2026:DHC:5048

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

% ***Reserved on : 20th May 2026***
Pronounced on : 29th May 2026
Uploaded on : 02nd June 2026

\+ **MAC.APP. 966/2016**

UNIVERSAL SOMPO GEN INS CO LTD .....Appellant

Through: Mr. Mohd. Mustafa, Ms. Arpita Biswas, Advocates.

versus

PARAMJIT SINGH (THR HIS WIFE SURENDER KAUR) .....Respondent

Through: Mr. S. N. Parashar, Advocate.

\+ **MAC.APP. 185/2019**

PARAMJIT SINGH .....Appellant

Through: Mr. S. N. Parashar, Advocate.

versus

CHANDER KUMAR BHAI & ANR (UNIVERSAL SOMPO GENERAL INSURANCE CO LTD) .....Respondents

Through: Mr. Mohd. Mustafa, Ms. Arpita Biswas, Advocates.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. These are cross-appeals. MAC.APP. 966/2016 has been filed by the Insurance Company seeking reduction of the awarded compensation,

and MAC.APP. 185/2019 has been filed by the claimant seeking enhancement of the awarded compensation.

2. The injured/claimant, *Sh. Paramjit Singh* was 53 years of age at the date of accident *i.e.* on 04th June 2015, who while riding his *scooty* bearing registration No. DL-3SCS-4839 near *Shaheen Bagh Bus Stand* was hit by a Honda Amaze car bearing registration no. HR-51BD-1591 driven rashly and negligently by respondent no.1/*Chander Kumar Bhai* (*driver-cum-owner*), resulting in serious head injuries. Injured suffered *90%* temporary intellectual disability. The MACT, upon presentation of the claim, awarded compensation, however, *loss of future income* was awarded for only two years, on the basis that the Disability Certificate stated the disability to be temporary, and that patient needs reassessment after two years.

3. The *loss of future income* for two years was calculated at *Rs.4,20,000*/- on the basis that benchmark income being taken as *Rs.20,000*/- per month.

4. Subsequently, by order dated 17th December 2024, this Court directed parties to appear before Joint Registrar to adduce additional evidence to prove the Disability Certificate and the medical record on the basis of which disability assessment had been made. Thereafter, re-assessment of disability was done and statement of *Dr. Adarsh Kumar*, Professor Forensic Medicine and Chairman, Disability Medical Board, AIIMS Trauma Centre, Delhi was taken on 22nd May 2025 and 21st August 2025. As per the said Disability Certificate, permanent disability

of *100%* was certified in relation to intellectual impairment with locomotor disability.

Argument of the Parties

5. *Mr. Mohammed Mustafa*, counsel for Insurance Company, points out that the earlier discharge summary dated 4th June 2015 and subsequent discharge summary dated 15th August 2015 effectively showed that there was no serious head injury to injured/*Paramjit Singh* who was discharged with some follow-up advice. On this basis, he states that since, at the time of assessment by the Tribunal, physical impairment of *90%* with respect to intellectual impairment was temporary in nature, permanent disability could not be considered, since no treatment records have been placed on record in the interregnum from February 2016 till 2018. He further states that even if the cause of death of injured/*Paramjit Singh* was due to the injuries suffered, compensation ought to be given as a '*death case*' and not as an '*injury case*'.

6. In response to this, *Mr. S. N. Prashar,* counsel appearing for claimants, has relied upon judgment of the Supreme Court in ***Dhannalal v. Nasir Khan,*** 2025 SCC OnLine SC 2083, where, the Supreme Court in *paragraphs 5 and 6*, while dealing with *Section 166 (5) of the Motor Vehicles Act, 1988* ('***MV Act***') has held that right of a person to claim compensation for injury shall, upon the death of a person injured, survive to his Legal Representatives ('***LRs***'), irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.

7. *Ms. Arpita Biswas*, counsel for Insurance Company arguing on the day of subsequent hearing, seeks to distinguish the judgment in ***Dhannalal*** (*supra*) on the basis that in case of the said judgment, claimant had passed away when he was stable and not during treatment as in the present case, and, therefore, it should be treated as a death case.

8. A query was put by the Court, whether ***Dhannalal*** (*supra*) being a judgment passed post amendment of Motor Vehicles Act (that came into effect in 2022), it would cover the present case. *Secondly*, if not, what was the position of law prior to 2022 regarding whether the claim of the injured after death would survive to the LRs of the claimant.

9. For this, counsel for claimant, relied upon the judgment of Supreme Court in ***Oriental Insurance Co. Ltd. v. Kahlon***, (2022) 13 SCC 494, wherein the claimant died during the pendency of enhancement appeal and question whether the claim for injury stand abated or would survive with LRs of deceased claimant was considered by the Supreme Court. Reliance can be placed on the following paragraphs of the aforesaid judgment:

> "***8.*** *The Act is a beneficial and welfare legislation. Section 166(1)(a) of the Act provides for a statutory claim for compensation arising out of an accident by the person who has sustained the injury. Under clause (b), compensation is payable to the owner of the property. In case of death, the legal representatives of the deceased can pursue the claim. Property, under the Act, will have a much wider connotation than the conventional definition. If the legal heirs can pursue*

<u>claims in case of death, we see no reason why the legal representatives cannot pursue claims for loss of property akin to estate of the injured if he is deceased subsequently for reasons other than attributable to the accident or injuries under clause (c) of Section 166(1)</u>. Such a claim would be completely distinct from personal injuries to the claimant and which may not be the cause of death. <u>Such claims of personal injuries would undoubtedly abate with the death of the injured.</u> What would the loss of estate mean and what items would be covered by it are issues which has to engage our attention<u>. The appellant has a statutory obligation to pay compensation in motor accident claim cases. This obligation cannot be evaded behind the defence that it was available only for personal injuries and abates on his death irrespective of the loss caused to the estate of the deceased because of the injuries.</u>

…

***17.** The Tribunal, on technicalities rejected his claim for salary, medical expenses and percentage of disability and granted a measly compensation of rupees one lakh only by a cryptic order. <u>We are, therefore, of the opinion that while the claim for personal injuries may not have survived after the death of the injured unrelated to the accident or injuries, during the pendency of the appeal, but the claims for loss of estate caused was available to and could be pursued by the legal representatives of the deceased in the appeal.</u>*

…

***19.** We see no reason to deviate from the consistent judicial view taken by more than one High Court that* *loss of estate would include expenditure on medicines, treatment, diet, attendant, doctor's fee, etc. including income and future prospects which would have caused reasonable accretion to the estate but for the sudden expenditure which had to be met from and depleted the estate of the injured, subsequently deceased.*

20. *However, the compensation under the head pain and suffering being personal injuries is held to be unsustainable and is disallowed…*"

(emphasis supplied)

10. Counsel for Insurance Company, states that the Supreme Court judgment of ***Kahlon*** (*supra*) only applied to a case where the death of the claimant was not attributable to the injuries suffered in the accident. It is claimed in the present case that the death of the claimant was attributable to the injuries sustained in the accident and, accordingly, the claim petition ought to be treated as one pertaining to death compensation and not injury compensation.

11. To this counsel for claimant contends that the there is no proof on record that the injury of the claimant was attributable to the injuries sustained in the accident. The accident occurred in 2015 and the deceased passed away in 2019. Further, *Mr. Mustafa*, counsel for Insurance Company, was given the opportunity to cross examine DW-1/ *Dr. Adarsh Kumar*, whose testimony was record by the Joint Registrar (Judicial) of this Court on 22nd May 2025 and 21st August 2025, wherein no question as regards whether the death of claimant was attributable to

the injuries sustained in the accident was put and only questions pertaining to permanent Disability Certificate were asked.

Analysis

12. This Court is not inclined to accept the plea of the Insurance Company. The matter has to be seen from the prism of the situation on the date of accident. At that stage, claimant was admittedly certified as having *90%* disability with respect to his intellectual faculty, requiring re-assessment after two years. The re-assessment later led to certification of permanent disability at *100%* with respect to intellectual impairment with locomotor disability.

13. Fresh Disability Certificate depicts that it is a case of severe head injury, locomotor disability and *100%* permanent disablement in relation to intellectual impairment. The fact that claimant/injured passed away subsequently on 14th June 2019, cannot be considered as impediment to his claim for injury.

14. Upon perusal of *Motor Vehicles (Amendment) Act, 2019* and the judgment in ***Dhannalal*** (*supra*), this Court notes that Section 166(5) of the MV Act, relied upon therein, was introduced by way of the amendment to the MV Act in 2019 and came into effect from 01st April 2022. However, in the present case, the accident occurred in the year 2015 and the injured passed away in 2019. Therefore, Section 166(5) of the MV Act, as well as the judgment in ***Dhannalal*** (*supra*), which pertains to a post-amendment scenario, cannot be relied upon in the facts

of the present case. Further, there was no equivalent provision in the MV Act prior to amendment of the act in 2019.

15. *Ergo*, the opinion of the Supreme Court in ***Kahlon*** (*supra*) would be determinative in the facts of the present case as the same pertains to pre-amendment scenario. The said judgment clearly draws a distinction between claims relatable to personal injury such as *pain and suffering*, which may abate, and claims which have a direct bearing on the estate of the injured, including *income*, *future prospects*, *medical expenditure* and *attendant charges*, which will survive to the LRs of the deceased claimant.

16. The decision of ***Kahlon*** (*supra*) has subsequently been reaffirmed by Supreme Court in the decision of ***Meena v. State of U.P.***, (2025) 9 SCC 28, wherein the Supreme Court noted as under:

> "4. *At the outset, the learned counsel for the claimants relied on Oriental Insurance Co. Ltd. v. Kahlon [Oriental Insurance Co. Ltd. v. Kahlon, (2022) 13 SCC 494 : (2023) 4 SCC (Civ) 619] to impress upon us that despite the death of the injured, the legal representatives of the deceased can pursue the claim since the property under the Act would have a much wider connotation than the conventional definition and would include the estate left behind by the deceased. It was held that if the legal heirs can pursue claims in case of death, there is no reason to prohibit the legal representatives to pursue claims for loss of a property, akin to estate of the injured, if the injured dies subsequently.*

> 5. *We see absolutely no reason to differ from the declaration of law and the insurer also raises no objection on the same. We would consider the enhancement sought by the original applicant, which if granted before her death would have accrued to her estate or rather compensated the loss of her estate; caused by reason of the accident, which the legal heirs are entitled to succeed to*."
>
> (emphasis supplied)

17. In the present case, the claimant had already suffered severe head injury resulting in intellectual impairment, which initially stood assessed at *90%* disability and subsequently came to be certified as *100%* permanent intellectual disability with locomotive disability. Merely because the injured subsequently expired in the year 2019 would not extinguish the right of LRs to seek compensation under the aforesaid heads as same would form part of the estate of deceased claimant.

18. As regards the plea that ***Kahlon*** (*supra*) would apply only to a case where the death was not attributable to the injuries suffered in the accident, the submission of *Mr. Mustafa* is not sustainable for two reasons. *Firstly,* the claimant passed away in the year 2019 and the LRs of the deceased claimant were impleaded as parties *vide* order dated 01st December 2023, passed in the presence of *Mr. Mustafa*, counsel for the Insurance Company, who raised no objection either to the Impleadment of the LRs or to the observation of the Joint Registrar (Judicial) that the right to sue survived in favour of the LRs of the deceased claimant.

Thereafter, this Court *vide* order dated 17th December 2024 directed that additional evidence of *Dr. Adarsh Kumar* be recorded before the Joint Registrar (Judicial). The said evidence was recorded on 22nd May 2025 and 21st August 2025. Significantly, the only issue raised during the said proceedings pertained to the Disability Certificate of the deceased claimant and, despite opportunity for cross-examination, no question whatsoever was put by *Mr. Mustafa* to the witness regarding whether the death of the claimant was attributable to the injuries sustained in the accident. It is only in the year 2026, during the course of hearing before this Court, that the plea has been raised that the present case ought to be treated as one of death compensation and not injury compensation.

19. *Secondly*, there is nothing on record to suggest that the death of the claimant was attributable to the injuries sustained in the accident which occurred in the year 2015, particularly when the claimant passed away nearly four years thereafter in 2019. On the contrary, the material on record reflects that the claimant had suffered *100%* permanent mental disability along with locomotor impairment and, in such circumstances, a substantial reduction in life expectancy would be a natural consequence of the medical condition itself. However, in the absence of any cogent medical evidence establishing a direct nexus between the injuries sustained in the accident and the eventual death of claimant, the contention of the Insurance Company is unsustainable. Accordingly, the present case would be treated as on for injury, which on death of claimant would be a claim for loss of estate of the deceased.

<u>Computation of Compensation</u>

20. Considering the benchmark income of *Rs.20,000*/- per month, and the age of 53 years on the date of the accident, future prospects at *10%* should be awarded to align with the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi*** (2017) 16 SCC 680, considering he was doing a private job as Executive at *Galgotias University, Noida, U.P.*

21. As regards the multiplier, the principle as laid down in ***Kirti v. Oriental Insurance Co. Ltd***., (2021) 2 SCC 166 would apply wherein it was held that the claims and legal liabilities crystalize at the time of the accident itself, and changes post thereto ought not to ordinarily affect pending proceedings. Therefore, relying on the aforesaid principles and considering that the claimant was 53 years on the date of the accident the multiplier of 11 shall apply as per principles enunciated in ***Pranay Sethi*** (*supra*).

22. As regards the *attendant charges*, awarded at *Rs.50,000*/-, *Mr. Parashar* states that the same are extremely inadequate, considering that the person was bed ridden and would have required higher attendant charges. Accordingly, *attendant charges* are enhanced to *Rs.1,00,000*/-.

23. As regards pain and suffering, reliance can be placed on the decision of ***Kahlon*** (*supra*), the Tribunal had awarded compensation of only *Rs.1,00,000/-* and, thereafter, an appeal seeking enhancement of compensation was filed during the pendency of which the claimant expired. The High Court therein granted compensation under various

heads, including pain and suffering, in favour of the LRs of the deceased claimant. However, the Supreme Court in ***Kahlon*** (*supra*) held that compensation under the head of pain and suffering forms part of a claim for personal injuries and, therefore, the right to sue in respect thereof would not survive to the LRs upon the death of the claimant.

24. However, in a recent decision in ***Meena*** (*supra*), the Supreme Court continued to include the compensation awarded by the Tribunal and enhanced by the High Court towards *pain and suffering* and *loss of amenities of life*, since the said compensation had already been granted during the lifetime of the claimant. The Supreme Court merely declined to grant any further enhancement under those heads, as the claimant had expired during the pendency of the appeal for enhancement before the Supreme Court. The facts of the present case are akin to those in ***Meena*** (*supra*), wherein the claimant had already been awarded compensation by the Tribunal under the heads of *pain and suffering*, l*oss of amenities of life* and *disfigurement*, and the present proceedings before this Court are only for enhancement of compensation, during the pendency of which the claimant expired. Therefore, although no further enhancement under the aforesaid heads can now be granted, compensation already awarded by the learned Tribunal under the heads of *pain and suffering*, *loss of amenities of life* and *disfigurement* ought not to be disturbed, considering that the claimant had suffered *100%* disability, remained alive for nearly four years after the accident and expired subsequently. Accordingly, in view of the decision in ***Meena*** (*supra*), the

compensation awarded under the heads of pain and suffering, loss of amenities of life and disfigurement is not being displaced.

25. Accordingly, the revised computation is as under:

S. no.	Heads of Compensation	Awarded by Tribunal	Awarded by the Court
Pecuniary Loss			
1.	Medical Expenses (A)	Rs. 23,000/-	Rs. 23,000/-
2.	Conveyance (B)	Rs. 10,000/-	Rs. 10,000/-
3.	Special Diet (C)	Rs. 10,000/-	Rs. 10,000/-
4.	Attendant charges (D)	Rs. 50,000/-	Rs. 1,00,000/-
5.	Income of injured (E)	Rs. 20,000/-	Rs. 20,000/-
6.	Future prospects @10% (F)	Nil	Rs. 2,000/-
7.	Loss of income (E x 6=G)	Rs. 1,20,000/-	Rs. 1,20,000/-
8.	Functional disability (H)	90% for 2 years	100%
9.	Multiplier (I)	Nil	11
10.	Loss of future income [(E+F)x 12 x H xI= J	Rs. 4,20,000/-	Rs. 29,04,000/-
Non-pecuniary loss			
11.	Pain and suffering (K)	Rs. 40,000/-	Rs. 40,000/-
12.	Loss of Amenities (L)	Rs. 25,000/-	Rs. 25,000/-
13.	Disfigurement (M)	Rs.50,000/-	Rs.50,000/-
14.	Total	Rs. 7,48,000/-	Rs. 32,82,000/-
15.	Interest	9%	9%

26. The compensation is accordingly enhanced by *Rs. 25,34,000/-.*

Apportionment

27. Considering that the death of injured happened during the course of the appeal, the compensation amount as recalculated above would be apportioned between LRs of injured. *70%* of the awarded amount will be given to *Smt. Surender Kaur*, wife of deceased and *30%* would be given to *Anupreet Kaur*, daughter of deceased.

Release of amount

28. By order dated 18th November 2016, the entire awarded amount was deposited with the MACT and the execution was stayed. By order dated 25th January 2017, as an interim measure, *Rs.1,48,000*/- was released into the bank account of the claimant.

29. Accordingly, it is directed that the balance compensation along with accrued interest deposited before the MACT shall be released to claimants in the apportionment directed above.

30. Enhanced amount along with accrued interest @ *9%* per annum from the date of filing of the petition shall be deposited within a period of four weeks before the MACT and a lumpsum amount of *Rs.10,00,000*/- will be disbursed, in accordance with the apportionment, within a period of two weeks thereafter. The balance shall be kept in Fixed Deposit Receipts (***FDRs***), in accordance with the MACT award, in proportionate FDRs of *Rs.2,00,000/-* each for periods of 3 months, 6 months and so on, successive terms, as applicable. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of

claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

31. As per the amended Memo of Parties filed before this Court, the LRs, namely *Smt. Surender Kaur* (*wife*) and *Ms. Anupreet Kaur* (*daughter*), shall furnish details of their designated Savings Bank Accounts.

32. Both the appeals stand disposed of with the aforesaid directions. Pending applications, if any, are rendered infructuous.

33. Statutory deposit, if any, be refunded to the appellant only if the order of deposit has been complied.

34. A copy of this judgment be sent to the concerned MACT.

35. A copy of this judgment be also sent to concerned bank for information and compliance.

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

ANISH DAYAL
(JUDGE)

MAY 29, 2026/ak/zb