



2025:DHC:11419



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

Decided on: 15.12.2025

+ MAC.APP. 625/2015
BIMLA DEVI & ORS

.....Appellants

Through: Mr. Pankaj Gupta, Advocate.

versus

NARENDER YADAV & ORS (NATIONAL INSURANCE CO
LTD)

.....Respondent

Through: Ms. Archana Gaur and Ms.
Ridhima Gaur, Advocate for NIC.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. The appellants, who were the claimants before the Motor Accident Claims Tribunal [“the Tribunal”], have preferred the present appeal against an award dated 09.04.2015, passed in MACT No. 250/2012, arising out of a fatal accident resulting in the death of Mr. Dushyant Kumar. They seek enhancement of the compensation granted to them by the impugned award, which was in the sum of Rs.12,52,779/- alongwith interest at the rate of 9% per annum.

FACTS

2. The facts, as stated in the impugned award, are that on 19.09.2012 at about 10:00 PM, the deceased was riding a scooty alongwith one – Ms. Payal Srivastava, near Anand Vihar, when the scooty was struck by a Heavy Goods Vehicle [“HGV”] container bearing registration No. HR-38J-6095. The occupants of the scooty were dragged for some distance, sustaining crush injuries. They were taken to Dr. Hedgewar Hospital,



where they were declared “*Brought Dead*”.

3. FIR No. 259/12, under Sections 279/304A of the Indian Penal Code, 1860, was registered at PS Anand Vihar against the driver of the HGV [respondent No.1 herein], and a chargesheet dated 08.12.2014 was subsequently filed.

4. Two separate claim petitions were filed before the Tribunal arising out of the same accident, being MACT No. 249/12 relating to the death of Ms. Payal Srivastava, and MACT No. 250/12 relating to the death of Mr. Dushyant Kumar. The present appeal is against the award passed in MACT No. 250/12. The claimants before the Tribunal, who are the appellants herein, are the parents and two younger brothers of the deceased, while the driver, owner and insurer of the offending HGV were impleaded as respondents before the Tribunal, and are arrayed as respondents Nos. 1, 2 and 3 in the present appeal, respectively.

5. The Tribunal returned a finding in favour of the appellants, holding that the accident was caused due to the rash and negligent driving of respondent No. 1, and awarded compensation in the sum of Rs.12,52,779/-, alongwith interest at the rate of 9% per annum, under following heads:

S.No.	Heads	Amount
1.	Loss of dependency	Rs.11,17,779.00
2.	Loss of Love and affection	Rs. 1,00,000.00
3.	Funeral Expenses	Rs. 25,000.00
4.	Loss of Estate	Rs. 10,000.00
Total		Rs. 12,52,779.00



4. I have heard Mr. Pankaj Gupta, learned counsel for the appellants, and Ms. Archana Gaur, learned counsel for respondent No.3 – National Insurance Co. Ltd. [“Insurance Company”].

5. Mr. Gupta seeks enhancement of the award on the following grounds:

- a) While determining the income of the deceased, the Tribunal erred in taking the income for the assessment year 2012-13 from the Income Tax Returns [“ITRs”] as Rs.1,82,210/-, whereas the ITRs reflect gross income of Rs.2,21,211/-, which was subjected to deductions of Rs.39,000/-, which was wrongly excluded.
- b) The Tribunal failed to add 40% towards future prospects, to the income of the deceased.
- c) The Tribunal erroneously applied a multiplier of 13 based on the age of the mother of the deceased, whereas the appropriate multiplier, having regard to the age of the deceased, ought to have been 18.
- d) The Tribunal incorrectly deducted 50% from the deceased’s income towards personal expenses, by treating the mother as the sole dependant, ignoring the evidence showing that the father and two brothers of the deceased were also dependent on him.

6. *Per contra*, Ms. Gaur supports the computation of loss of dependency in the impugned award, and further submits that the non-pecuniary heads of compensation require re-computation, in accordance with the principles laid down in the judgment of the Constitution Bench



of the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi*¹.

7. Each of the aforesaid aspects is dealt with below

A. COMPUTATION OF ANNUAL INCOME

8. While computing the income of the deceased for the purpose of assessing loss of dependency, the Tribunal relied upon the ITRs for two preceding years, which were proved through the testimony of the mother of the deceased [PW-1]. In addition, officials from the Income Tax Department were summoned, and examined as PW-2 and PW-4 to substantiate the said returns. Since the accident occurred on 19.09.2012, the relevant ITRs pertained to the Assessment Years 2011-12 and 2012-13, which were exhibited as PW-4/2 and PW-4/3, collectively.

9. The Tribunal computed the income of the deceased by taking the average income of the two relevant years as reflected in the ITRs, noting that the deceased was employed as a Cashier and Sales Executive with M/s Craft Motorcraft Sales Pvt. Ltd., Sahibabad, Ghaziabad, and was also earning income from business, as deposed by his mother and borne out from the ITRs. The ITR for the assessment year 2011-12 disclosed a total income of Rs.1,61,722/-, comprising Rs.1,29,050/- from salary and Rs.32,363/- from business. For the assessment year 2012-13, the income from salary was Rs.1,07,633/- and from business Rs.1,09,648/-. Further, upon addition of income from other sources of Rs.3,930/-, the gross total income was computed at Rs.2,21,211/-. After allowing deduction of Rs.39,000/- under Chapter VI-A of the Income Tax Act, 1961 [“the Act”], the total taxable income for the said year was assessed at Rs.1,82,210/-.

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



10. Having regard to the substantial increase in business income between the two assessment years, Mr. Gupta does not dispute that the income of both years ought to be taken into account, in accordance with the principles laid down by this Court in *Rajbala v. Krishnan Kumar Sharma*², and more recently in *Lalita Gupta v. Manoj Kumar Rana*³. However, he contends that the Tribunal erred in considering the income for the assessment year 2012-13 as Rs.1,82,210/-, whereas the gross total income as per the ITR was Rs.2,21,211/-.

11. Alongwith the ITR for the assessment year 2012-13, filed on 10.07.2012, i.e., prior to the date of the accident, the deceased had also furnished a certificate from a Chartered Accountant computing his total income. The computation reflected income from salary, business, and other sources amounting to Rs.2,21,211/-. The deduction of Rs.39,000/- was on account of investments of Rs.15,000/- under Section 80C of the Act, and rent paid of Rs.24,000/- under Section 80GG of the said Act. The deceased was clearly entitled to these deductions, as they pertained to outgoings which were deductible under the Act. Mr. Gupta is, therefore, correct in submitting that the actual income of the deceased for the assessment year 2012-13 amounted to Rs.2,21,211/-.

12. In view of the foregoing, the annual income for the purpose of computing loss of dependency, based on the average of the two ITRs, namely, Rs.1,61,722/- and Rs.2,21,211/-, works out to Rs.1,91,466.50/-. Consequently, the Tribunal's award requires modification to reflect this corrected figure.

² 2023 SCC OnLine Del 4082.

³ 2025 SCC OnLine Del 8881.



B. FUTURE PROSPECTS

13. In accordance with the judgment in *Pranay Sethi*, future prospects are to be considered while computing the income of the deceased⁴. In the present case, the deceased, being partially salaried and partially self-employed, and aged 22 years at the time of the accident, it is agreed by learned counsel on both sides that future prospects should be applied at 40%.

C. LOSS OF DEPENDENCY

14. The Tribunal has applied a 50% deduction for loss of dependency, reasoning that the deceased was a bachelor, and that half of his income would have been spent on personal living expenses, with his mother being the sole dependent. Regarding this aspect, the affidavit of evidence of the mother [appellant No. 1 herein] reads as follows:

*“4. I say that my son left behind my self as his mother namely Smt. Bimla Devi, Aged 47 years, his father Sh. Raj Kumar, Aged 50 years, his unmarried brother Sandeep Kumar, Aged 17 years and Anup @Anshu, Aged 15 years who are the only LRs of the deceased. The petitioners were solely dependent upon the income of the deceased. Had the deceased not died in the said accident, she would have lived a long with the petitioners. The entire life of the petitioner has become dark and gloomy. The petitioners have suffered a great mental pain, shock and trauma. There is sadness in the family of the petitioners. The losses suffered by the petitioners are quite irreparable and no amount can compensate the losses suffered by the petitioners.”*⁵

15. In cross-examination by learned counsel for the driver and owner of the HGV, appellant No.1 deposed as follows:

“....I have two other sons also both are unemployed and unmarried. My husband is unemployed and suffering from Asthama. I have not brought the document of Asthama It is wrong to suggest that my husband was not suffering from Asthama and he is hale and

⁴ Paragraph 59.3 and 59.4.

⁵ Emphasis supplied.



hearty and able to take care financially of his family.....”⁶

16. Further, during cross-examination by learned counsel for the Insurance Company, she stated:

“It is wrong to suggest that my both sons namely Sandeep Kumar and Anup were working...”

17. The question of deduction for personal expenses, in the case of an unmarried victim of a road accident, was considered by the Supreme Court in *Sarla Verma v. DTC*,⁷ wherein the Court observed as follows:

*“31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. **In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself.** Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, **subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.***

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one third and contribution to the family will be taken as two-third.”⁸

18. This issue was subsequently clarified by a three-Judge Bench in *Reshma Kumari v. Madan Mohan*⁹, wherein the Court held:

“41. The above does provide guidance for the appropriate deduction

⁶ Emphasis supplied.

⁷ (2009) 6 SCC 121 [hereinafter, “*Sarla Verma*”].

⁸ Emphasis supplied.

⁹ (2013) 9 SCC 65 [hereinafter, “*Reshma Kumari*”].



for personal and living expenses. One must bear in mind that the proportion of a man's net earnings that he saves or spends exclusively for the maintenance of others does not form part of his living expenses but what he spends exclusively on himself does. The percentage of deduction on account of personal and living expenses may vary with reference to the number of dependent members in the family and the personal living expenses of the deceased need not exactly correspond to the number of dependants.

*42. In our view, the standards fixed by this Court in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] on the aspect of deduction for personal living expenses in paras 30, 31 and 32 must ordinarily be followed unless a case for departure in the circumstances noted in the preceding paragraph is made out.*¹⁰

19. The Supreme Court in *Pranay Sethi* affirmed that the principles laid down in *Sarla Verma*, as clarified in *Reshma Kumari*, are to be applied in assessing deductions for personal and living expenses.

20. The position that emerges from the foregoing is that, in the normal course, for an unmarried victim, personal expenses are generally taken as 50% [1/2], with the mother being the only dependant. However, this is not a rule of universal application, and may be modified in light of the evidence.

21. In the present case, even assuming that the deceased's father was not financially dependent on him, his two brothers were only 15 and 17 years of age at the time of the accident. The mother's evidence was that the father was unemployed and suffering from asthma. Although no documentary evidence was produced, the fact that the two brothers were at least partially dependent on the deceased's income was not seriously contested during cross-examination. In the facts of this case, where the two brothers were still minors residing in the same household as the

¹⁰ Emphasis supplied.



deceased, I am of the view that it is appropriate to consider them as dependants of the deceased. The proper deduction for personal living expenses, in line with law laid down in *Sarla Verma*, would therefore be $\frac{1}{3}$, rather than $\frac{1}{2}$.

D. MULTIPLIER

22. The Tribunal applied a multiplier of 13, having regard to the age of the mother of the deceased, who was 49 years old at the time of the accident. However, principles laid down in *Pranay Sethi* make it clear that the relevant factor for selecting the multiplier is the age of the deceased. It is, therefore, accepted that the correct multiplier in this case ought to have been 18.

E. LOSS OF DEPENDENCY

23. Consequently, the compensation awarded for loss of dependency is re-computed as follows:

Heads	Amount
Annual income	Rs. 1,91,466.5/-
Application of future prospects (Rs. 1,91,466.5/- x 40%)	Rs. 1,91,466.5/- + Rs.76,586.6/- = Rs.2,68,053.1/-
Deduction of personal expenses [$\frac{1}{3}$ rd]	Rs.2,68,053.1/- (-) Rs. 89,351.033/- = Rs. 1,78,702.067/-
Multiplier [18]	Rs. 1,78,702.067/- x 18
Total	Rs. 32,16,637.2/- (rounded off to Rs. 32,16,637/-)



F. NON-PECUNIARY DAMAGES

24. The Tribunal awarded non-pecuniary damages under the heads of loss of love and affection [Rs.1,00,000/-], funeral expenses [Rs.25,000/-], and loss of estate [Rs. 10,000/-]. However, *Pranay Sethi* recognises and quantifies non-pecuniary damages in cases of fatal injuries under the heads of funeral expenses, loss of consortium, and loss of estate at Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, respectively¹¹.

25. The Supreme Court has further clarified, in the judgments of *Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram and Ors.*¹², *United India Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur & Ors.*¹³, that compensation for loss of consortium is payable under three distinct heads, namely, spousal consortium, parental consortium, and filial consortium, payable respectively to the spouse, children, and parents of the deceased. The subsequent decision of the Supreme Court in *National India Assurance Company Limited v. Somwati*¹⁴ has reiterated this position, and affirmed that each eligible claimant is entitled to a separate and independent award under the head of loss of consortium. In the present case, as the deceased is survived by both parents [appellants Nos. 1 and 2 herein], the loss of consortium is accordingly quantified at Rs. 80,000/-.

26. The loss of love and affection does not constitute a separate head of non-pecuniary damages, as it is subsumed under the head of loss of consortium, as held in *Satinder Kaur*.

¹¹ Paragraph 59.8.

¹² (2018) 18 SCC 130.

¹³ (2021) 11 SCC 780 [hereinafter, "*Satinder Kaur*"].

¹⁴ (2020) 9 SCC 644.



27. The non-pecuniary damages are, accordingly, modified, with loss of consortium payable in the sum of Rs. 80,000/-, and funeral expenses and loss of estate each quantified at Rs. 15,000/-.

G. CONCLUSION

28. In view thereof, the total compensation awarded to the claimant is as follows:

Heads	Awarded By the Tribunal	Awarded by the Court	Difference
Loss of dependency	Rs.11,17,779/-	Rs.32,16,637/-	(+)Rs.20,98,858/-
Loss of love and affection	Rs.1,00,000/-	NIL	(-) Rs.1,00,000/-
Loss of consortium	NIL	Rs.80,000/-	(+) Rs.80,000/-
Funeral Expenses	Rs.25,000/-	Rs.15,000/-	(-) Rs.10,000/-
Loss of estate	Rs.10,000/-	Rs.15,000/-	(+) Rs.5,000/-
Total	Rs. 12,52,779/-	Rs. 33,26,637/-	(+)Rs.20,73,858/-

29. The award stands enhanced from Rs. 12,52,779/- to Rs.32,26,637/-, i.e. enhancement of Rs.20,73,858/-.

30. I am informed that the original awarded amount was deposited before the Tribunal, and the Tribunal had directed its disbursement within a period of ten years, which period has since lapsed.

31. The Insurance Company is hereby directed to deposit the enhanced amount awarded by this judgment, alongwith interest at the same rate as



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granted by the Tribunal, i.e. 9% p.a., with the Tribunal within eight weeks from today, which shall thereafter be disbursed to the appellants.

32. In the proceedings before the Tribunal, the entire award was made in favour of appellant No.1, the mother of the deceased. The Tribunal is directed to release a sum of Rs. 40,000/- [loss of consortium payable to the father], alongwith proportionate interest to appellant No.2, the father of the deceased. Mr. Gupta submits that the balance be released to appellant No.1, the mother of the deceased. It is so ordered.

33. The appeal is disposed of in the above terms.

PRATEEK JALAN, J

DECEMBER 15, 2025

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Signature Not Verified

Signed By: PARUL
VASHIST
Signing Date: 17.12.2025
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