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

% *Date of decision: 16th February 2026*

\+ **MAC.APP. 13/2020**

PAWAN MURARI .....Appellant

Through: Mr. Anshuman Bal, Advocate.

versus

THE ORIENTAL INSURANCE CO LTD & ORS .....Respondents

Through: Mr. A.K. Soni, Advocate for respondent no.1. (*through VC*)

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J: (ORAL)

1. This appeal has been filed by claimant (legal representatives of the deceased) seeking enhancement and modification of the compensation of *Rs. 48,91,800/-* along with 9% *p.a.* interest awarded by Motor Accident Claims Tribunal, West District, New Delhi ('***MACT/Tribunal***') by award dated 14th October 2019 in MACT No. 02/2018.

2. The accident in question occurred on 24/25th November 2017 at midnight when the deceased *Mr. Prakash Chander Murari* was going on foot. When he reached *Ring Road, Punjabi Bagh* and was crossing the road, a truck *bearing no. HR-74A-6976* came from the side of *Punjabi Bagh Gol Chakkar* at a very high speed in a rash and negligent manner and hit the deceased. He sustained grievous injuries and succumbed to the said injuries on the same

day.

3. Based on evidence, the MACT concluded that the accident had taken place because of rash and negligent driving by *Mr. Chander Pal*, driver of the offending vehicle (*respondent no.2 herein*), owned by respondent no.3/*Murtaj Khan*.

4. *Mr. Anshuman Bal*, counsel for appellant, raises the issue of benchmark income, which ought to have been considered for the purpose of assessment of compensation.

5. From the MACT award, for the purpose to computation of income, the Tribunal had relied upon the salary slip of the deceased for the month of October and November 2017 and had taken income of the deceased as basic pay of *Rs. 34,300/-* along with D.A. of *Rs. 1715/-* amounting to *Rs. 36,015/-* per month has been taken as benchmark income. However, the transport allowance at *Rs. 1,890/-*, Ration Money at *Rs. 2,905/-* and Special D.A. at *Rs. 3,430/-* had been excluded.

6. *Mr. Bal* relies upon decisions of the Supreme Court in ***Fakir Chand Taneja & Ors v. The Oriental Insurance Co. Ltd & Anr.*** in Civil Appeal no. 6550/2022, particularly on *paragraph no. 4 & 5* of the judgment, and judgment in ***Manorma Sinha and Anr. v. Divisional Manager, Oriental Insurance Company Limited and Anr***. 2025 INSC 1237, particularly on *paragraph 12,* to state that these allowances ought not have been excluded.

7. *Paragraph 12* of ***Manorama Sinha*** (*supra*) is extracted as under for reference:

> "*12. Now, the next question is whether allowances are to be added to the salary for determining the multiplicand. In National Insurance Co. Ltd. v. Indira Srivastava & Ors. 6*

it was held that "the term income has different connotations for different purposes. A court of law, having regard to the change in societal conditions consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family". In Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation a three-Judge Bench of this court noticing earlier decisions on the point observed that "the income should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may not be taxable due to exemption conferred thereupon under the statute." Following the decision in Vijay Kumar Rastogi (supra) in National Insurance Company Ltd. v. Nalini & Ors. it was held by this Court that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, ought to be included irrespective of whether they are taxable or not. Thus, in our view, the High Court erred in excluding the allowances from the computation to arrive at the multiplicand. Hence, the total monthly income was rightly computed by the Tribunal at Rs.53,367."

(emphasis added)

8. *Mr. A.K. Soni*, counsel for Insurance Company, states that MACT award was correct in excluding these allowances; however, he does not controvert the position taken by the Hon'ble Supreme Court in this regard.

9. Keeping in mind the judgments of the Supreme Court as also in ***Meenakshi v. The Oriental Insurance Company Ltd.*** 2024 INSC 537, the compensation is modified to the extent that the *benchmark income* will include three elements, which have been excluded, which total up to

Rs.44,240/- per month [*basic pay of Rs. 34,300/- + D.A. of Rs. 1,715/- + transport allowance at Rs. 1,890/- + Ration Money at Rs. 2,905/- + Special D.A. at Rs. 3,430/-*]

10. Accordingly, *benchmark income* will be taken as ***Rs.44,240/-*** per month.

11. For the sake of completeness, it is noted that as per order dated 17th January 2020, this Court awarded *Rs. 40,000/-* and *Rs. 50,000/-* to each claimant, i.e. minor child and wife of the deceased towards *loss of consortium* and towards *loss of love and affection* respectively, therefore, no further directions are being passed in this regard.

12. The re-computation is, accordingly, provided as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A)	Rs. 36,015/-	Rs. 44,240/-
2	Add Future Prospects (B)	50%	50%
3	Less Personal expenses of the deceased (C)	1/2nd has been deducted	1/2nd has been deducted
4	Monthly loss of dependency [(A +B)-C = D]	Rs. 27,010/-	Rs.33,180/-
5	Annual loss of dependency (Dx12)	Rs. 3,24,120/-	Rs. 3,98,160/-
6	Multiplier (E)	15	15
7	Total loss of dependency (Dx12xE = F)	Rs. 48,61,800/-	Rs. 59,72,400/-
8	Medical expenses (G)	NIL	NIL
9	Compensation for loss of consortium (H)	NIL	NIL
10	Compensation for loss of estate (I)	Rs. 15,000/-	Rs. 15,000/-
11	Compensation towards funeral expenses (J)	Rs. 15,000/-	Rs. 15,000/-
12	Total compensation (F+G+H+I+J = K)	Rs. 48,91,800/-	Rs. 60,42,400/-
13	Rate of Interest Awarded	9% p.a.	9% p.a.

13. The enhanced amount will be deposited before the Registry of this Court within a period of four weeks and will be released to appellant by the Registry within a period of three weeks thereafter.

14. Appeal is, accordingly, disposed of. Pending applications (if any) are rendered infructuous.

15. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

FEBRUARY 16, 2026/RK