



2025:DHC:11963



\$~37 &amp; 38

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Decided on: 22.12.2025**+ **MAC.APP. 972/2016**

IFFCO TOKIO GEN INS CO LTD

.....Appellant

versus

LACHHMAN SINGH &amp; ORS

.....Respondents

+ **MAC.APP. 974/2016**

IFFCO TOKIO GEN INS CO LTD

.....Appellant

versus

RADHA DEVI &amp; ORS

.....Respondents

***Appearances:***Mr. Navneet Kumar (VC) and Mr. Harsh Sharan,  
Advocates for Insurance Company.Mr. Anuj Aggarwal, Ms. Manika V. Aggarwal, Mr.  
Vikrant Chawla, Mr. Mayank Chauhan and Mr.  
Prabhav Pachauri, Advocates for Claimants.Mr. Aruj Dhingra, Advocate for Transport  
Corporation of India Ltd.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. These two appeals have been filed by IFFCO Tokio General Insurance Company Limited ["Insurance Company"] against a common award dated 26.08.2016, passed by the Motor Accident Claims Tribunal ["the Tribunal"] in MACP No. 1303/2016 and MACP No. 1304/2016, arising out of the same road accident which occurred on 22.06.2014.

2. MAC.APP. 974/2016 is directed against an award of the Tribunal



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in MACP. No. 1304/2016, arising out of the death of one Mr. Puran Singh, who was awarded Rs. 1,35,53,005/-, alongwith interest at the rate of 10% per annum. MAC.APP. 972/2016 challenges the award, passed by the Tribunal in MACP. No. 1303/2016, by which Mr. Lachman Singh, who was the father of the deceased, was awarded Rs. 77,662/-, alongwith interest at the rate of 10% per annum, in respect of injuries sustained by him in the same accident.

**A. FACTS AND IMPUGNED AWARD:**

3. The facts of the case, as narrated in the claim petitions, are that the deceased and his father were travelling in their car [bearing registration No. DL-5C-BZ-0180] from Delhi to Haldwani, Uttarakhand, on 22.06.2014. The deceased was driving the said car. At a location near Gunna Centre, Rampur Road, Haldwani, the car was struck by a truck [bearing registration No. UK-06-CA-4254] [“the insured vehicle”]. The accident resulted in the death of Mr. Puran Singh and injuries to Mr. Lachman Singh.

4. Criminal proceedings were instituted against the driver of the insured vehicle, by registration of FIR No. 330/2014 under Sections 279/338/304-A/427 of the Indian Penal Code, 1860, in PS Halwani. A chargesheet was also filed in the criminal proceedings.

5. In the proceedings arising out of the death of Mr. Puran Singh, the claimants before the Tribunal were his wife, two daughters and his parents. In the other claim, the injured himself, i.e. Mr. Lachman Singh, was the claimant. The driver and owner of the insured vehicle, alongwith the Insurance Company, were impleaded as respondents Nos. 1 to 3 in both claims.



6. Before the Tribunal, the driver of the insured vehicle did not file a written statement. Written statements were only filed by the owner of the insured vehicle and the Insurance Company.

7. The Tribunal found in favour of the claimants, that the accident had been caused by rash and negligent driving of the driver of the insured vehicle, and therefore granted compensation in the aforesaid amounts.

8. As far as the case arising out of the death of Mr. Puran Singh is concerned, compensation was awarded under the following heads:

| S.No.        | HEAD                                                       | AMOUNT                   |
|--------------|------------------------------------------------------------|--------------------------|
| 1            | Loss of dependency                                         | Rs. 1,29,28,005/-        |
| 2            | For funeral expenses                                       | Rs. 25,000/-             |
| 3            | Loss of consortium                                         | Rs. 1,00,000/-           |
| 4            | Loss of estate                                             | Rs. 1,00,000/-           |
| 5            | Loss of love and affection to children<br>(1,00,000 X 3)   | Rs. 3,00,000/-           |
| 6            | Loss of Love and affection towards<br>Parents (50,000 X 2) | Rs. 1,00,000/-           |
| <b>TOTAL</b> |                                                            | <b>Rs. 1,35,53,005/-</b> |

9. In the case arising out of the injuries to Mr. Lachman Singh, compensation was awarded under the following heads:

| S.No.        | HEADS                     | AMOUNT              |
|--------------|---------------------------|---------------------|
| 1            | Loss of Income            | Rs. 25,662/-        |
| 2            | Medicines & Treatment     | Nil                 |
| 3            | Attendant Charges         | Rs. 12,000/-        |
| 4            | Conveyance & Special Diet | Rs. 25,000/-        |
| 5            | Pain & Suffering          | Rs. 15,000/-        |
| <b>TOTAL</b> |                           | <b>Rs. 77,662/-</b> |

**B. SUBMISSIONS:**

10. I have heard Mr. Navneet Kumar, learned counsel for the Insurance Company, and Mr. Anuj Aggarwal, learned counsel for the claimants.



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11. The award is challenged by the Insurance Company on the following grounds:

- a) That the deceased, who was driving the car, was himself rash and negligent, and the award ought to be reduced on a finding of contributory negligence against him.
- b) That the quantum of compensation awarded to the dependants of the deceased requires reduction, by deduction of tax liability and allowances, which did not form part of his salary.
- c) That the enhancement on account of future prospects has erroneously been taken as 50%, which is contrary to *National Insurance Company Ltd. v. Pranay Sethi & Ors.*<sup>1</sup>. Mr. Kumar submits that it ought to have been taken at 40%.
- d) That non-pecuniary damages have been awarded excessively, at rates which are not consistent with the judgment of the Constitution Bench in *Pranay Sethi*.
- e) That, in the injury case, the award under each of the heads is unsustainable, as it is unsupported by any medical evidence with regard to the nature or extent of injuries suffered by the claimant.
- f) That in both the cases, the rate of interest awarded by the Tribunal, i.e. 10% per annum, is excessive.

12. Mr. Aggarwal, on the other hand, submits as follows:

- a. He opposes the argument of Mr. Kumar with regard to contributory negligence, relying upon the evidence placed before the Tribunal, including the site plan, and upon the chargesheet filed against the driver of the insured vehicle in the criminal proceedings.



- b. As far as the quantum of loss of dependency is concerned, Mr. Aggarwal does not dispute the submission with regard to the deduction of taxes, but submits that the allowances paid to the deceased were properly taken as part of his salary, consistent with the judgments on this subject. Mr. Aggarwal further submits that the Tribunal has correctly assessed future prospects at 50%, in line with the judgment in *Pranay Sethi*.
- c. With regard to the non-pecuniary heads of damage, Mr. Aggarwal accepts that various adjustments are required, in consonance with judgment in *Pranay Sethi*.
- d. As far as the injury case is concerned, Mr. Aggarwal submits that the evidence before the Tribunal was sufficient to grant damages in favour of the injured-claimant, and that the extent of damages is not such as to invite the interference of this Court in appeal.
- e. With regard to the rate of interest awarded by the Tribunal, Mr. Aggarwal submits that the judgments of this Court make it clear that the rate of interest is a matter of discretion, which is to be exercised in the facts and circumstances of each case, having regard to various factors, including prevailing bank rate of interest at the relevant time.
13. Learned counsel for both parties have cited various judgments, which shall also be referred to in the course of this judgment.
14. Each of the aforesaid aspects is taken up in turn.

**C. REGARDING NEGLIGENCE/CONTRIBUTORY NEGLIGENCE**

15. Evidence with regard to the facts leading up to the accident was

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<sup>1</sup> (2017) 16 SCC 680 [hereinafter, "*Pranay Sethi*"].



given by Mr. Lachman Singh [PW-2], who was in the car at the time of accident. In his affidavit of evidence, he narrated the accident as follows:

“2. That on 22/06/2014 at about 11:00 AM I was going seated in I 10 car which was being driven by my son Puran Singh (Since deceased) from Delhi to Haldwani, Uttrakhand as per traffic rules and regulation and when we reached Near Ganna Center, Rampur Road, PS Haldveni, Uttrakhand in a meantime one Truck Bearing No UK - 06 CA - 4254 being driven by respondent no 1 came from opposite side and came on our/ wrong side in most rash and negligent manner, in a very high speed in a total contravention of traffic rules and regulation, without caring for the other traffic on the road and suddenly and abruptly hit/struck with the I 10 car from the front driver side. Due to the huge impact of which I sustained multiple grievous injuries on the whole part of the body and my son also sustained multiple grievous injuries and succumbed due to the injuries.

3. That this accident has been caused solely due to the rash & negligent act of respondent no.1/Shakeel Ahmad who was driving the offending vehicle/Truck Bearing No UK - 06 CA - 4254 at the time of causing of this accident and innocent persons became the victim of the same without our own fault.”<sup>2</sup>

16. The witness was cross-examined by learned counsel for the insurance company and learned counsel for the owner. In his cross-examination by learned counsel for the insurance company, no question was put to him with regard to the narration of the incident. Further, learned counsel for the owner made suggestions that the occupants of the car were talking to each other at the time of the accident, and that the accident took place due to negligence of the deceased driver of the car. Both these suggestions were denied by the witness.

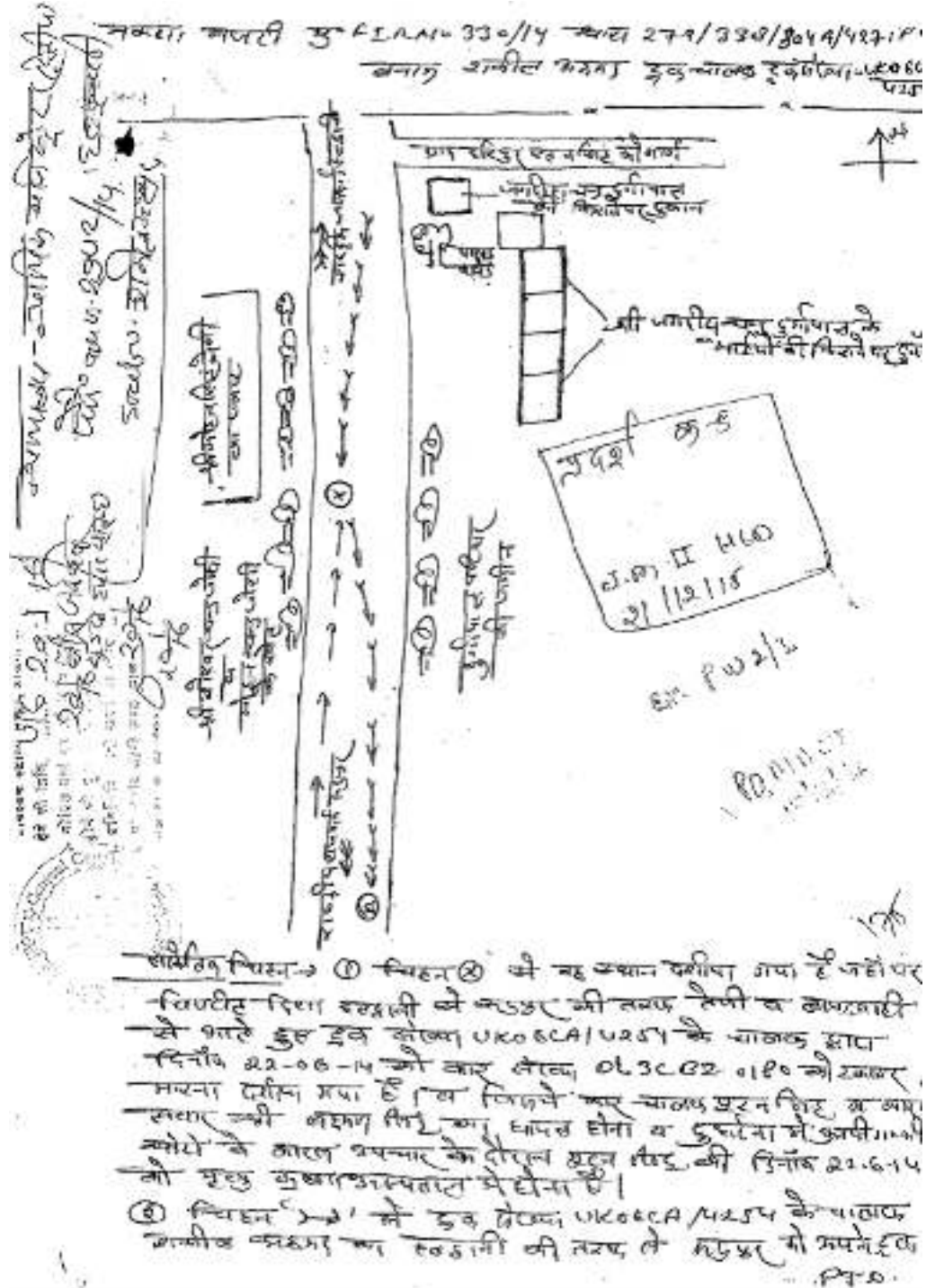
17. The accident also resulted in criminal proceedings, as stated above. A chargesheet was filed against the driver of the insured vehicle, which was exhibited before the Court by Mr. Lachman Singh [Ex. PW-2/4]. He

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<sup>2</sup> Emphasis supplied.



has also exhibited a site plan prepared by the investigating officer as [Ex.PW-2/3]. A copy of the said site plan is reproduced below:





केस नं० UK06CA/4254 को तैपि व लापवाही के चालक  
आना दर्शाया गया है।

③ चिह्न (A) के कार नं० DL3C82-0180 का  
रजिस्ट्रार के इन्वेंट्री को आना दर्शाया गया है। पिछ  
कार को मृतक राज. सिंह डि० 22-6-14 को पतार  
व मृतक राज. सिंह के पिता श्री लक्ष्मण सिंह अग्रवाल /  
नयशर्मा गवाह उसके माल कार में बोलेंगे।

④ चिह्न (A) के इव नं० UK06CA/4254 के चालक  
का कार नं० DL3C82-0180 ई-10 में डि० 22-6-14 को  
उम्मीद मालिक को 400-500 मीटर दूर हाथ मीटर  
सबब बिना इव नं० UK06CA/4254 खड़ा कर दिया  
होना दर्शाया गया है।

⑤ चिह्न (B) के शर्मा, राज. सिंह के पते और जहाँ बूके  
विपरीत के पते दर्शाये गये हैं।

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20/16

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चिवा - प्रतीतल



In the site plan, the accident spot is marked “X”. The path of the car in which the victims were travelling is indicated by a single arrow, and the path of the insured vehicle is indicated by a double arrow. It shows that the vehicles were travelling on the National Highway. The victims’ car was travelling northwards from Rudrapur to Haldwani, whereas the insured vehicle was travelling in the opposite direction.

18. The filing of a chargesheet in criminal proceedings is significant evidence in compensation proceedings before the Tribunal, as to the rash and negligent driving of the accused. The Tribunal is not bound by strict rules of pleadings and evidence, and must take a decision on the preponderance of probabilities. In fact, in recent judgments in *Ranjeet and Anr. v. Abdul Kayam Neb and Anr.*<sup>3</sup> and *Meera Bai v. ICICI Lombard General Insurance Company Limited*<sup>4</sup>, the Supreme Court has emphasised that, even in cases where no eye-witness was available, the Tribunal can rely upon the filing of a chargesheet in criminal proceedings, to return a finding of negligence against the accused driver.

19. In the present case, there is no material to support Mr. Kumar’s submission with regard to contributory negligence of the deceased. The only eye-witness evidence was of Mr. Lachman Singh [PW-2]. Even accounting for the fact that this evidence was by one of the claimants himself, no contrary evidence was led by the driver of the insured vehicle. The indication in the site plan is also clear, to the effect that the insured vehicle moved from the left side of the road towards the right side, collided with the car, and then moved back to the left side of the road. It

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<sup>3</sup> 2025 SCC OnLine SC 497, paragraph 4.

<sup>4</sup> 2025 SCC OnLine SC 992, paragraph 4.



was then abandoned by the driver, approximately 400-500 meters away, at the spot marked “A” in the site plan. In these circumstances, there is therefore no reason to come to a conclusion contrary to the chargesheet, and no support for the allegation of the Insurance Company with regard to contributory negligence.

**D. COMPUTATION OF COMPENSATION IN MAC.APP. 974/2016**

**i) QUANTUM OF INCOME – DEDUCTION OF ALLOWANCES AND TAXES:**

20. In the proceedings instituted by the dependents of the deceased, the Tribunal has awarded compensation for loss of dependency, taking the income of the deceased as Rs. 63,842/- per month.

21. The deceased was working as National Service Head with Magnum Telesystem Private Limited [“Magnum”]. Evidence was tendered by Rajesh Kumar Yadav, Accountant, employed with Magnum [PW-1]. He exhibited the certificate of employment of the deceased [Ex.PW1/2], letters of increment and promotion [Ex.PW1/3], computerised copy of the salary certificate for the month of May, 2014 [Ex.PW1/4], and the certificate of Tax Deduction at Source in respect of the deceased for the financial year 2013-14 [Ex.PW1/5]. His cross-examination, by learned counsel for the Insurance Company, concentrated upon the mode of proof of the documents, and general suggestions with regard to the veracity of his evidence. The specific contents of the documents were, however, not addressed.

22. The salary certificate [Ex.PW1/2] certifies the pay-scale of the deceased on the date of death, as follows:

| <i>“MONTHLY PAY SCALE AS ON DATE OF DEATH</i> |                     |
|-----------------------------------------------|---------------------|
| <i>PAY HEAD</i>                               | <i>AMOUNT (Rs.)</i> |
| <i>BASIC SALARY</i>                           | <i>34932/-</i>      |



|                           |          |
|---------------------------|----------|
| HOUSE RENT ALLOWANCE      | 17466/-  |
| CONVEYANCE ALLOWANCE      | 6986/-   |
| PHONE ALLOWANCE           | 500/-    |
| CHILD EDUCATION ALLOWANCE | 200/-    |
| SPECIAL ALLOWANCE         | 3758/-   |
|                           | -----    |
| TOTAL                     | 63842/-” |

23. Mr. Kumar submits that the conveyance allowance of Rs. 6,986/-, and phone allowance of Rs. 500/-, ought to have been deducted from the emoluments for the purposes of loss of dependency.

24. In *Kavita Devi & Ors. v. Sunil Kumar & Anr.*<sup>5</sup>, the Supreme Court considered the question of deductibility of allowances, as follows:

“17. This Court has consistently held in case of the allowances which are included in the component of salary of the deceased, Tribunal has to take into consideration these allowances as they were used for supporting the family. The claimants have to show that these allowances were regularly received and used for the family's benefit. **Further, while determining whether the allowances form a part of the salary or not, the Tribunal by looking into the facts of each case and by considering the extent of dependency of the claimants on the salary of the deceased including the allowances, have to determine whether these allowances should be excluded from determination of the income of the deceased.** If the answer of the Tribunal is in affirmative, then the allowances may be excluded for determination of loss of dependency. If the Tribunal answers the above point in negative, then the Tribunal has to include the allowances for computation of income of the deceased, thus determining the loss of dependency.

18. Applying the above principle to the case on hand, **it can be seen that it is the consistent plea of the claimant that the deceased was earning Rs. 6,500/- and the same is evidenced by producing Ex. P6. No contrary evidence is produced by the Respondents to dispute the fact that the allowances which is about 50% of the salary of the deceased should be excluded from determination of the actual income.** Further, it can be seen that after the accident, the entire burden of taking care of two minor children and herself fell on Appellant No. 1. Therefore in view of the changing economic situation

<sup>5</sup> (2025) SCC OnLine SC 1639 [hereinafter, “*Kavita Devi*”].



*of the family after the death of the deceased, we are of the opinion that income which the deceased was earning at the time of the accident was Rs. 6,500/- p.m and same ought to have been taken into consideration.”<sup>6</sup>*

The aforesaid principle was also recently followed by this Court in *Shriram General Insurance Company limited v. Surila & Ors.*<sup>7</sup>.

25. The question of whether a particular allowance should constitute part of the family dependency, therefore, requires determination in the facts of each case. In the present case, the evidence with regard to the salary of the deceased was given by PW-1 as stated above, as also by the wife of the deceased, Ms. Radha Devi [PW-3]. In her evidence, she referred to his salary of Rs. 65,927/- per month, in addition to which, he was getting incentives and increments, and to the periodic increase in his salary. She also referred to the fact that she, her daughters, and her parents-in-law were completely dependent on the deceased's income. In cross-examination, she denied the suggestion of learned counsel for the Insurance Company with regard to the quantum of his salary.

26. The aforesaid evidence therefore does not seriously challenge the quantum of salary, on the basis of the various components identified in the salary slip. I do not find any testimony having been elicited, either from the wife of the deceased or from the representative of the employer, in this connection.

27. Mr. Kumar relies on a judgment of the Supreme Court in *Kalpanaraj & Ors. v. Tamil Nadu State Transport Corporation*<sup>8</sup>, and a judgment of this Court in *Asha Devi & Ors. v. Oriental Insurance Co.*

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<sup>6</sup> Emphasis supplied.

<sup>7</sup> MAC.APP. 173/2014, decided on 03.12.2015.

<sup>8</sup> (2015) 2 SCC 764 [hereinafter, “*Kalpanaraj*”]



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*Ltd.*<sup>9</sup> in support of his contention that the aforesaid allowances must be deducted. I, however, do not find these judgments to support the Insurance Company's case. In *Kalpanaraj*, the ratio was not this at all. The Supreme Court found that certain deductions had erroneously been made while arriving at the figure of the income of the deceased and in the course of its discussion, it referred to the judgment of a Single Judge of Andhra Pradesh High Court in *S. Narayanamma v. Government of India*<sup>10</sup>, which in turn excluded "travelling allowance" from the earnings of the deceased. This was not the issue in *Kalpanaraj* at all. Although the judgment of the coordinate Bench in *Asha Devi* refers to conveyance allowance as an expenditure incidental to employment, which ought to have been deducted, these are factual conclusions which ought to have been addressed in evidence. In the absence thereof, the argument of the Insurance Company with regard to deduction of allowances is rejected.

28. On the question of deduction of taxes, however, Mr. Aggarwal does not dispute the contention of the Insurance Company. It is well settled that the loss of dependency must be computed after accounting for tax liability of the deceased. In the present case, no evidence was led before the Tribunal on this aspect. However, having regard to the fact that the accident occurred more than 11 years ago, at my request, learned counsel for the parties have come to an agreed figure of tax liability on the basis of which the re-computation can be worked out by this Court itself. It is agreed by them that the figure of annual income of Rs. 7,66,104/-, as taken by the Tribunal must be reduced by Rs. 54,816/- on

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<sup>9</sup> 2015 SCC OnLine Del 7114 [hereinafter, "*Asha Devi*"].

<sup>10</sup> 2022 SCC OnLine AP 309.



account of taxes. The annual income of the deceased will, for the purposes of computation, therefore be reckoned at Rs. 7,11,288/-.

**ii) FUTURE PROSPECTS**

29. On the question of future prospects, the judgment in *Pranay Sethi* states as follows:

**“59.3 While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where 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.”<sup>11</sup>**

30. The deceased was admittedly less than 40 years of age. The question is therefore whether his case will fall within paragraph 59.3 or 59.4 of the aforesaid judgment.

31. As far as this aspect is concerned, the evidence before the Tribunal was that he had been in the employment of Magnum since 31.08.1998, i.e. for a period of almost 16 years. The evidence of the employer's representative [PW-1] was of some significance. He exhibited a document dated 17.03.2016, entitled “*INCREMENT AND PROMOTION*



*RULE OF THE COMPANY*”, which stated as follows:

**“INCREMENT AND PROMOTION RULE OF THE COMPANY**

*Respected Sir,*

*With reference to above said case, we hereby certify that all employees of M/s Magnum Telesystem Pvt. Ltd. Being awarded on 1<sup>st</sup> April of every year according to their work performance of previous year.*

*Further to certify that the minimum increment of 10% on previous pay scale is being provided for satisfactory services of employees.*

*Further to certify that higher rate of increment may be applicable for employees who serviced with extra ordinary work performance.*

*Higher rate of increment is being decided by management.”<sup>12</sup>*

The cross-examination of the witness, as noted above, did not address the contents of the exhibited documents, except in general terms.

32. On the above evidence, I am of the view that the case of the deceased falls within paragraph 59.3 of the judgment in *Pranay Sethi*, rather than paragraph 59.4. He was not self-employed, and his salary was subject to periodic increment, incentives etc., which cannot be characterized as a “*fixed salary*”, in terms of paragraph 59.4. The evidence indicates that he, in fact, had a permanent job and the potential for enhancement was also established before the Tribunal. I, therefore, uphold the grant of future prospects at 50%.

**iii) COMPUTATION OF LOSS OF DEPENDENCY**

33. There is no challenge to the determination of the Tribunal with regard to the deduction of 1/4<sup>th</sup> of the deceased’s income on account of personal expenses, as also to the applicable multiplier of 15. Consequently, the only modification required is to the quantum of income, upon which the other variables will be factored. The re-

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<sup>11</sup> Emphasis supplied.

<sup>12</sup> Emphasis supplied.



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computation is as follows:

| S.No.                                   | Heads                                                            | Amount                   |
|-----------------------------------------|------------------------------------------------------------------|--------------------------|
| 1.                                      | Annual income of the deceased [A]                                | Rs. 7,11,288/-           |
| 2.                                      | ADD: future prospects [50%] [B]                                  | Rs.3,55,644/-            |
| 3.                                      | Income of the deceased (including future prospects)<br>[A+B = C] | Rs. 10,66,932/-          |
| 4.                                      | MINUS: personal expenses [25%] [D]                               | Rs.2,66,733/-            |
| 5.                                      | Annual loss of dependency<br>[C – D = E]                         | Rs. 8,00,199/-           |
| 6.                                      | Multiplier [F]                                                   | 15                       |
| <b>Total loss of dependency [E x F]</b> |                                                                  | <b>Rs. 1,20,02,985/-</b> |

34. The award of the Tribunal on account of loss of dependency is accordingly reduced from Rs. 1,29,28,005/- to Rs.1,20,02,985/-.

***iv) NON-PECUNIARY DAMAGES***

35. In the present case, the Tribunal has awarded Rs. 25,000/- for funeral expenses, Rs. 1,00,000/- for loss of consortium, Rs. 1,00,000/- for loss of estate, and Rs. 4,00,000/- for loss of love and affection to the children and parents of the deceased.

36. The Supreme Court, in *Pranay Sethi*, recognized three elements of non-pecuniary damages for cases of fatality – loss of consortium of Rs. 40,000/- each to the spouse, children and parents of the deceased<sup>13</sup>,

<sup>13</sup> *Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram and Ors.* [(2018) 18 SCC 130.]; and *National India Assurance Company Limited v. Somwati* [(2020) 9 SCC 644].



funeral expenses and loss of estate of Rs.15,000/- each<sup>14</sup>. Further, the separate compensation on account of loss of love and affection was specifically disallowed by the Supreme Court, in *United India Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur & Ors*<sup>15</sup>.

37. Having regard to the above, the non-pecuniary damages in the present case are re-assessed as follows:

| S.No.        | Heads                                                  | Awarded by this Court |
|--------------|--------------------------------------------------------|-----------------------|
| 1.           | Loss of consortium                                     | Rs. 2,00,000/-        |
| 2.           | Loss to estate                                         | Rs.15,000/-           |
| 3.           | Funeral expenses                                       | Rs.15,000/-           |
| 4.           | Loss of love and affection to the children and parents | Deleted               |
| <b>TOTAL</b> |                                                        | <b>Rs. 2,30,000/-</b> |

38. The compensation awarded under non-pecuniary heads is thus reduced from Rs. 6,25,000/- to Rs. 2,30,000/-.

v) **RE-COMPUTATION OF AWARD**

39. 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.1,29,28,005/-        | Rs.1,20,02,985/-     | (-) Rs.9,25,020/- |
| 2.      | Funeral Charges    | Rs.25,000/-             | Rs.15,000/-          | (-)Rs.10,000/-    |

<sup>14</sup> *Pranay Sethi*, Paragraph 59.8.

<sup>15</sup> (2021) 11 SCC 780



|    |                            |                         |                         |                           |
|----|----------------------------|-------------------------|-------------------------|---------------------------|
| 3. | Loss of Estate             | Rs.1,00,000/-           | Rs. 15,000/-            | (-)Rs.85,000/-            |
| 4. | Loss of consortium         | Rs.1,00,000/-           | Rs.2,00,000/-           | (+)Rs.1,00,000/-          |
| 5. | Loss of love and affection | Rs.4,00,000/-           | DELETED                 | (-)Rs. 4,00,000/-         |
|    | <b>TOTAL</b>               | <b>Rs.1,35,53,005/-</b> | <b>Rs.1,22,32,985/-</b> | <b>(-) Rs.13,20,020/-</b> |

The Tribunal's award therefore stands reduced by Rs. 13,20,020/-.

**E. COMPUTATION OF COMPENSATION IN MAC.APP. 972/2016**

40. The aforesaid case arises out of the injuries sustained by Mr. Lachman Singh, who was 75 years old at the time of the accident. Mr. Kumar is right in saying that medical evidence was not led before the Tribunal. However, the claimant himself gave evidence with regard to the nature of his injuries. In his affidavit of evidence, he stated as follows:

**"4. That in this accident I suffered multiple grievous injuries resulting Head Injury, Injuries on Chest and other multiple grievous injuries on the whole part of the body. From the place of accident he was taken to Krishna Hospital & research Centre, Haldwani, Uttrakhand, Prepared my MLC. I have not recovered from the injuries sustained by me in this accident till date. I must have spent around Rs. 10,000/- on my medicine and treatment. I must have spent more than Rs. 20,000/- on rich and high protein diet and conveyance. Because of this accident I am suffering great mental pain and agony, inconvenience and hardship, financial losses and general damages. That in this accident I lost my son Puran Singh who was the sole bread winner for the entire family. After the accident I was so much disturbed that I lost my medical treatment paper and bills. Prior to the accident the accident I use to do lot of work related to house. But after the accident I have lost my confidence."**<sup>16</sup>

<sup>16</sup> Emphasis supplied.



41. In cross-examination by learned counsel for the Insurance Company, the claimant accepted that he had not filed any documents in support of conveyance & special diet, but denied that he had not incurred any expenditure on this account. He also denied a general suggestion that he had not sustained any injury in the accident.

42. The Tribunal, in paragraph 14 of the impugned award, has characterized his injuries as “*serious injuries*”. Having regard to the aforesaid evidence in relation to the nature of his injuries, the Tribunal has computed the loss of income on the basis of minimum wages of Rs. 8,554/- of three months, and awarded compensation under the heads of attendant charges, conveyance & special diet, and pain & suffering, for the period of treatment.

43. As the claimant was 75 years of age at the time of accident, I do not consider the Tribunal’s estimates of three months’ treatment to be exaggerated. A 75 year old man who suffered injuries in a road accident, in my view, would require an award under the heads as awarded by the Tribunal.

44. However, accounting for the fact that the value of money in 2014 was greater than it is today, the estimate of Rs.25,000/- on account of conveyance & special diet may be on the higher side. In the absence of any supporting evidence, I am of the view that an award of Rs.15,000/- on this account would be more appropriate.

45. Conversely, however, I find that the award of damages on account of claimant’s suffering to be an under-estimate. Having regard to the evidence, nature of injuries and the age of the claimant, the award on this



account is enhanced from Rs.15,000/- to Rs.25,000/-.

46. As a result, the award in MAC.APP. 972/2016 is modified to the following extent:

| S.No.        | Heads                     | Awarded by the Tribunal | Awarded by the Court | Difference     |
|--------------|---------------------------|-------------------------|----------------------|----------------|
| 1            | Loss of Income            | Rs. 25,662/-            | Rs. 25,662/-         | Nil            |
| 2            | Medicines & Treatment     | Nil                     | Nil                  | Nil            |
| 3            | Attendant Charges         | Rs. 12,000/-            | Rs. 12,000/-         | Nil            |
| 4            | Conveyance & Special Diet | Rs. 25,000/-            | Rs. 15,000/-         | (-)Rs.10,000/- |
| 5            | Pain & Suffering          | Rs. 15,000/-            | Rs. 25,000/-         | (+)Rs.10,000/- |
| <b>TOTAL</b> |                           | <b>Rs. 77,662/-</b>     | <b>Rs. 77,662/-</b>  | <b>Nil</b>     |

47. Ultimately, the award of Rs.77,662/-, therefore, does not require interference.

**F. RATE OF INTEREST**

48. The only remaining argument concerns rate of interest, awarded at the rate of 10% per annum in both the awards.

49. The judgment of this Court in *National Insurance Company Limited v. Yad Ram & Ors.*<sup>17</sup>, which deals with the question of determination of rate of interest, refers to Section 171 of the Motor Vehicles Act, 1988, reproduced below:

***“ 171. Award of interest where any claim is allowed.—***

***Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to***

<sup>17</sup> MAC.APP 526/2018, decided on 28.03.2023 [hereinafter, “Yad Ram”].



*the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.”*

50. This Court declined to lay down any fixed rate of interest applicable to all cases before the Tribunal, but emphasised that the interest is awarded on account of delay in receipt of compensation, period of delay, bank rate of interest, duration of pendency of the claim petition, and other factors, including nature of the injuries and urgency of compensation claims, were all treated as factors relevant to such determination.

51. In MAC.APP. 974/2016, the Insurance Company has averred that the relevant rate of interest was 7.5% per annum, but in the format filed alongwith the appeal, it has itself sought a reduction of the rate of interest to 9% per annum.

52. Having regard to all the relevant factors laid down in *Yad Ram*, including the fact that the accident occurred in the year 2014, when the rate of interest was somewhat higher than it is today, I am of the view that the rate of interest granted by the Tribunal is required to be modified to 9% per annum.

**G. CONCLUSION**

53. In MAC.APP. 972/2016, the principal amount awarded is affirmed. In MAC.APP. 974/2016, the principal amount of the award stands reduced from Rs.1,35,53,005/- to Rs.1,22,32,985/-. The rate of interest stands reduced to 9% per annum from 10% per annum in both the awards.

54. By orders dated 22.11.2016, the awarded amount was directed to be deposited with the Tribunal with interest at the rate of 9% per annum,



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as a condition for stay of the award. Upon deposit, 50% of the award was to be released to the claimant(s).

55. In MAC.APP. 972/2016, the balance amount lying in deposit be released to the claimant forthwith.

56. In MAC.APP. 974/2016, apportionment and disbursement of the award may have to be reworked, in view of the fact that the award now stands reduced. The claimants are directed to appear before the Tribunal on 28.01.2026, to enable the Tribunal to reassess the questions of apportionment and disbursement in light of this judgment.

57. Both appeals are disposed of in these terms.

58. The statutory deposits be refunded to the Insurance Company.

**PRATEEK JALAN, J**

**DECEMBER 22, 2025**

*dy/pv/sv/AD/*