



2025:DHC:11697



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

Decided on: 19.12.2025

+ **MAC.APP. 1159/2014**

NATIONAL INSURANCE CO. LTD.

.....Appellant

versus

GEETA & ORS.

.....Respondents

+ **MAC.APP. 1160/2014**

NATIONAL INSURANCE CO. LTD.

.....Appellant

versus

SHEETAL & ORS.

.....Respondents

+ **MAC.APP. 1162/2014 & CM APPL. 21063/2014**

NATIONAL INSURANCE CO LTD

.....Appellant

versus

ASHOK KUMAR & ORS

.....Respondents

+ **MAC.APP. 1164/2014 & CM APPL. 45974/2017**

NATIONAL INSURANCE CO. LTD.

.....Appellant

versus

SHASHI & ORS.

.....Respondents

+ **MAC.APP. 1165/2014**

NATIONAL INSURANCE CO. LTD.

.....Appellant

versus



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SHASHI & ORS.

.....Respondents

+ **MAC.APP. 1166/2014**

NATIONAL INSURANCE CO. LTD.

.....Appellant

versus

SUSHIL KUMAR & ORS.

.....Respondents

+ **MAC.APP. 1167/2014**

NATIONAL INSURANCE CO. LTD.

.....Appellant

versus

VIMLA @ PHOOLWATI & ORS.

.....Respondents

+ **MAC.APP. 1169/2014**

NATIONAL INSURANCE CO. LTD.

.....Appellant

versus

AJAY SINGH & ORS.

.....Respondents

+ **MAC.APP. 1170/2014**

NATIONAL INSURANCE CO LTD

.....Appellant

versus

PARMILA DEVI & ORS

.....Respondents

Appearance:

Mr. Pankaj Seth and Ms. Shruti Jain, Advocate for Insurance Company.
Mr. Pankaj Gupta & Mr. Amit Rana, Advocates for claimants.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

**PRATEEK JALAN, J. (ORAL)**

1. These nine appeals, by National Insurance Company Limited [“Insurance Company”], are directed against a common award dated 30.09.2014 passed by the Motor Accident Claims Tribunal [“the Tribunal”], in nine claims, all arising out of an accident which took place on 12.08.2006.

A. FACTUAL BACKGROUND AND IMPUGNED AWARD

2. The insured vehicle was a Tempo bearing registration No. RJ-31-GA-0683. The accident occurred at a location opposite Azad Hind Gram, Main Rohtak Road, Tikri Kalan, Delhi, when the driver of the insured vehicle is alleged to have been driving at a high speed, and lost control over the vehicle, as a result of which the vehicle turned turtle.

3. The original claimants were the legal representatives of four persons who died in the accident, and five injured victims. In one case [MAC No. 93/2014], the claimant died during the pendency of the claim, and was substituted by his legal heirs. The particulars, with regard to the identity of the victims, the claimants, and the case number are tabulated below:

Sr.No.	Case No.	Victim	Claimants
1.	MAC.APP. 1159/2014 [arising out of MAC No. 95/2014]	Mr. Hem Singh (Fatality)	Ms. Geeta [Wife] Mr. Aman [Son] Mr. Paras [Son] Ms. Ramwati [Mother]
2.	MAC.APP. 1160/2014 [arising out of MAC No. 102/2014]	Ms. Sheetal (Injury)	Ms. Sheetal
3.	MAC.APP. 1162/2014 [arising out of MAC No. 91/2014]	Mr. Ashok Kumar (Injury)	Mr. Ashok Kumar



4.	MAC.APP. 1164/2014 [arising out of MAC No. 93/2014]	Mr. Raj Pal (Injury – died during pendency of the claim petition)	Ms. Shashi [Wife] Mr. Deepak [Son] Ms. Anuradha [Daughter] Ms. Shital [Daughter] Mr. Suraj [Son] Ms. Sonu @ Madhvi [Daughter] Ms. Guddo [Daughter]
5.	MAC.APP. 1165/2014 [arising out of MAC No. 92/2014]	Ms. Shashi (Injury)	Ms. Shashi
6.	MAC.APP. 1166/2014 [arising out of MAC No. 100/2014]	Mr. Vikas Kumar (Fatality)	Ms. Kusum [Mother] Mr. Sushil Kumar [Father – Since Deceased through Mr. Ashish s/o Mr. Sushil Kumar]
7.	MAC.APP. 1167/2014 [arising out of MAC No. 99/2014]	Mr. Lalji (Fatality)	Ms. Vimla [Wife] Mr. Rinku [Son] Ms. Seema [Daughter] Ms. Jyoti [Daughter] Ms. Saroj [Mother]
8.	MAC.APP. 1169/2014 [arising out of MAC No. 101/2014]	Mr. Ajay Singh (Injury)	Mr. Ajay Singh
9.	MAC.APP. 1170/2014 [arising out of MAC No. 94/2014]	Mr. Jai Kumar @ James (Fatality)	Ms. Parmila Devi [Wife] Ms. Nandini [Daughter] Ms. Shashi [Mother]

4. The Tribunal found in favour of the claimants on the question of rash and negligent driving by the driver of the insured vehicle [who was arrayed as respondent No.3 in each of the claims before the Tribunal]. It, therefore, proceeded to assess compensation payable in each case.

5. I have heard Mr. Pankaj Seth, learned counsel for the Insurance Company, and Mr. Pankaj Gupta, learned counsel for the claimants.



B. RECOVERY RIGHTS AGAINST THE OWNER OF THE INSURED VEHICLE

6. The principal contention of Mr. Seth, which covers all the nine cases, is that the victims were gratuitous passengers in a goods carrier, and were therefore, not covered by the insurance policy. He submits that, in these circumstances, having regard to the judgments of the Supreme Court *inter alia* in *Manager, National Insurance Company Limited v. Saju. P. Paul & Anr.*¹ and *Manuara Khatun v. Rajesh Kr. Singh*², the Tribunal ought to have granted recovery rights to the Insurance Company against the owner of the vehicle.

7. The aforesaid principle has been established in the said decisions, as well as in recent decisions of the Supreme Court in *Sunita v. United India Insurance Company Limited & Ors.*³, *Brij Bihari Gupta v. Manmet & Ors.*⁴, and *Akula Narayana v. Oriental Insurance Company Limited*⁵.

8. Mr. Seth has also referred me to the judgment of the Supreme Court in *National Insurance Company Limited v. Cholleti Bharatamma & Ors.*⁶, in which the Court interpreted Section 147 of the Motor Vehicles Act, 1988 [“the Act”], to hold that the owner of the goods is only the person who travels in the cabin of the insured vehicle. In the present case, the evidence of the owner of the vehicle – Mr. Sunil Kumar, who was examined as R1-W1, is that the victims were owners of the goods being carried in the insured vehicle. However, he charged hire only for carrying goods and not for passengers. He has stated that ten to twelve persons had

¹ (2013) 2 SCC 41.

² (2017) 4 SCC 796.

³ 2025 SCC OnLine SC 1464.

⁴ 2025 SCC OnLine SC 1650.

⁵ 2025 SCC OnLine SC 2377.

⁶ (2008) 1 SCC 423.



boarded the insured vehicle, out of which three to four were sitting in the front seats, and the rest were sitting in the goods-carrying portion of the vehicle.

9. The owner of the insured vehicle – Mr. Sunil Kumar, has been impleaded as respondent No. 5 in MAC.APP. 1159/2014. He was duly served, as recorded in the order of the Registrar dated 27.10.2016. It appears that, on the said date, appearance was also entered by learned counsel on behalf of respondent Nos. 5 and 6 in MAC.APP. 1159/2014. However, the appearance is not recorded in the subsequent orders. It is evident from the above that the owner was duly served, but either did not enter appearance and was set ex-parte, or was represented on one date of hearing, but was not represented thereafter.

10. In each of the other appeals also, the owner was impleaded and served, but has appeared, at most, on one occasion:

Sr. No.	Case No.	Owner impleaded	Date of order in which service is recorded	Date(s) of order(s) in which appearance is recorded
1.	MAC.APP. 1159/2014	Respondent No. 5	27.10.2016	27.10.2016
2.	MAC.APP. 1160/2014	Respondent No. 2	27.10.2016	27.10.2016
3.	MAC.APP. 1162/2014	Respondent No. 2	19.09.2016	N.A.
4.	MAC.APP. 1164/2014	Respondent No. 8	27.10.2016	27.10.2016
5.	MAC.APP. 1165/2014	Respondent No. 2	27.10.2016	27.10.2016
6.	MAC.APP. 1166/2014	Respondent No. 3	27.10.2016	27.10.2016
7.	MAC.APP. 1167/2014	Respondent No. 5	19.09.2016	N.A.
8.	MAC.APP. 1169/2014	Respondent No. 2	19.09.2016	N.A.
9.	MAC.APP. 1170/2014	Respondent No. 4	27.10.2016	27.10.2016

11. With regard to the argument that the liability ought to have been placed upon the owner of the insured vehicle, the Tribunal has held that



the victims were travelling in the insured vehicle as the owners of the goods being transported, and would therefore be covered by Section 147 of the Act. The Tribunal has, therefore, held that they were neither gratuitous passengers, nor fare-paid passengers, but were travelling as owners or authorised representative of the goods.

12. Having regard to the evidence, and the judgments referred to above, I am of the view that the order of the Tribunal, fastening liability upon the Insurance Company alone, is unsustainable. However, the evidence before the Court is insufficient to record whether, in each and every one of the nine cases, the owner of the goods was travelling in the cabin or in the goods-carrying portion of the insured vehicles. The Tribunal would also be required to examine the terms of the insurance policy, whereas the record of the Tribunal presented before the Court contains only an incomplete copy of the cover note.

13. I therefore, accept Mr. Seth's suggestion that this question – i.e., whether the Insurance Company should be entitled to recovery of compensation amounts from the owner of the insured vehicle – be remanded to the Tribunal for reconsideration. The Tribunal will issue notice to the owner of the vehicle on this aspect, and may also permit the Insurance Company and the owner to lead further evidence.

14. It is made clear that Mr. Seth's argument is limited to this aspect, and he does not contest the liability of the Insurance Company to pay the admissible amounts, as far as the claimants are concerned.

C. QUANTUM OF COMPENSATION

15. As far as quantum of compensation is concerned, the arguments of the Insurance Company are limited to five cases of fatality, namely



MAC.APP. 1159/2014, MAC.APP. 1164/2014, MAC.APP. 1166/2014, MAC.APP. 1167/2014, and MAC.APP. 1170/2014.

i. MAC.APP. 1164/2014

16. Taking up MAC.APP. 1164/2014 first, the claim petition was filed by one Raj Pal, who claimed to have been injured in the accident. When the petition was filed on 10.09.2006, he stated that he was still under treatment. He passed away on 09.01.2007, following which the claim petition was amended to implead his legal heirs [wife and six children]. It was contended that his death occurred as a result of the accident.

17. The Tribunal dealt with the case of Mr. Raj Pal on the basis of the cross-examination of his wife – Smt. Shashi, as follows:

“60. PW 6 in her cross examination has stated that deceased had remained admitted in the hospital for about one month and she has no document to prove such admission in the Hospital. She further admitted in her cross examination that no post mortem was conducted after the death. It was never stated that he was on the deathbed or any such likelihood of his dying because of the injuries and not filed any certificate from a medical officer of his imminent death. No medical certificate was produced or proved that the injured had died because of the accident only and he had died after five months after the accident. Accordingly there was no basis to believe that the death was a result of the accident. I hereby grant lump sum of Rs. 1,00,000/- (Rs. One Lac Only) for loss of income for five months and for medical and other expenses in favour of the petitioners and against the respondents as compensation with interest at the rate of 8% per annum including interim award, if any from the date of filing the petition i.e. 14.09.2006 till the notice under Order 21 Rule 1 is given by the insurance company, in favour of the petitioners and against the respondents on account of their liability being joint and several...”

18. Mr. Seth submits that the award on this account is wholly arbitrary, as the amount quantified is not supported by any evidence, at all.

19. Having perused the evidence led in this case, I am unable to agree with this submission. In the absence of any medical evidence supporting



the claimants, we may proceed on the basis that the death of Mr. Raj Pal, five months after the accident, was not caused by the accident. Even in such a situation, the established fact is that he was injured in the accident, and remained under treatment for a period of at least five months.

20. A Medico-Legal Injury Register, maintained by Sanjay Gandhi Memorial Hospital, forms part of the Tribunal's record⁷. It shows that the claimant was admitted with a history of road traffic accident, and had sustained several injuries. The claim petition stated that he suffered a fracture in his ribs, a head injury and injuries to his right shoulder. Although his wife [PW-6] was extensively cross-examined with regard to the causation of her husband's death, there was no cross-examination whatsoever with regard to the nature of the injuries sustained by him. In the claim petition, his income was stated to be Rs.4,500/- per month from his occupation as a shopkeeper. There was no cross-examination on this aspect either.

21. The Tribunal's award of Rs.1,00,000/-, even taking the case of the Insurance Company at the highest, is therefore justified on account of pain and suffering, loss of amenities, medical expenses, and loss of income for the period of five months during which he remained under treatment, prior to his death.

22. The award in MAC.APP. 1164/2014 is, therefore, sustained.

ii. MAC.APP. 1159/2014, MAC.APP. 1166/2014, MAC.APP. 1167/2014 & MAC.APP. 1170/2014

23. The other four cases in which challenge is laid to the quantum of compensation are all cases arising out of the death of the concerned

⁷ Page 218 of the electronic Trial Court Record in MAC.APP. 1164/2014.



victim. Learned counsel for the parties have very fairly recomputed the compensation awarded by the Tribunal in accordance with the judgments of the Supreme Court in *Sarla Verma v. DTC*⁸, *Reshma Kumari v. Madan Mohan*⁹, and *National Insurance Company Ltd. v. Pranay Sethi*¹⁰. The recomputation in each of the four cases turns on the following accepted parameters:

- a. The loss of dependency has been computed by the Tribunal by awarding enhancement of income on account of future prospects at the rate of 50%. It is the accepted position that in all four cases, having regard to the age and occupation of the deceased, the appropriate enhancement for future prospects would be 40%, in terms of *Pranay Sethi*¹¹.
- b. The deduction for personal expenses in the case of an unmarried victim [MAC.APP. 1166/2014] is to be taken at 1/2, as his mother was his only dependant. In MAC.APP. 1170/2014, the deduction is to be computed at 1/3rd, as the deceased had three dependants whereas in the other two cases [MAC.APP. 1159/2014 and MAC.APP. 1167/2014], the number of dependants were four or more, leading to a deduction of 1/4th.¹²
- c. Loss of consortium is to be computed at the rate of Rs.40,000/- to each entitled claimant, which includes the spouse, parents, and children of the deceased.¹³

⁸ (2009) 6 SCC 121 [hereinafter, "*Sarla Verma*"].

⁹ (2013) 9 SCC 65.

¹⁰ (2017) 16 SCC 680 [hereinafter, "*Pranay Sethi*"].

¹¹ Paragraph 59.4.

¹² *Sarla Verma*, paragraphs 30 and 31.

¹³ *Pranay Sethi*, paragraph 52; *National India Assurance Company Limited v. Somwati*, (2020) 9 SCC 644.



- d. Funeral expenses and loss of estate are to be awarded in the sum of Rs. 15,000/- each.¹⁴
- e. No non-pecuniary compensation is to be granted for loss of love and affection or any ground, other than the above.¹⁵
- f. All other parameters, including quantum of income and multiplier, as awarded by the Tribunal, are accepted.
24. The award in these four cases requires recomputation, in terms of the aforesaid agreed parameters.
25. The recomputed compensation for loss of dependency in each case is tabulated below.

MAC.APP. 1159/2014

Heads	Awarded by this Court
Monthly income [Minimum wages applicable to an unskilled person]	Rs.3,312/-
Annual income [3,312 x 12]	Rs.39,744/-
Future prospects [39,744 x 40%]	Rs.15,897.6/-
Annual income after accounting for future prospects [39,744 + 15,897.6]	Rs.55,641.6/-
Deduction of personal expenses [55,641.6 – ¼ of 55,641.6]	Rs.41,731.2/-
Applicable Multiplier	17
Award on account of loss of dependency [43,817.7 x 17]	Rs.7,09,430.4/-

¹⁴ *Pranay Sethi*, paragraph 59.8.

¹⁵ *United India Insurance Company Limited v. Satinder Kaur*, (2021) 11 SCC 780, paragraphs 34 and 35.

**MAC.APP. 1166/2014**

Heads	Awarded by this Court
Monthly income [Minimum wages applicable to an unskilled person]	Rs.3,312/-
Annual income [3,312 x 12]	Rs.39,744/-
Future prospects [39,744 x 40%]	Rs.15,897.6/-
Annual income after accounting for future prospects [39,744 + 15,897.6]	Rs.55,641.6/-
Deduction of personal expenses [55,641.6 – 1/2 of 55,641.6]	Rs.27,820.8/-
Applicable Multiplier	18
Award on account of loss of dependency [27,820.8 x 18]	Rs.5,00,774.4/-

MAC.APP. 1167/2014

Heads	Awarded by this Court
Monthly income [Minimum wages applicable to an unskilled person]	Rs.3,312/-
Annual income [3,312 x 12]	Rs.39,744/-
Future prospects [39,744 x 40%]	Rs.15,897.6/-
Annual income after accounting for future prospects [39,744 + 15,897.6]	Rs.55,641.6/-
Deduction of personal expenses [55,641.6 – ¼ of 55,641.6]	Rs.41,731.2/-
Applicable Multiplier	15
Award on account of loss of dependency [41,731.2 x 15]	Rs.6,25,968/-

**MAC.APP. 1170/2014**

Heads	Awarded by this Court
Monthly income [Minimum wages applicable to an unskilled person]	Rs.3,312/-
Annual income [3,312 x 12]	Rs.39,744/-
Future prospects [39,744 x 40%]	Rs.15,897.6/-
Annual income after accounting for future prospects [39,744 + 15,897.6]	Rs.55,641.6/-
Deduction of personal expenses [55,641.6 – 1/3 of 55,641.6]	Rs.37,094.4/-
Applicable Multiplier	18
Award on account of loss of dependency [37,094.4 x 18]	Rs.6,67,699.2/-

D. CONCLUSION

26. The total compensation payable to the claimants is modified as follows:

MAC.APP. 1159/2014

Heads	Awarded by the Tribunal	Awarded by the Court	Difference
Loss of dependency	Rs. 7,60,104/-	Rs. 7,09,430.4/-	(-) Rs. 50,673.6/-
Loss of consortium	Rs. 1,00,000/-	Rs. 1,60,000/-	(+) Rs. 60,000/-
Loss of care and guidance for minor children	Rs. 1,00,000/-	Deleted	(-) Rs. 1,00,000/-
Loss of estate	Rs. 10,000/-	Rs. 15,000/-	(+) Rs. 5,000/-
Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-	(-) Rs. 10,000/-
Total	Rs. 9,95,104/-	Rs. 8,99,430.4/-	(-) Rs. 95,673.6/-



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**MAC.APP. 1166/2014**

Heads	Awarded by the Tribunal	Awarded by the Court	Difference
Loss of dependency	Rs. 5,36,544/-	Rs. 5,00,774.4/-	(-) Rs. 35,769.6/-
Loss of consortium	Nil	Rs. 80,000/-	(+) Rs. 80,000/-
Loss of love and affection	Rs. 1,00,000/-	Deleted	(-) Rs. 1,00,000.-
Loss of estate	Rs. 10,000/-	Rs. 15,000/-	(+) Rs. 5,000/-
Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-	(-) Rs. 10,000/-
Total	Rs. 6,71,544/-	Rs. 6,10,774.4/-	(-) Rs. 60,769.6/-

MAC.APP. 1167/2014

Heads	Awarded by the Tribunal	Awarded by the Court	Difference
Loss of dependency	Rs. 6,70,680/-	Rs. 6,25,968/-	(-) Rs.44,712/-
Loss of consortium	Rs. 1,00,000/-	Rs. 1,60,000/-	(+) Rs. 60,000/-
Loss of car and guidance of minor child	Rs. 1,00,000/-	Deleted	(-) Rs. 1,00,000/-
Loss of estate	Rs. 10,000/-	Rs. 15,000/-	(+) Rs. 5,000/-
Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-	(-) Rs. 10,000/-
Total	Rs. 9,05,680/-	Rs. 8,15,968/-	(-) Rs. 89,712/-

MAC.APP. 1170/2014

Heads	Awarded by the Tribunal	Awarded by the Court	Difference
Loss of dependency	Rs. 7,15,392/-	Rs. 6,67,699.2/-	(-) Rs. 47,692.8/-
Loss of consortium	Rs.1,00,000/-	Rs. 1,20,000/-	(+) Rs. 20,000/-



Loss of care and guidance of minor child	Rs. 1,00,000/-	Deleted	(-) Rs. 1,00,000.-
Loss of estate	Rs. 10,000/-	Rs. 15,000/-	(+) Rs. 5,000/-
Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-	(-) Rs. 10,000/-
Total	Rs. 9,50,392/-	Rs. 8,17,699.2/-	(-) Rs. 1,32,692.8/-

27. As a result of the above discussion, the appeals are disposed of as follows:

Sr. No.	Appeal No.	Modification in award, if any
1.	MAC.APP. 1159/2014	Award reduced by Rs.95,673.6/-
2.	MAC.APP. 1160/2014	Award upheld
3.	MAC.APP. 1162/2014	Award upheld
4.	MAC.APP. 1164/2014	Award upheld
5.	MAC.APP. 1165/2014	Award upheld
6.	MAC.APP. 1166/2014	Award reduced by Rs.60,769.6/-
7.	MAC.APP. 1167/2014	Award reduced by Rs.89,712/-
8.	MAC.APP. 1169/2014	Award upheld
9.	MAC.APP. 1170/2014	Award reduced by Rs.1,32,692.8/-

28. By interim order dated 24.12.2014, the entire awarded amount was deposited by the Insurance Company in MAC.APP.1160/2014, MAC.APP.1162/2014, MAC.APP.1164/2014, MAC.APP. 1165/2014, and MAC.APP.1169/2014, and was released to the claimants. No further orders are, therefore, required in those cases, as this Court has not interfered with the award in favour of the claimants or with the quantum of compensation.

29. In MAC.APP. 1159/2014, MAC.APP.1166/2014, MAC.APP.1167/2014, and MAC.APP.1170/2014, the interim order was for deposit of 50% of the amount awarded by the Tribunal alongwith up-to-date interest. The Court also gave certain directions for release in



favour of the claimants. In these cases:

- a. The balance amount computed in accordance with this judgment, alongwith up-to-date interest at 8% per annum, from the date of filing of the respective claims, as awarded by the Tribunal, be deposited by the Insurance Company with the Tribunal within a period of eight weeks from today.
 - b. The Tribunal had given directions for disbursement of the awarded amounts to the claimants in tranches, by investment in fixed deposits, within a period of five years, or until the minor claimants attained the age of majority. As the period of five years has since passed, and more than 19 years have passed since the accident, all the minor claimants would now have attained the age of majority.
 - c. The amounts lying in deposit pursuant to the interim orders of the Court, as well as the amounts to be deposited pursuant to this judgment, will therefore be released to the claimants in the same proportions as awarded by the Tribunal in each case, after adjusting for amounts already released.
30. As far as recovery rights against the owner is concerned, the appeals are remanded to the Tribunal. The Tribunal may re-examine the issue, upon notice to the owner. The Tribunal is at liberty to record further evidence on this aspect of the matter. As the claimants' interest is not affected, they are not required to appear before the Tribunal on remand. The Insurance Company will appear before the Tribunal on 19.01.2026 for further proceedings in this regard.
31. The appeals, alongwith pending applications, stand disposed of in the aforesaid terms.



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32. Statutory deposit, if any, be refunded to the Insurance Company.

DECEMBER 19, 2025
'Bhupi/SS/KA' /

PRATEEK JALAN, J