable to agree with the view taken by the Tribunal on the dependents of the deceased. This Court in National Insurance Company Limited v. Birender & Ors., had expounded that major married and earning sons

² Emphasis supplied.

³ MAC.APP. 433/2013; decided on 18.10.2022.

⁴ MAC.APP. 279/2019; decided on 10.12.2024.

⁵ (2020) 11 SCC 356.

⁶ 2025 SCC OnLine SC 283.



of the deceased, being legal representatives, have a right to apply for compensation, and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent on the deceased or not. The Court went on to conclude that since the sons, in that case, were earning merely Rs.1,50,000/- per annum, they were largely dependent on the earnings of the deceased and were staying with her.

10. Adverting to the facts at hand, on a perusal of the statement of Shashi Kumar, the son of the deceased (Appellant No.2 herein), annexed as Annexure P6, was working at a petrol pump, while the other son was involved in temporary employment opportunities only. Both of them were residing with the deceased. In such circumstances, it cannot be said that they were self-sufficient or independent of the deceased. Similarly, applying the exposition in Birender (Supra), there is no reason to exclude a married daughter from compensation. Therefore, in view of this, the High Court erred in excluding these dependants.”

17. In view of the respondent No. 1's testimony remaining unshaken in cross-examination, and having regard to the aforesaid judgments, I am of the view that the Tribunal's finding on the aspect of number of dependents does not warrant interference in appeal.

B. FUTURE PROSPECTS

18. As far as the issue of future prospects is concerned, it is the undisputed position that it needs to be reduced from 30% to 25% in view of the settled position as per *Pranay Sethi*⁷.

C. LOSS OF DEPENDENCY

19. 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. 3,934/-
2.	Future prospects [B]	25%
3.	Monthly income of the deceased (including future prospects)	Rs. 4,917.50/-

⁷ Paragraph 59.4.



	[A+B = C]	
4.	Personal expenses [D]	25%
5.	Monthly loss of dependency [C – D = E]	Rs.3,688/- (Approx)
6.	Annual loss of dependency [E x 12 = F]	Rs. 44,256/-
7.	Multiplier [G]	14
Total loss of dependency [F x G]		Rs. 6,19,584/-

20. Accordingly, the amount awarded towards loss of dependency is reduced from Rs. 6,44,389/- to Rs. 6,19,584/-

D. FUNERAL CHARGES AND LOSS OF ESTATE

21. In light of the decision in *Pranay Sethi*, which prescribes Rs.15,000/- each towards funeral expenses and loss of estate⁸, the award is revised. The compensation under these heads is accordingly fixed at Rs.15,000/- each, in place of the earlier amounts of Rs. 25,000/- for funeral expenses and Rs. 10,000/- for loss of estate.

E. LOSS OF CONSORTIUM

22. In *Pranay Sethi*⁹, the Supreme Court fixed Rs. 40,000/- as the amount payable for loss of consortium. Moreover, the decisions in *Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram and Ors.*¹⁰ and *United India Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur & Ors.*¹¹ clarify that consortium is to be awarded under three separate categories: loss of spousal consortium, loss of parental consortium, and loss of filial consortium to the spouse, children, and parents of the deceased, respectively. Further, the Supreme

⁸ Paragraph 52.

⁹ Paragraph 59.8.

¹⁰ (2018) 18 SCC 130.

¹¹ (2021) 11 SCC 780 [hereinafter, “*Satinder Kaur*”].



Court in *National India Assurance Company Limited v. Somwati*¹² has affirmed that each eligible claimant is entitled to receive consortium individually and separately.

23. In the present case, there were four claimants, who all fall within these categories being the wife, and three children of the deceased. The award on this account is, therefore, enhanced to Rs. 1,60,000/-.

F. LOSS OF LOVE AND AFFECTION AND LOSS OF GRATUITOUS SERVICES

24. Compensation for loss of love 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 *Satinder Kaur*¹³, 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.

G. CONCLUSION

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

Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court	Difference
1.	Loss of dependency	Rs. 6,44,389/-	Rs. 6,19,584/-	(-) Rs. 24,805/-
2.	Funeral Charges	Rs. 25,000/-	Rs.15,000/-	(-) Rs.10,000/-
3.	Loss of Estate	Rs. 10,000/-	Rs. 15,000/-	(+) Rs.5,000/-
4.	Loss of consortium	Rs. 1,00,000/-	Rs. 1,60,000/-	(+)Rs. 60,000/-
5.	Loss of love	Rs.1,00,000/-	Deleted	(-) Rs. 1,00,000/-

¹² (2020) 9 SCC 644.

¹³ Paragraphs 34 and 35.



2025:DHC:11191



	and affection			
6.	Loss of gratuitous services	Rs.50,000/-	Deleted	(-) Rs. 50, 000/-
	TOTAL	Rs. 9,29,389/-	Rs. 8,09,584	(-) Rs. 1,19,805

26. The Tribunal's award therefore stands reduced by Rs. 1,19,805/-.

27. The amount awarded by the Tribunal was deposited in this Court by order dated 11.10.2013. The Court had also directed release of 70% of the amount in favour of the claimants, with the balance remaining deposited in this Court. The directions of the Tribunal with regard to apportionment and disbursement of the awarded amount provided for immediate release of Rs. 20,000/- to the wife of the deceased, FDRs of Rs. 1 Lakh each in the name of the children [respondent Nos. 2 to 4] for a period of 5 years. The remaining amount was to be put in 10 FDRs of equal amount in the name of the wife of the deceased [respondent No. 1] with a maximum period of ten years. The said period has now lapsed. There is, therefore, no impediment to release the remaining amount to the claimants. As far as apportionment is concerned, the Tribunal awarded fixed sums to the children, and the residuary amount to the wife of the deceased. The modified amount will be apportioned in the same manner.

28. As a result, the balance amount will be disbursed by the Registry in the following manner:

- A. Rs. 1,19,805/- will be released to the Insurance Company, alongwith proportionate interest thereon.
- B. The balance amount will be disbursed in terms of paragraph Nos. 25 to 29 of the impugned award, subject to adjustment of the amounts already released to each of the claimants.



2025:DHC:11191



29. The appeal is disposed of with these directions.
30. The statutory deposit, if any, be refunded to the Insurance Company.

PRATEEK JALAN, J

DECEMBER 9, 2025/ 'pv' /AD/