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

% ***Date of decision: 16th March 2026***

\+ **MAC.APP. 221/2021**

SHABANA & ORS. .....Appellants

Through: Mr. S.N. Parashar, Mr. Ritik Singh, Advocates.

versus

RAJ PAL KHERI & ORS. .....Respondents

Through: Ms. Suman Bagga, Ms. Mouli Sharma, Advocates for Insurance Company.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This appeal has been filed seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal ['***MACT***'] Karkardooma Courts, Delhi (hereinafter, '***Tribunal***') on 7th January 2021 in ***MACP No.217/2016*** (hereinafter, '***impugned award***') awarding *Rs.15,55,000*/- along with interest at the rate of 8% per annum.

2. The accident occurred on 4th September 2014 at about 1.30 p.m. when *Mr. Sher Khan* (hereinafter, '***deceased***') was travelling in his *Tata Indica car* from *Delhi* to *Noida* with other passengers. When they reached near *Faridabad Flyover Loop, Sector-108*, *Noida* they were hit by a bus bearing no. DL-1PC-1871 coming from the opposite direction

and thereafter, a truck bearing no. UP-16T-9363 came from behind and in order to avoid a collision, the deceased's car struck against the bus resulting in the death of deceased.

3. *Mr. S. N. Parashar*, counsel for appellants/claimants has challenged the impugned award on two counts.

4. ***Firstly,*** the benchmark income should not have been considered at minimum wages of a skilled worker in Uttar Pradesh, considering that the deceased who was working as a driver of a commercial vehicle, was working with *M/s Sea Hawks Tour and Travel Pvt. Ltd.* and was earning a salary of *Rs.20,000*/- per month. No evidence was brought on record to substantiate the said income and only the driving license of deceased was placed on record as ***EX. PW 2/5***.

5. In the absence of evidence, Tribunal applied the minimum wages for a skilled worker awarding *Rs.7,840*/- per month. To this, *Mr. Parashar,* counsel for appellants/claimants has drawn attention to another driving license, which has been filed as part of the appeal, shows that he was engaged in Delhi. The documents annexed include, a driving license of Delhi, as well as, the voter ID card of Delhi, therefore, he would be entitled to minimum wages of a skilled worker of Delhi which is *Rs.11,970*/- per month.

6. To the contrary, *Ms. Suman Bagga*, counsel for Insurance Company, has stated that the driving license, which was exhibited before the Tribunal, showed that it had been issued by the *Uttar Pradesh Transport Authority* and showed the date of birth of deceased as 1st January 1980, thereby being *34 years* on the date of the accident. She

states that this corroborates with the statement of *Ms. Shabana*/widow of deceased (***'PW-2'***), who stated that on the date of accident, the deceased was *34 years* of age. However, in stark contrast, driving license placed on record as part of the appeal, shows the date of birth of deceased as 1st January 1987, according to which the deceased would be *27 years* of age on the date of the accident, which has no basis or corroboration whatsoever.

7. The Court is inclined to agree with *Ms. Suman Bagga*, counsel for Insurance Company in this regard, considering that the driving license, which formed part of the detailed accident report ('***DAR***') and the MACT proceedings, cannot be ignored and replaced with another driving license as propounded by the appellants/claimants in this appeal. In fact, it is quite strange that a second driving license has been produced, which has a different date of birth altogether. It would be appropriate to ignore the driving license annexed in this appeal, which has been issued by the Delhi Government, even though *Mr. Parashar*, counsel for appellants/claimants has stated that it has been shown as a valid driving license on the Regional Transport Office ('***RTO***') portal.

8. It has also been stated that the Company where the deceased was employed was located in Noida. Therefore, it would be difficult to assume that the deceased was working in Delhi and minimum wages for skilled worker of Delhi should be applied.

9. *Mr. Parashar*, counsel for appellants/claimants then states that this may be considered as a case, where the deceased was working in the National Capital Region (*NCR*) and, therefore, benchmark income

should be enhanced. For this, he has placed reliance upon the decision of the Supreme Court in ***Chandra v. Mukesh Kumar Yadav***, (2022) 1 SCC 198 where the Supreme Court has stated that in the absence of documentary evidence, some amount of guesswork is required to be done, though the guesswork should not be totally detached from reality. While computing the income, the adoption of lowest tier of minimum wage should not be the default mechanism, if the claimants have been unable to produce documentary evidence to show the monthly income.

10. In that case, while assessing the benchmark income of deceased for the purpose of loss of dependency, the Court arrived at the finding on the basis of age and nature of work, which was purported to be done by deceased.

11. To this extent, the Court is inclined to be persuaded, considering that no evidence was placed on record by appellants/claimants with respect to the employment of deceased nor was the employer called in the witness box. It has been admitted that the deceased was a commercial vehicle driver, and taking into account the opinion of the Supreme Court in ***Chandra*** (*supra*), benchmark income of the deceased for the purpose of *loss of dependency*, would be taken at *Rs.10,000*/- per month, since it involves a broad estimate.

12. ***Secondly***, another issue has been raised on deduction of personal and living expenses, which has been taken into account by the Tribunal for 3 dependents *i.e. wife, child and mother* of deceased was taken as 1/3rd. However, *Mr. Parashar,* counsel for appellants/claimants states it should be taken as 1/4th, since the deceased has a 19-year-old younger

brother, who should be also be considered a dependent.

13. With respect to this aspect, the Tribunal has observed that the brother of deceased was earning and doing embroidery work and therefore, cannot be considered as a dependent. Therefore, the Court is inclined to agree with this finding and plea on this aspect is dismissed.

14. Revised computation is as under:

S. No.	**Heads**	**Awarded by the Tribunal**	**Awarded by this Court**
1	Income of deceased (A)	Rs. 7,840/-	Rs. 10,000/-
2	Add: Future Prospects (B)	Rs. 3,136/-	Rs. 4,000/-
3	Less: Personal expenses of deceased (C)	Rs. 3,659/-	Rs. 4,667/-
4	Loss of dependency (A+B)-C=D	Rs. 7,317/-	Rs. 9,333/-
5	Annual loss of dependency (Dx12)= (E)	Rs. 87,808/-	Rs. 1,11,996/-
6	Multiplier (F)	16	16
7	Total loss of dependency (ExF) = (G)	Rs. 14,04,928/-	Rs. 17,91,936/-
8	Compensation for loss of consortium (H) (40,000x3)	Rs. 1,20,000/-	Rs. 1,20,000/-
9	Compensation for loss of estate (I)	Rs. 15,000/-	Rs. 15,000/-
10	Compensation towards funeral expenses (J)	Rs. 15,000/-	Rs. 15,000/-
11	Total compensation (G+H+I+J)=K	Rs. 15,54,928/-	Rs. 19,41,936/-
12	Rate of Interest Awarded	8%	8%

15. Enhanced compensation, along with interest at the rate of 8% from the date of filing be deposited before the Tribunal within 4 weeks and shall be apportioned and disbursed as per the directions provided by the Tribunal.

16. Appeal stands disposed of in above terms.

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

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

(ANISH DAYAL)
JUDGE

MARCH 16, 2026/ak/*sp*