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

\+ MAC.APP. 295/2026 & CM APPL. 29557/2026 CM APPL. 29558/2026, CM APPL. 29559/2026

INDUSIND GENERAL INSURANCE CO. LTD. (FORMERLY RELIANCE GENERAL INSURANCE CO. LTD.) .....Appellant

Through: Mr. Shoumik Mazumdar and Ms. Sabhyata Sharma, Advs.

versus

SEEMA DEVI & ORS. .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **20.05.2026**

1. This appeal has been filed assailing impugned award dated 20th January 2026 passed by Motor Accidents Claims Tribunal ['***MACT/Tribunal***'], North-West District, Rohini Courts, awarding compensation of Rs.32,45,234/- along with interest at 9% per annum arising out of an accident in which a minor child of 12 years, *Master Sunil @ Ansul* suffered fatal injuries on 29th July 2023 after being hit by car bearing registration no. DL-3C-CV-0381 (hereinafter, '***offending vehicle***'), while crossing the road towards Kanjhawala.

2. *Mr. Shoumik Mazumdar*, counsel for appellant/Insurance Company, contends that there was no proof of negligence of the offending vehicle and merely on the basis that appellant/Insurance Company had given a legal offer to settle the matter, MACT concluded the issue of negligence in favour of

claimant stating that, "*negligence has been admitted by respondent no.3/R3, the evidence was closed*".

3. However, on a query by the Court, *Mr. Mazumdar*, counsel for appellant/Insurance Company, confirms that neither was a written statement filed nor was evidence led by appellant/Insurance Company.

4. Therefore, in the light of the fact that no rebuttal was provided by appellant/Insurance Company in respect of the circumstances in which the accident occurred, no material was available before the MACT, which would allow them to examine the issue of contributory negligence, if at all, on the part of the deceased minor child.

5. Moreover, considering the nature of the accident where the deceased was crossing the road and the offending vehicle hit him, the issue would be well covered under the principle of *res ipsa loquitur*, which is a factor for assessment of the tort of negligence.

6. In this regard, reliance may be placed upon decision of this Court in ***National Insurance Company Ltd. v Shehnaj Begum & Ors.*** 2026:DHC:3169 which applied the doctrine of *res ipsa loquitor* which states that the burden to rebut the inference of negligence shifts on the defendant. Proceedings before the Tribunal are in the nature of an inquiry, therefore, strict rules of procedure or evidence do not apply. The assessment of negligence has to be conducted on the test of preponderance of probabilities. Relevant observations of the Court are extracted as under:

> "***Summarizing***
> *38. From the above discussion relating to the nature of inquiry before the Tribunal, the operation of the doctrine of res ipsa loquitur, and the applicable standard of proof, three aspects emerge clearly.*

39. _First, that the proceedings before the Motor Accident Claims Tribunal are in nature of an inquiry and are not hemmed in by rules of procedure or evidence_. The Supreme Court in Shila Datta (supra) [passages extracted in paragraph 20 (a) above], has elaborated on this aspect. _Essentially, a claim under Section 165 of the MV Act, is neither a suit nor an adversarial lis_.

40. _Tribunal holds an inquiry and makes an award to determine compensation, which ought to be just and reasonable. The procedure to be followed is summarised in the best discretion of the Tribunal. It has the power under Section 169 of MV Act to summon persons possessing special knowledge of the matters relevant to the inquiry_.

41. In Anita Sharma (supra), the Supreme Court emphasised that fault may not be found merely because Tribunals do not examine some of the best eyewitnesses, as in a criminal trial, but should do their best to analyse the material placed on record by the parties._

42. Having clearly sketched the contours of the procedure undertaken by a Tribunal, _it brings us to the second issue, which is determination of negligence. The nature of the accident and the basic facts surrounding the same are presented before the Tribunal in the form of a DAR (Detailed Accident Report), or through an FIR, or a recording in a police diary, along with the claim for compensation. In order to arrive at an assessment of negligence and, therefore, consequential liability in tort law, the principle of res ipsa loquitur, particularly in accident cases, is often brought into play_.

43. _Doctrine of res ipsa loquitur constitutes an exception to the general rule that the burden of proving negligence lies upon the claimant. The facts, "tell its own story" and "speak for itself". The fact of the accident itself sometimes constitutes evidence of negligence. The principal function of the maxim is to prevent injustice, that would be caused to a plaintiff who would otherwise be compelled to prove the precise cause of the accident and responsibility of the defendant, when the facts are unknown to plaintiff but lie only_

within the knowledge of defendant. The burden then shifts to the defendant, who can, by leading evidence, rebut the inference drawn by the Court based on the doctrine.

…

45. Therefore, for application of the principle, it must be shown that the offending vehicle was under the management of the defendant and that the accident was such that, in the ordinary course of things, it would not have happened if those who were in management had used proper care. Having reached a reasonable inference based on the facts of the accident and being presented with a defence raised by defendants that they exercised care to avert foreseeable harm, the issue before the Tribunal would be how to balance the two aspects and what parameter is to be applied in measuring this balance, or in assessing which side the scales tilt.

46. This brings us to the third aspect, which is the test to be applied. It is well settled that the test or the burden of proof which applies is not that of beyond a reasonable doubt (as in criminal cases), but on the test of preponderance of probabilities."

(emphasis added)

7. In this light of the matter, the plea raised by appellant/Insurance Company cannot be accepted.

8. Challenge has also been raised to the grant of compensation in case of a deceased minor by applying minimum wages of a skilled person, along with adopting a multiplier of 18 and grant of 40% towards future prospects. However, these parameters have been conclusively established in a series of judgments by this Court and the Supreme Court.

9. This issue has now recently been decided by this court in ***Rubi Devi and Anr. v. The New India Assurance Co. Ltd. And Ors.*** 2026:DHC:3674, where, after assessing judgments of the Supreme Court and High Court, this

Court held that minimum wages of a skilled worker, multiplier of 18 and 40% towards future prospects will be considered in relation to death of a minor child below 15 years of age. Relevant findings of the Court are extracted as under:

> *"**On notional income of a minor***
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> *10. As regards determination of benchmark income, this Court in Sanju (supra), after examining the decision in Kajal (supra) and the subsequent judgments that followed and relied upon it, concluded that the notional income in cases concerning fatal accidents of minor children cannot be treated as a fixed or static figure. Instead, the appropriate way to assess the income is on the basis of the minimum wages payable to a skilled worker in the concerned State. The relevant observations of the Court are reproduced below:*
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> > *"10. The first of these cases was Kajal v. Jagdish Chand, which was a case of injury inflicted upon a child of 12 years of age. The Court computed loss of future income on the basis of minimum wages of a skilled worker, reasoning as follows:*
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> > > *"20. Both the courts below have held that since the girl was a young child of 12 years only notional income of Rs 15,000 p.a. can be taken into consideration. We do not think this is a proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned much more than Rs 15,000 p.a. Each case has to be decided on its own evidence but taking notional income to be Rs 15,000 p.a. is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is Rs 4846 per month. In our opinion, this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be*

Rs 6784.40 per month i.e. 81,412.80 p.a. Applying the multiplier of 18, it works out to Rs 14,65,430.40, which is rounded off to Rs 14,66,000."

11. *The judgment in Kajal was followed in Master Ayush v. Branch Manager, Reliance General Insurance Co. Ltd., Minor Roopa v. The Divisional Manager, New India Assurance Company Ltd., and Baby Sakshi Greola v. Manzoor Ahmad Simon, which were all also cases where minor victims had suffered debilitating injuries.*

12. *This line of judgments has recently been reiterated in Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari, which was once again an injury case. The Supreme Court held therein as follows:*

> *"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in Kajal v. Jagdish Chand and Ors., and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr*
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15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."

On applicable multiplier for a minor

11. As regards the issue of multiplier, this Court in Sanju (supra) assessed a line of judgments including Kajal (supra), Master Ayush (supra) Baby Sakshi Greola v. Manzoor Ahmad Simon 2024 SCC OnLine SC 3692, and Karuna Parmar v. Prakash Sinha 2025 INSC 1244, which were referred and assessed in detail.

12. Further, reliance was placed in Sanju (supra) upon decisions by this Court in National Insurance Co. Ltd. v. Pooja 2025 SCC OnLine Del 1044, Rakesh Sharma v. Ashok 2025 SCC OnLine Del 1364 and Cholamandalam MS General Insurance Co. Ltd. v. Bhupan Paswan 2025 SCC OnLine Del 1045, wherein a multiplier of 18 was adopted after considering the decisions of the Supreme Court.

13. Relevant observations made by this Court in Sanju (supra) are extracted as under:

"26. In my view, the argument, at least before this Court, is foreclosed by the judgments in Pooja, Rakesh Sharma, and Bhupan Paswan, where the multiplier 18 has been adopted after considering the judgments in Sarla Verma, Kajal, Master Ayush, and Sakshi Greola. The discussion on this aspect in Bhupan Paswan reads as follows:

"31. The learned Tribunal has computed the compensation by applying a multiplier of 15, by considering the age of the deceased.

32. The calculation of Multiplier has been laid down in the case of Sarla Varma (Supra) as under:-

> *"21. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."*

33. Evidently, the Judgment is silent on the multiplier to be used for the victims under 15 years of age. This incongruity in the matter of selection of multiplier in the case of persons in the age group up to 15 years was noted in by the Apex the case of Divya vs. National Insurance Company Ltd., Civil Appeal No. 7605/2022.

In the most recent judgment of the Supreme Court in Baby Sakshi Greola vs. Manzoor Ahmad Simon &Anr., SLP (C) No. 10996/2018, while referring to the judgments of Kajal (supra) and Master Ayush (supra), the Apex Court has applied the multiplier of 18 for a minor.

Thus, in light of the above judgments, this Court deems it appropriate to ascertain the Multiplier as

‘18’ to calculate the loss of dependency is calculated accordingly.”

As noted above, the Supreme Court declined special leave to appeal against this judgment.

27. Having regard to the binding judgment of the Coordinate Bench, which considers Sarla Verma, I am of the view that the applicable multiplier in such cases would be 18.”

14. Taking a similar view, this Court in Tata AIG General Insurance Company v Mukesh Kumar and Ors. 2026:DHC:756, while dealing with an appeal filed by the Insurance Company on the ground that the Tribunal while assessing loss of dependency in case of death of a minor child had erred by taking the multiplier of 18, instead of 15, and that income of the deceased should either be determined on the basis of notional income or that of an unskilled worker, dismissed the said appeal and held as under:

“22.6 Analysing all these decisions, this Court in Sanju (supra) held the view, as extracted above in paragraph 14, that the applicable multiplier would be 18 and that minimum wages of a skilled worker of the concerned State would be applicable.

23. In view of the above discussion, contention of appellant cannot be accepted.”

15. Reliance placed by the counsel for the Insurance Company on Thangavel and Ors. (supra) is misplaced, as the Supreme Court has categorically opined in paragraph 6 that the multiplier of 15 was adopted considering the age of the mother of the deceased minor was who 36 years at the time of the accident. The relevant paragraph is extracted as under:

“6. We are of the opinion that the monthly income of Rs.5,000/- as adopted for the child by the Tribunal is perfectly in order. There is no question of any deduction

<u>for personal expenses and hence even if the multiplier adopted is 15, considering the mother's age of 36</u>, the total compensation for loss of dependency would be Rs.7,50,000/-, Rs.30,000 more than that awarded by the Tribunal......"

16. The Supreme Court in the case of Reshma Kumari v. Madan Mohan (2013) 9 SCC 65, held that the multiplier is to be used with reference to the age of the deceased. The Constitution Bench in National Insurance Company Ltd. vs. Pranay Sethi & Ors. (2017) 16 SCC 680 affirmed the view taken in Smt. Sarla Verma & Ors v. Delhi Transport Corporation & Anr. (2009) 5 SCC 121 and Reshma Kumari (supra), and recorded in the conclusions as under:

"59.7. The age of the deceased should be the basis for applying the multiplier."

17. Therefore, multiplier of 15 adopted in Thangavel and Ors. (supra) is as per age of mother of the deceased and not that of the deceased.

18. As regards the argument raised by Mr. Paul, counsel for Insurance Company, that different multipliers ought to be applied in cases of death and injury, relying upon the judgment of Supreme Court in Devendra Kumar Tripathi (supra), this Court notes that post Kajal (supra), the Supreme Court has taken a consistent view regarding the multiplier to be applied in cases involving persons below 15 years of age.

19. Furthermore, this Court has consistently taken the view in multiple case including Jamaluddin (supra), Reena Raghav (supra), Pooja (supra), Sanju (supra), and Mukesh (supra), that a multiplier of 18 ought to be applied in cases involving the death of a child below 15 years of age."

...

32. Therefore, in light of the above decisions, <u>the minimum wages of a skilled worker in Uttar Pradesh ought to be taken as benchmark income, as the deceased was resident of Ghaziabad, Uttar Pradesh. At the time of accident minimum wages of a skilled worker in Uttar Pradesh were Rs. 7,085/-</u>

> *per month; the same shall have to be accounted for. Multiplier of 18, instead of 10, shall be considered.*
> *33. Future prospects will be awarded at 40%, considering that the claimant was below 40 years of age, in line with the parameters provided in Pranay Sethi (supra).*
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> (emphasis added)

10. Therefore, this Court does not find any infirmity in the impugned award and the submissions made by counsel for appellant/Insurance Company are rejected.

11. Accordingly, the appeal is dismissed.

12. Compensation amount awarded by the impugned award stands confirmed and will be deposited before the MACT, along with accrued interest. This amount will be released as per the directions provided by the MACT.

13. Statutory deposit, if any, be refunded to appellant/Insurance Company.

14. Pending applications, if any, are rendered infructuous.

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

ANISH DAYAL, J

MAY 20, 2026/MK/*sp*