



2025:DHC:11915



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 24.11.2025**Pronounced on: 24.12.2025**Uploaded on: 24.12.2025*

+ MAC.APP. 1169/2018 &amp; CM APPL. 54595/2018

THE ORIENTAL INSURANCE CO LTD

.....Appellant

Through: Mr. Pankaj Seth, Advocate.

versus

SUNITA TYAGI &amp; ORS

.....Respondent

Through: Mr. Ranjeet Singh, Mr. Shubham Rajput and Mr. Gaurav Kumar Chauhan, Advocates for R-1 to 4.  
Ms. Rudrakshi Gautam and Ms. Harhshita Pal, Advocates for R-5 and 6.

**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****J U D G M E N T**

1. The appellant – Oriental Insurance Company Limited [“Insurance Company”] is in appeal against an award of the Motor Accident Claims Tribunal [“Tribunal”] dated 01.11.2018, in MACT No. 357445/2016, whereby the Tribunal has awarded a sum of Rs. 23,54,000/-, alongwith interest at the rate of 9% per annum, in favour of respondent Nos. 1 to 4 – claimants.

**A. FACTS AND IMPUGNED AWARD**

2. The proceedings before the Tribunal arose out of a fatal accident that took place on 02.02.2016, in which one Satyendra Tyagi lost his life. The deceased was an ex-serviceman who had retired from the Indian



Army as a Naik. At the time of the accident, he was 45 years of age.

3. The facts related to the accident, as they appear from the impugned award, are that at about 1:30 PM on 02.02.2016, the deceased was riding his motorcycle bearing registration No. UP-14BW-4351, near Mohan Nagar crossing, when the motorcycle was hit by a truck bearing No. UP-17C-9920 [“insured vehicle”]. It was alleged that the insured vehicle was being driven in a rash and negligent manner, which resulted in the accident. The deceased fell off the motorcycle, and was run over by the insured vehicle. He was taken to Narender Mohan Hospital, Ghaziabad, Uttar Pradesh, by his nephew, Mr. Vikas Tyagi, where he was declared dead.

4. An FIR bearing No. 137/2016 was registered against the driver of the insured vehicle on 02.02.2016, at P.S. Sahibabad, Ghaziabad, Uttar Pradesh, under Sections 279, 338, and 304-A of the Indian Penal Code, 1860. A chargesheet was also filed in the criminal proceedings.

5. The claimants [wife and three children of the deceased] instituted claim proceedings before the Tribunal seeking compensation from the driver, owner, and insurer of the vehicle involved in the accident. The insurer of the vehicle [appellant herein] was impleaded as respondent No.2 before the Tribunal. The owner and the driver of the said vehicle [respondent Nos. 5 and 6 herein] were impleaded as respondent Nos. 1 and 3, respectively, before the Tribunal.

6. The Tribunal returned a finding of rash and negligent driving against the driver of the insured vehicle, and proceeded to award compensation under the following heads:



| Head                                    | Amount (in ₹)                                                |
|-----------------------------------------|--------------------------------------------------------------|
| Loss of income                          | 19,63,956/-                                                  |
| Loss of estate                          | 15,000/-                                                     |
| Funeral expenses                        | 15,000/-                                                     |
| Loss of consortium [40,000 x 4]         | 1,60,000/-                                                   |
| Loss of love and affection [50,000 x 4] | 2,00,000/-                                                   |
| <b>Total</b>                            | <b>23,53,956/-</b><br><b>(rounded off to Rs.23,54,000/-)</b> |

**B. SUBMISSIONS**

7. I have heard Mr. Pankaj Seth, learned counsel for the Insurance Company, and Mr. Ranjeet Singh, learned counsel for the claimants.
8. Mr. Seth challenges the award on the following grounds:
- That the evidence in the present case did not establish the involvement of the insured vehicle in the accident in question. Without prejudice to this submission, Mr. Seth argued that the Tribunal ought to have imposed a reduction of the award on account of contributory negligence.
  - That the Tribunal awarded an excessive amount for loss of future income, as the enhancement for future prospects and the multiplier adopted were both inflated, in view of the admitted age of the deceased which was approximately 45 years and 9 months on the date of the accident.
  - That the Tribunal erred in imposing a deduction of personal and living expenses of only 1/4<sup>th</sup>. Mr. Seth contends that the Tribunal wrongly included a 21 year old daughter of the deceased as a dependent, leading to computation of personal expenses on the basis of four dependents. According to him, the correct number of



dependents ought to have been taken as three, and 1/3<sup>rd</sup> of the deceased's income was, therefore, liable to be deducted on account of personal and living expenses.

- d. That compensation under non-pecuniary heads was not in accordance with judgments of the Supreme Court in *Sarla Verma v. Delhi Transport Corporation and Anr.*<sup>1</sup> and *National Insurance Company Ltd. v. Pranay Sethi*<sup>2</sup>.
- e. That the employer of the deceased had taken an insurance policy, under which the family of the deceased had already received the benefit of Rs.7,50,000/-, which ought to have been reduced from the total compensation payable.

9. Mr. Singh, on the other hand, took me through the evidence to support the findings of the Tribunal with regard to negligence of the driver of the insured vehicle, as also the quantum of compensation.

10. Learned counsel for the parties also cited certain authorities in support of their respective contentions, which shall be referred to below.

11. Each of the aforesaid aspects is dealt with in turn.

**C. RE: FINDINGS ON NEGLIGENCE AND CONTRIBUTORY NEGLIGENCE**

12. The Tribunal's record shows that evidence was led by an eye-witness to the accident, namely Mr. Vikas Tyagi, who gave evidence as PW-3. Although other witnesses also testified before the Tribunal, Mr. Vikas Tyagi was the only eye-witness. With regard to the facts of the accident, he deposed as follows:

*“3. That the deceased is the uncle of the deponent in relation. The*

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

<sup>2</sup> (2017) 16 SCC 680 [hereinafter, “*Pranay Sethi*”].



*deponent is the builder to construct the flat.*

*4. That on 02.02.2016 the deponent went to meet with his uncle at his home New Karera Colony, Mohan Nagar Ghaziabad in morning on his own vehicle. Thereafter both the deponent and his uncle were going to his duty and the deponent was going to his office to Noida for construction work. **When they reached at Mohan Nagar Ghaziabad. Then the uncle of the deponent was met with an accident with the vehicle of the respondent no.3 which was driven by the respondent no.3 in negligent and in rash manner and hit the vehicle of the uncle of the deponent from behind and the uncle of the deponent fall down and received serious injuries.** I took him with the help of some persons to the Hospital and during treatment he was expired.”<sup>3</sup>*

13. PW-3 was cross-examined by learned counsel for the Insurance Company as well as the owner and the driver of the insured vehicle. The cross-examination on behalf of the Insurance Company was confined to a single suggestion, that he had not witnessed the accident, which he denied. The cross-examination on behalf of the owner and the driver of the vehicle was more detailed. The witness explained that, both his motorcycle and that of the deceased, were travelling in the same direction at a distance of about 100 metres. He stated that the motorcycle of the deceased was hit by the left rear portion of the insured vehicle, and that he himself had taken the deceased to the hospital. The insured vehicle was intercepted by the public at a distance of about 20 to 30 metres from the spot.

14. The driver and the owner of the insured vehicle did not lead any evidence before the Tribunal.

15. Significantly, following the investigation, the police authorities have also filed a chargesheet in the criminal proceedings, against the driver of the insured vehicle. Even in the absence of an eye-witness, the

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<sup>3</sup> Emphasis supplied.



filing of the chargesheet may, by itself, be sufficient for the Tribunal to return a finding of rash and negligent driving, having regard to the judgments of the Supreme Court in *Ranjeet and Anr. v. Abdul Kayam Neb and Anr.*<sup>4</sup> and *Meera Bai v. ICICI Lombard General Insurance Company Limited*<sup>5</sup>.

16. In the present case, direct eye-witness evidence was also available, which remained unshaken in cross-examination. There was thus sufficient evidence before the Tribunal to come to a conclusion of negligence against the driver of the insured vehicle.

17. The contentions of the Insurance Company assailing the finding of negligence are, therefore, rejected. There is also no material in the evidence to support Mr. Seth's argument with regard to contributory negligence on the part of the deceased.

**D. FUTURE PROSPECTS**

18. At the time of the accident, the deceased was working as a Security Guard at U.P. Purva Sainik Kalyan Nigam Limited on a contractual basis.

19. While computing compensation on account of loss of dependency, the Tribunal considered the income of the deceased to be Rs.12,787/- per month, equivalent to Rs.1,53,444/- per annum. This remains undisputed.

20. However, Mr. Seth submitted that 25% future prospects had wrongly been added. The deceased was aged 45 years and 9 months at the time of the accident. *Pranay Sethi*<sup>6</sup> provides for an enhancement on account of future prospects of 25% for a victim working at a fixed salary,

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

<sup>5</sup> 2025 SCC OnLine SC 992, paragraph 4.

<sup>6</sup> Paragraph 59.4.



who is between the age of 40 to 50 years. This is exactly what the Tribunal has granted, and I see no reason to interfere with the same.

**E. DEDUCTION TOWARDS PERSONAL AND LIVING EXPENSES**

21. The deceased was survived by his wife and three children. The Tribunal reckoned a deduction for personal and living expenses of 1/4<sup>th</sup>, taking all four family members to be the dependents of the deceased. Mr. Seth, on the other hand, submits that one of the daughters was a major [respondent No.2 herein], and ought not to have been counted as a dependent.

22. As far as this aspect is concerned, the evidence of the wife and daughter of the deceased are relevant. The wife of the deceased Ms. Sunita Tyagi, deposed before the Tribunal as PW-1. She stated in her affidavit of evidence that all three children were unmarried, her two daughters were aged 21 and 18 years, and her son was aged 19 years. In cross-examination, she denied the suggestion of learned counsel for the Insurance Company that the claimants were not dependent upon the earnings of the deceased. The older daughter of the deceased, Ms. Jyoti Tyagi, also gave a statement before the Tribunal, in which she stated that she was pursuing a computer course and incurring expenses of approximately Rs.3,000-4,000/- per month.

23. In view of the above evidence, I am of the view that the Tribunal has committed no error in taking all four claimants as dependent upon the deceased. The older daughter, upon whose claim Mr. Seth's argument is based, was only 21 years old and a student. There is no suggestion that she was earning any independent income, which could support the



argument advanced by the appellant. The judgment in *Sarla Verma*<sup>7</sup> provides for a 1/4<sup>th</sup> reduction in cases where the number of dependents is four to six. The Tribunal's award on this account is, therefore, upheld.

**F. APPLICABLE MULTIPLIER**

24. The Tribunal has applied the multiplier of 14 on the ground that the deceased was 45 years of age. The contention of the Insurance Company, however, is that the applicable multiplier should be 13, as he was 45 years and 9 months of age on the date of the accident.

25. The applicable multiplier has been determined in *Sarla Verma*<sup>8</sup> on the basis of earlier judgments of the Supreme Court in *Kerala SRTC v. Susamma Thomas*<sup>9</sup>, *U.P. SRTC v. Trilok Chandra*<sup>10</sup>, and *New India Assurance Co. Ltd. v. Charlie*<sup>11</sup>. As upheld in *Reshma Kumari v. Madan Mohan*<sup>12</sup>, *Pranay Sethi*<sup>13</sup>, and *United India Insurance Co. Ltd. v. Satinder Kaur*<sup>14</sup>, the applicable multiplier are taken from column 4 of a chart prepared by the Court in *Sarla Verma*. In *Satinder Kaur*, the Court has reproduced column 4 as follows:

*“17. With respect to the multiplier, the Court in Sarla Verma, prepared a chart for fixing the applicable multiplier in accordance with the age of the deceased, after considering the judgments in Kerala, SRTC v. Susamma Thomas, U.P. SRTC v. Trilok Chandra and New India Assurance Co. Ltd. v. Charlie.*

*18. The relevant extract from the said chart i.e. Column 4 has been set out hereinbelow for ready reference:*

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<sup>7</sup> Paragraph 30.

<sup>8</sup> Paragraph 42.

<sup>9</sup> (1994) 2 SCC 176.

<sup>10</sup> (1996) 4 SCC 362.

<sup>11</sup> (2005) 10 SCC 720.

<sup>12</sup> (2013) 9 SCC 65, paragraph 37.

<sup>13</sup> Paragraph 44 and 59.6.

<sup>14</sup> (2021) 11 SCC 780 [hereinafter, “*Satinder Kaur*”].



| <i>Age of the deceased</i> | <i>Multiplier (Column 4)</i> |
|----------------------------|------------------------------|
| Up to 15 years             | -                            |
| 15 to 20 years             | 18                           |
| 21 to 25 years             | 18                           |
| 26 to 30 years             | 17                           |
| 31 to 35 years             | 16                           |
| 36 to 40 years             | 15                           |
| 41 to 45 years             | 14                           |
| 46 to 50 years             | 13                           |
| 51 to 55 years             | 11                           |
| 56 to 60 years             | 9                            |
| 61 to 65 years             | 7                            |
| Above 65 years             | 5                            |

”

26. It may be seen that the multiplier of 14 is applicable if the age of the deceased was “41 to 45 years”, and 13 is applicable if the deceased was aged “46 to 50 years”. Mr. Seth’s argument is that the deceased, in the present case, had overshoot the age of 45 years by 9 months, and should, therefore, be put in the bracket of 46 to 50 years. I do not find any merit in this submission. The multiplier of 13 commences only when the deceased has attained the age of 46 years. There is no warrant for the suggestion that the said multiplier would apply at any earlier point. The contention in this regard is, therefore, rejected.

**G. NON-PECUNIARY COMPENSATION**

27. The Tribunal has awarded non-pecuniary compensation of Rs.15,000/- each for loss of estate and funeral expenses, and Rs.1,60,000/- [Rs.40,000/- for each of the four claimants] towards loss of consortium. These heads are in terms of the judgment in *Pranay Sethi*<sup>15</sup>.

28. Mr. Seth’s argument, however, is that the Tribunal has erred in awarding a sum of Rs.2,00,000/- [Rs.50,000/- to each of the claimants]



towards loss of love and affection.

29. As far as this aspect is concerned, Mr. Singh does not contest this argument. The judgment of the Court in *Satinder Kaur*<sup>16</sup> clearly holds that loss of consortium, includes compensation for loss of love and affection, and no separate award on this account is permissible. The award of Rs. 2,00,000/- on this account is, therefore, liable to be set aside.

#### **H. CLAIM AGAINST INSURANCE BENEFITS**

30. The family of the deceased admittedly received a sum of Rs.7,50,000/- on account of an insurance policy taken by the employer of the deceased [U.P. Purva Sainik Kalyan Nigam Limited]. Although the deceased's wife [PW-1] had denied the receipt of the said amount, evidence was also given by a representative of the employer, Mr. Mohan Singh [PW-2]. In his evidence, he testified regarding the salary of the deceased, and in cross-examination, he stated that the employer had paid Rs.7,50,000/- under insurance cover and Rs.50,000/- towards ex-gratia. It was contended by Mr. Seth that this amount ought to be reduced from the total compensation payable to the claimants.

31. As far as this aspect is concerned, the judgment of the Supreme Court in *United India Insurance Co. Ltd. v. Patricia Jean Mahajan*<sup>17</sup>, holds as follows:

*“36. We are in full agreement with the observations made in the case of Helen Rebello<sup>18</sup> that principle of balancing between losses and gains, by reason of death, to arrive at the amount of compensation is a general rule, but what is more important is that such receipts by the claimants must have some correlation with the accidental death by*

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<sup>15</sup> Paragraphs 52 and 59.8.

<sup>16</sup> Paragraphs 34 and 35.

<sup>17</sup> (2002) 6 SCC 281.

<sup>18</sup> *Helen C. Rebello v. Maharashtra SRTC*, (1999) 1 SCC 90 [hereinafter, “*Helen C. Rebello*”].



reason of which alone the claimants have received the amounts. We do not think it would be necessary for us to go into the question of distinction made between the provisions of the Fatal Accidents Act and the Motor Vehicles Act. According to the decisions referred to in the earlier part of this judgment, it is clear that the amount on account of social security as may have been received must have a nexus or relation with the accidental injury or death, so far to be deductible from the amount of compensation. There must be some correlation between the amount received and the accidental death or it may be in the same sphere, absence (sic) the amount received shall not be deducted from the amount of compensation. Thus, the amount received on account of insurance policy of the deceased cannot be deducted from the amount of compensation though no doubt the receipt of the insurance amount is accelerated due to premature death of the insured. So far as other items in respect of which learned counsel for the Insurance Company has vehemently urged, for example some allowance paid to the children, and Mrs Patricia Mahajan under the social security system, no correlation of those receipts with the accidental death has been shown much less established. Apart from the fact that contribution comes from different sources for constituting the fund out of which payment on account of social security system is made, one of the constituents of the fund is tax which is deducted from income for the purpose. We feel that the High Court has rightly disallowed any deduction on account of receipts under the insurance policy and other receipts under the social security system which the claimant would have also otherwise been entitled to receive irrespective of accidental death of Dr Mahajan. If the proposition "receipts from whatever source" is interpreted so widely that it may cover all the receipts, which may come into the hands of the claimants, in view of the mere death of the victim, it would only defeat the purpose of the Act providing for just compensation on account of accidental death. Such gains, maybe on account of savings or other investment etc. made by the deceased, would not go to the benefit of the wrongdoer and the claimant should not be left worse off, if he had never taken an insurance policy or had not made investments for future returns.

37. We therefore, do not allow any deduction as pressed by the Insurance Company on account of receipts of insurance policy and social security benefits received by the claimants.”<sup>19</sup>

32. The said judgment, alongwith other authorities on the point, came

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<sup>19</sup> Emphasis supplied.



up for consideration before a three-Judge Bench of the Supreme Court in *Sebastiani Lakra v. National Insurance Co. Ltd*<sup>20</sup>. The Court considered its earlier judgment in *Helen C. Rebello*, which required the Court to examine whether the pecuniary advantages received by the heirs was on account of the death of the deceased. Only in such an eventuality would such benefits be correlated with the compensation payable. The legal position was summarized in *Sebastiani Lakra* as follows:

**“12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependants or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependants are entitled to “just compensation” under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependants as a result of some contract or act which the deceased performed in his lifetime cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependants only after his death.**

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16. Deduction can be ordered only where the tortfeasor satisfies the court that the amount has accrued to the claimants only on account of death of the deceased in a motor vehicle accident.”<sup>21</sup>

33. In the present case, there was no discussion or suggestion in the cross-examination of any of the witnesses, including PW-2, regarding the payment of premium or the details of the policy under which the insurance benefits have been paid to the family of the deceased. I am, therefore, of the view that the Insurance Company cannot be permitted to

<sup>20</sup> (2019) 17 SCC 465 [hereinafter, “*Sebastiani Lakra*”].



take advantage of any contractual benefits arising out of insurance policies taken either by the deceased or his employer. The contention on this account is rejected.

**I. CONCLUSION**

34. As a result of the above discussion, the only modification to the impugned award is that the award of Rs. 2,00,000/- on account of loss of love and affection is set aside. The award is upheld in all other respects.

35. Consequently, the impugned award is reduced from Rs.23,54,000/- to Rs. 21,54,000/-.

36. By an interim order dated 21.12.2018, this court had granted stay of execution of the impugned award, subject to deposit of the awarded amount by the Insurance Company in this Court. By order dated 21.04.2023, 50% of the amount was released to the claimants. The balance amount remains deposited in Court.

37. Under the impugned award, apportionment was directed to the extent of 40% of the award in favour of respondent No. 1, the wife of the deceased, and 20% each in favour of respondent Nos. 2, 3 and 4, the children of the deceased. The said apportionment is maintained.

38. The Tribunal directed disbursement of the awarded amount in tranches, including some immediate relief and some to be kept in 8 or 9 six-monthly fixed deposits. The maximum period of the fixed deposits has since lapsed. There is, therefore, no impediment to disbursement of the entire awarded amount in favour of the claimants at this stage.

39. Consequently, the Registry is directed to disburse the balance

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<sup>21</sup> Emphasis supplied.



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amount lying with it as follows:

- a. A sum of Rs. 2,00,000/-, alongwith proportionate accrued interest, to the appellant.
  - b. The balance amount, inclusive of accrued interest, to respondent Nos. 1 to 4 in the proportion of 40% to respondent No. 1, and 20% each to respondent Nos. 2, 3 and 4.
40. The appeal, alongwith pending application, is disposed of with these directions.
41. Statutory deposit, if any, be refunded to the Insurance Company.

**PRATEEK JALAN, J**

**DECEMBER 24, 2025**

*PV/KA/*