JVS.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 1469 OF 2025**

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| The New India Assurance Co. Ltd. | } | Appellant |
| Versus | | |
| Mamta Lal Gurnani & Ors. | } | Respondents |

Mr. Rajesh Kanojia i/b. Deepika Prabhala, Advocate for the Appellant.

Mr. R. N. Sukhija, Advocate for Respondent Nos. 1 to 5.

**CORAM: SHREE CHANDRASHEKHAR, CJ. & GAUTAM A. ANKHAD, J.**

**DATE: 7th JANUARY 2026**

**Per-Shree Chandrashekhar, CJ:**

Challenging the judgment dated 27th November 2018 rendered in Motor Accident Claim Petition No. 362 of 2003, the New India Assurance Company Limited has filed this appeal under section 173 of the Motor Vehicles Act, 1988 (for short, "Act of 1988").

2. Briefly stated, the victim had started a business in the year 1980 in the name and style as Monesh & Company in West Africa and was dealing in export and import. He had government licence for dealing in export-import. According to his legal heirs, during the period between 1975 to 1988, the annual turnover of the said company was between 250,000,000 CFA francs to 300,000,000 CFA francs equivalent to anything between USD 700,000 and USD 840,336 and had a net profit between 12% to 15%. He was a non-resident of India and a well-known person in export-import business. While travelling on 10th November 2002 in Tata Sumo vehicle bearing Registration No. MH-12/YA-4447, he suffered serious injuries when the said vehicle colluded with a high-speeding luxury bus bearing Registration No. MH-16/Q-2879 which was

coming from the opposite direction. The victim died on the spot and a criminal case was registered which culminated into filing of a charge-sheet against the driver under sections 304(A), 279, 337 and 427 of the Indian Penal Code read with section 184 of the Act of 1988. The Motor Accident Claims Tribunal at Pune (for short, “Tribunal”) awarded a sum of Rs.45,25,000/- (Rupees Forty five lakh Twenty five thousand only) with interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the compensation.

3. Mr. Rajesh Kanojia, the learned counsel for the appellant-Insurance Company raised a singular point to challenge the judgment rendered in Motor Accident Claim Petition No. 362 of 2003, that the documentary evidence produced by the legal heirs of the victim, if discarded, then, the Tribunal should have assessed the total income as per the Minimum Wages Act, 1948. The learned counsel for the appellant-Insurance Company relied on the decision in “*Neeru Devi*”[1] to submit that award of exorbitant compensation to the claimants should not be a regular feature and the legal representatives of the victim cannot expect a windfall from a tragedy. The learned counsel for the appellant-Insurance Company further submitted that the documents which were considered by the Tribunal were prepared after the death of the victim and those documents pertain to the year 2003.

4. On the other hand, Mr. R. N. Sukhija, the learned counsel for the respondent nos. 1 to 5 supports the judgment under challenge and submitted that the decision taken by the Tribunal does not warrant any interference of this Court being the judgment delivered on proper appreciation of the materials on record.

5. In the judgment dated 27th November 2018, the Tribunal framed the following issues :-

1. *M/s. National Insurance Co. Ltd. v. Neeru Devi & Ors. :* 2025 SCC OnLine SC 2799

***Issues***

1) Do the applicants prove that Lal Arjandas Gurnani died in vehicular accident occurred on 10.11.2002, on Pune-Nagar Road, Near Lonikand Village, Pune, involving Luxury Bus bearing No. MH-16/Q-2879 owned by opponent No. 2 and insured with opponent No. 3?
2) Do the applicants prove that the said accident occurred because of rash and negligent driving of the said Luxury Bus bearing No. MH-16/Q-2879?
3) Do the applicants prove that deceased Lal Arjandas Gurnani was aged about 56 years and was getting salary of $1,00,000/- per annum at the time of accident?
4) Are the applicants entitled to compensation? If yes, to what amount and from whom?

6. The claimants were represented through the wife of the victim who tendered evidence before the Tribunal as PW-1. Anne-Marie Thuillier was examined as PW-2 who translated a few documents for the benefit of the Court. The legal representatives of the victim have produced as many as 16 documents which included Card of National TOGO, installations permits, recommendations, safety finance TOGO, declarations and assessment, Cabinet OAC, etc. to establish that the victim was engaged in the business of export-import and had substantial income therefrom. May be the Tribunal discarded the documents vide Exhibits 87 to 96 on the ground that the contents and truthfulness of such documents cannot be of much relevance, this much stands admitted that the victim had obtained permits for doing business in the republic of TOGO, was engaged in export-import business and had substantial income. A statement from the Chartered Accountant was also produced on record to establish that the victim was engaged in the running business.

7. On the other hand, the appellant-Insurance Company took a stand that the income of the victim should be assessed between Rs.3,000/- to Rs.4,000/- per month.

8. Having considered the materials on record and the claim made by the legal representatives of the victim, the Tribunal proceeded to calculate the compensation payable to them as under :-

> "*[14] In the present case, it is claimed that deceased was earning Rs. 45.00 lakhs per annum after conversion, but as observed earlier, there is no cogent evidence in that regard. Accident occurred more than 15 years ago. After doing some guess work, I do not hesitate to quantify the annual income of the deceased at Rs. 6.00 lakhs per year. The deceased being businessman, was considered to be a self-employed. As such, an amount of 10% of the income has to be added towards future prospects. As the petitioner Nos. 1 to 5 were dependent on the deceased, 1/4th of the total amount is to be deducted for personal expenses of the deceased. Considering the age of the deceased, the multiplier that would be applied, would be 9. Thus, petitioners are entitled to an amount of* ***Rs.44,55,000/-****, on this count. In addition thereto petitioners would be entitled to* ***Rs.15,000/-*** *for loss of estate,* ***Rs.40,000/-*** *for loss of consortium,* ***Rs.15,000/-*** *for funeral expenses. Accordingly, petitioners would be entitled to following amount with interest @ 7.5% per annum.*

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|---|---|---|
| *Annual Income* | = | *Rs. 6,00,000* |
| *Plus 10% future prospects* | = | *Rs. 60,000* |
| ***Total Income*** | = | *Rs. 6,60,000* |
| *Less 1/4th towards personal expenses (i.e. 6,60,000 – 1,65,000* | *(-)* | *Rs. 1,65,000* |
| | | *Rs. 4,95,000* |
| *Rs. 4,95,000-per annum X 9 multiplier=Rs. 44,55,000* | | |
| ***Towards dependency*** | = | *Rs. 44,55,000* |
| ***Loss of estate*** | = | *Rs. 15,000* |
| ***Consortium*** | = | *Rs. 40,000* |
| ***Funeral expenses*** | = | *Rs. 15,000* |
| ***Total*** | = | ***Rs. 45,25,000*** |

> *[15] Respondents would be liable to pay the said amount along with interest at the rate of 7.5% per annum from the date of petition till*

*realization of the amount. With this view, I answer the issues accordingly and pass following order :-*

- *(a)* *Petition is partly allowed.*
- *(b)* *Petitioners to recover an amount of* ***Rs. 45,25,000/-*** *(Rupees Forty Five Lakhs Twenty Five Thousand Five Hundred only) form respondents jointly and severally with interest at the rate of 7.5% per annum from the date of petition till realization of the amount.*
- *(c)* *An amount of* ***Rs. 35,00,000/-*** *(Rupees Thirty Five Lakhs only) be kept in the name of Petitioner No. 1 in fixed deposit in any nationalized bank for the period of five years and the Petitioner No. 1 would be entitled to quarterly interest on the said amount.*
- *(d)* *The remaining amount of compensation together with interest accrued thereon be paid to the petitioners equally, after due verification.*
- (e) Award be drawn accordingly”

9. The decision in “*Neeru Devi*” indicates that the Tribunal had relied on the decision in “*Gurpreet Kaur*[2] to award compensation which was found exorbitant by the Court. In “*Gurpreet Kaur*”, the victim was a contractor for lifting of earth and he had purchased a tractor with a loan for which he was paying EMI of Rs.11,550/-. On that basis his monthly income was assessed by the Tribunal whereas, in “*Neeru Devi*” the victim who was a transporter had owned two trucks and could have earned income by engaging drivers. In the background of such facts, the Hon’ble Supreme Court observed that the death of the victim would not have put a stop to the income that could have been generated from his business. The decision in “*Pranay Sethi*”[3] is also of no help of the appellant-Insurance Company. In the present case, it was neither pleaded nor demonstrated before the Tribunal that the legal representatives of the victim could have carried on business and, that too, in a foreign country. At the time of the death, one of the legal

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2. *Gurpreet Kaur v. United India Insurance Company Ltd. & Ors. : 2022 SCC OnLine SC 1778*

3. *National Insurance Company Limited v. Pranay Sethi & Ors. :* (2017) 16 SCC 680

representatives of the victim was a minor studying in VIII$^{th}$ Standard and had a disease, namely, *Spina Bifida* for which he was treated at London.

10. The income of a victim of a motor accident can be assessed by employing certain parameters is conceived under the statutory mechanism under the Act of 1988. Under Chapter XII, the Act of 1988 contemplates constitution of the Tribunals and exclusion of the jurisdiction of the civil Courts. Chapter XII provides award of interest where any claim is allowed and compensatory costs. Section 173 provides that any person aggrieved by an award of a Claims Tribunal may within 90 days from the date of the award prefer an appeal to the High Court and the High Court shall not entertain any appeal where the award made by the Claims Tribunal involves an amount in dispute to the tune of Rs. 1 lakh. Section 168 of the Act of 1988 provides an opportunity of hearing and holding of an inquiry into the claims and vests the power in the Claims Tribunal to make an award determining the amount of compensation which appears it to be "just". This is well settled that the Tribunal is not bound by the pleadings of the parties in a claim petition under section 166 of the Act of 1988. The function of the Tribunal is to determine amount of fair compensation in the event an accident has taken place. There are no pleadings by the appellant-Insurance Company that the guidelines in "*Sarla Verma*"[4] were ignored by the Tribunal. In the circumstances of the case, the Tribunal took a holistic view of the matter and awarded compensation of Rs. 45,25,000/- to the claimants. This is well remembered that the strict proof of income cannot be insisted by the Tribunal and the claimants are required to indicate the income generated by the victim of motor accident,

4. *Sarla Verma v. DTC* :(2009) 6 SCC 121

present or future, on the touchstone of the preponderance of probability. The Tribunal is required to take a special care that the victims and their dependents to not suffer merely because of some doubts here or some obscurity there.

11. The award made by the Claims Tribunal vide its judgment dated 27th November 2018 in the circumstances of the case is just and proper and not exorbitant as sought to be canvassed on behalf of the appellant-Insurance Company.

12. There is another reason to dismiss this First Appeal and that is, the unfair stand taken by the appellant-Insurance Company before the Tribunal that the total income of the victim should have been taken at Rs. 4,000/- per month. Before us also, it has been argued by the learned counsel for the appellant-Insurance Company that the income of the victim should have been assessed as per the Minimum Wages Act, 1948. Just to indicate, the provisions under the Minimum Wages Act, 1948 shall not apply in this case. The victim was a businessman of repute and his annual turn over was between 250,000,000 CFA francs to 300,000,000 CFA francs equivalent to anything between USD 700,000 and USD 840,336 and was earning net profit between 12% to 15%.

13. With the aforesaid observations, First Appeal No. 1469 of 2025 is dismissed with a cost of Rs. 2 lakh.

14. The prayer seeking an order continuing the interim order is rejected. The appellant-Insurance Company shall pay the compensation as per the judgment dated 27th November 2018 within four weeks with a cost of Rs. 2 lakh to be paid to the respondent nos. 1 to 5.

15. The legal representatives or any one of them duly authorised by the others shall be permitted to withdraw the

amount deposited by the Insurance Company with the Registry of the Tribunal.



**[GAUTAM A. ANKHAD, J.]** **[CHIEF JUSTICE]**