



2025:DHC:10366



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Decided on: 21.11.2025+ **MAC.APP. 1193/2013****SUMAN MALHOTRA AND ANR****.....Appellants**Through: **Mr. Rajat Aneja, Mr. Utkarsh Mishra
and Mr. Karandeep Singh, Advocates.**

versus

SHRI GULFAM AND ORS**.....Respondents**Through: **Ms. Shruti Jain and Mr. Yuvraj
Sharma, Advocates for Insurance
Company.****CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The appellants assail an award dated 21.09.2013 passed by the Motor Accident Claims Tribunal ["Tribunal"] in MACT No. 338/2013. The appellants, who were the claimants before the Tribunal, seek enhancement of the awarded amount.
2. This is the third round of litigation before this Court, arising out of an accident in which one Mr. Anuj Kumar Malhotra passed away on 14.11.1999. The appellants are his wife and son.
3. I have heard Mr. Rajat Aneja, learned counsel for the appellants, and Ms. Shruti Jain, learn counsel for respondent No. 3 – National Insurance Company Limited ["Insurance Company"].
4. The facts of the case require reference to Sections 163-A and 166 of the Motor Vehicles Act, 1988 ["Act"], as they existed prior to an



amendment by the Motor Vehicles (Amendment) Act, 2019. The said provisions are reproduced below:

“163A. Special provisions as to payment of compensation on structured formula basis. —

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation.—For the purposes of this sub-section, “permanent disability” shall have the same meaning and extent as in the Workmen’s Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

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166. Application for compensation.—(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made—

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant



resides, and shall be in such form and contain such particulars as may be prescribed:

Provided that where no claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an application for compensation under this Act.”

5. Section 163-A (as it then was), provided for the grant of compensation, in the case of a fatality or grievous injury, even in the absence of a finding of rash and negligent driving. Such compensation was to be determined in terms of a structured formula, as provided in the Second Schedule to the Act. The Second Schedule contained a detailed table on the basis of which the amount of compensation was to be determined, having regard to the age of the deceased and his or her annual income. Section 166 of the Act, on the other hand, provides for compensation from the driver/owner of a vehicle, without a statutory cap, but subject to a finding of rash and negligent driving.

6. Certain discrepancies in the Schedule were noticed by the Supreme Court in *Sarla Verma and Others v. Delhi Transport Corporation and Another*¹, and were corrected, particularly in relation to the applicable multipliers. However, I am of the view that this controversy need not detain us in the circumstances noted hereinbelow.

7. The appellants originally sought compensation under Section 166 of the Act, alleging that the insured vehicle was being driven rashly and negligently. In the first round of litigation, by an order dated 18.12.2004, the Tribunal rejected the claim, holding that there was no proof of negligence.

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



8. The matter was carried to this Court in MAC.APP. 129/2005, which was disposed of on 26.03.2010, holding that even in the absence of a finding of negligence, the claim petition filed by the appellants before the Tribunal ought to have been converted into a petition under Section 163-A of the Act and an award should have been passed. The order of the Tribunal dated 18.12.2004 was therefore set aside, and the matter was remanded to the Tribunal.

9. When the matter reached the Tribunal upon remand, however, the Tribunal took a view that the claim could not be entertained, as the income of the deceased, in terms of the claimants' pleadings, was in the region of Rs.20,000/- per month, far exceeding the cap of Rs.40,000/- per annum provided in the Second Schedule.

10. The Tribunal having dismissed the claim on this basis, the appellants once again approached this Court in MAC.APP. 44/2011. By its judgment dated 04.07.2013, this Court relied upon the decision in *Rukmani Devi v. New India Assurance Co. Ltd. and Another*² to hold that the Tribunal had erred in coming to the conclusion that the claim itself had to be dismissed if the pleaded income of the deceased was more than Rs.40,000/- per annum. This Court also noticed the decision of the Supreme Court in *Deepal Girishbhai Soni and Others v. United India Insurance Co. Ltd.*³. It accordingly set aside the order dated 16.12.2010 and directed the Tribunal to adjudicate the claim petition afresh under Section 163-A, keeping in view the observations in *Rukmani Devi*.

² 2008 SCC OnLine Del 626 [hereinafter, "*Rukmani Devi*"].

³ (2004) 5 SCC 385 [hereinafter, "*Deepal*"].



11. The judgment of the Tribunal in the third round of litigation is assailed in the present appeal. Despite the specific observations of this Court in the judgment dated 04.07.2013, the Tribunal, in the impugned judgment, has not adverted to *Rukmani Devi* at all. Relying instead upon certain other judgments, it has come to the conclusion that the appellants were entitled to compensation in the sum of Rs.4,09,505/-, alongwith interest at the rate of 7.5% per annum. As far as loss of dependency is concerned, the Tribunal has taken Rs. 40,000/- as the annual income of the deceased. After deducting one-third towards personal expenses and applying the multiplier of 15, it has arrived at a figure of Rs.4,00,005/- towards loss of dependency.

12. Mr. Aneja and Ms. Jain have argued, in some detail, as to the manner in which the structured formula is to be applied, particularly in light of the decision of the Supreme Court in *Sarla Verma*. The issue, however, in my view, does not require determination on these aspects in view of the subsequent amendment to the Second Schedule in 2018⁴, which has been held to be applicable to accidents which occurred prior to the amendment, by the Supreme Court in *New India Assurance Company Ltd. v. Urmila Halder*⁵.

13. By the aforesaid amendment, the structured formula under Section 163-A was amended, and a fixed compensation of Rs.5,00,000/- was provided in cases of death. The post-amendment Schedule reads as follows:

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THE SECOND SCHEDULE

(See Section 163A)

**SCHEDULE FOR COMPENSATION FOR THIRD PARTY FATAL
ACCIDENTS/INJURY CASES CLAIMS**

1. (a) Fatal Accidents:

⁴ Gazette Notification dated 22.05.2018, Ministry of Road Transport and Highways.

⁵ 2024 SCC OnLine SC 4983.



Compensation payable in case of Death shall be five lakh rupees.

(b) Accidents resulting in permanent disability:

Compensation payable shall be = [Rs. 5,00,000/- × percentage disability as per Schedule I of the Employee's Compensation Act, 1923 (8 of 1923)]:

Provided that the minimum compensation in case of permanent disability of any kind shall not be less than fifty thousand rupees.

(c) Accidents resulting in minor injury:

A fixed compensation of twenty five thousand rupees shall be payable:

2. On and from the date of 1st day of January, 2019 the amount of compensation specified in the clauses (a) to (c) of paragraph (1) shall stand increased by 5 per cent annually.
3. This notification shall come into force on the date of its publication in the Official Gazette.”⁶

14. The amendment was considered by a Division Bench of the Calcutta High Court in *Urmila Halder v. New India Assurance Co. Ltd. and Others*⁷. After referring to the Supreme Court's decision in *Deepal*, the High Court came to the conclusion that the lump sum compensation of Rs.5,00,000/- ought to be awarded, with interest thereupon, even in respect of accidents which occurred prior to the amendment. To this effect, the High Court held as follows:

“112. **Whatever is there in the Second Schedule on the date the award is to be pronounced being the legislative mandate, has to be followed by the tribunal in determining compensation.** The law does not cast a duty on the tribunal to look into the contents of the Second Schedule which has ceased to exist by reason of substitution vide the said notification while dealing with claim applications that were filed when the old schedule was in force. **The same position would prevail when the high court considers an appeal where the quantum of compensation determined by the tribunal is challenged by the claimant(s) as insufficient and not in accordance with the structured formula available in the old schedule.** An appeal being a continuation of the original proceedings, we are inclined to the view that while deciding a claim for compensation under the said section, it is also for the high court to look into the Second Schedule as it stands on the date the appeal comes up for

⁶ Emphasis supplied.

⁷ 2018 SCC OnLine Cal 11751 [hereinafter, “*Urmila Halder*”].



final decision and to award compensation in line with it subject of course to a preceding finding based on the evidence on record that the death of the victim had occurred due to an accident involving the use of a motor vehicle. However, the beneficial effects of the said notification cannot be taken advantage of by claimants who have accepted an award based on the structured formula in the old schedule and have not carried the award in an appeal, thereby giving it finality, or in appeals where the challenge is confined only to omission of the tribunal to award interest on the sum determined as payable on account of compensation.”⁸

15. The judgment of the Calcutta High Court was challenged before the Supreme Court in SLP (C) 6260/2019. The Supreme Court affirmed the judgment with the following observations:

“4. The short point for consideration before this Court is whether the amendment in Section 163-A of the Motor Vehicles Act, 1988, which came into effect by a Gazette Notification on 22nd May, 2018, would relate to an accident which had occurred prior to the said date.

5. Learned counsel for the appellant submits that the law which was amended would come into force prospectively, which is a normal rule of interpretation and there being no retrospectivity indicated in the amendment itself, the same has to be construed in a harmonious manner giving effect to each and every word.

6. Reliance was placed on the last line of the notification, which indicates that the said amendment would come into force from the date of publication in the official Gazette, which is 22nd May, 2018. It was submitted that as the accident had occurred on 11th December, 2004, the benefit of such amendment could not be granted to the respondent. In support of this contention, learned counsel referred to and relied upon various decisions of this Court in *Padma Srinivasan v. Premier Insurance Company Limited*, [(1982) 1 SCC 613]; *Shyam Sunder v. Ram Kumar*, [(2001) 8 SCC 24]; *Nasiruddin v. Sita Ram Agarwal*, [(2003) 2 SCC 577] and *Panchi Devi v. State of Rajasthan*, [(2009) 2 SCC 589].

7. It was further contended that the present case is covered by the policy under which the payment is made and the same crystallized on the date the same was entered into and subsequent developments would not alter the rights and liabilities of the parties. Thus, the contention was that the appellant would not be liable to pay any further than what it was obliged to pay under the Act prior to coming of the amendment on 22nd May, 2018.

⁸ Emphasis supplied.



8. ***Learned counsel for the respondent submitted that the High Court has rightly taken a view that it is merely a procedural amendment which has to be given retrospective effect and it is nothing substantive so as to affect the merits of the issue.***

9. ***Having considered the matter, we do not find any reason to interfere with the judgment impugned.*** With regard to the judgments of this Court relied upon by learned counsel for the appellant, having gone through the same we find that they are distinguishable from the facts of the present case and thus, the ratio of those cases would not apply in the present case.

10. ***The order of the High Court is well discussed and we agree with the view taken.*** We may, however, add that a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same. In the present case, the liability of the appellant-Insurance Company has not been interfered with. Only the computational mode and the modality have been further clarified, which rightly has been noted by the High Court and accordingly, the claim has been enhanced to Rs. 5,00,000/-(Rupees Five Lakhs). As 50% of the compensation amount was stayed by this Court, the same be paid to the respondent in terms of the impugned judgment within eight weeks.⁹

16. In my view, therefore, the appropriate course is to apply the fixed compensation of Rs. 5,00,000/- to the present case also.

17. The question now arises of interest. The Calcutta High Court in *Urmila Halder*, as affirmed by the Supreme Court, has made a distinction between the principal amount for the purposes of interest payable for the period prior to the amendment to the Second Schedule, and for the period thereafter¹⁰.

18. In the present case, the Tribunal has awarded a sum of Rs.4,09,505/-, with interest at 7.5% per annum from the date of filing of the petition until notice of deposit of the award amount. The Insurance Company has deposited the award amount in December 2013, but computed interest only from the date the petition was converted to a petition under Section 163-A,

⁹ Emphasis supplied.

¹⁰ Paragraph 133.



pursuant to the order of this Court dated 26.03.2010. Since this Court, by the said order, permitted the original petition to be converted into one under Section 163-A, I do not accept the stand of the Insurance Company that interest should be payable only from the date of conversion.

19. Further, in terms of the decision of the Calcutta High Court in *Urmila Halder*, which was expressly approved by the Supreme Court, interest on the balance amount will be payable from the date of the amendment of the Second Schedule, i.e. 22.05.2018, until the amount is deposited in Court.

20. I am, therefore, of the view that the appellants are entitled to interest as follows:

- a. At the rate of 7.5% per annum on the amount awarded by the Tribunal [Rs.4,09,505/-] from the date of filing of the claim petition, i.e. 03.07.2000, until deposit of the same before this Court in December 2013.
- b. At the rate of 7.5% per annum on the balance amount [Rs.5,00,000/- - Rs.4,09,505/- = Rs.90,495/-] from the date of the amendment of the Second Schedule, i.e. 22.05.2018, until the amount is deposited in Court.

21. In the Tribunal's award, apportionment was made in favour of the two appellants, as follows:

"25. Rs. 1 lac with proportionate interest be given to petitioner No.2 (son of deceased) and be kept in FDR in his name for five years. Remaining amount with proportionate interest be given to widow of deceased (petitioner No.1), out of which Rs. 1 lac be released to her and remaining amount with proportionate interest be kept in FDR in her name for three years."

22. I am informed that certain amounts have been released to the two appellants in terms of the orders of this Court. It is clear from the order of



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the Tribunal that the entire amount awarded would have been paid to the appellants by now. It is now more than 25 years since the accident took place, and the son has also attained majority. I am, therefore, of the view that the entire amount awarded by the Tribunal, alongwith interest accrued thereupon, can now be released to the appellants. To the extent that amounts are lying in fixed deposits in terms of the orders of the Tribunal and this Court, they will be released in the aforesaid proportions.

23. The balance amount, which is to be deposited in terms of this judgment, will be released to appellant No.1 – Mrs. Suman Malhotra. Mr. Aneja states upon instructions, that appellant No.2 – Mr. Mudit Malhotra has no objection to this direction. The amount will be released subject to his filing of an affidavit to this effect.

24. With the above directions, the present appeal stands disposed of.

25. The statutory deposit of Rs. 25,000/-, if any, be refunded to the appellants.

PRATEEK JALAN, J

NOVEMBER 21, 2025
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