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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 27th April 2026**+ **MAC.APP. 357/2018 & CM APPL. 14082/2018****THE ORIENTAL INSURANCE CO LTD**

.....Appellant

Through: Mr. Pankaj Seth, Advocate with Ms.
Shruti Jain, Advocate.

versus

LATA PUNJANI & ORS

.....Respondents

Through: Mr. Durgesh Gupta, Advocate for
claimant.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed assailing impugned judgment and award dated 30th November 2017, passed by Motor Accidents Claims Tribunal ('*MACT/Tribunal*') Tis Hazari Courts, Delhi, in MACT Case No. 357829/2016, awarding compensation of Rs. 32,28,000/- along with interest at the rate of 9% per annum, with respect to an accident which occurred on 14th August 2005.

2. Deceased/*Vijay Punjani*, along with his family members and two other relatives, was returning to Delhi from Agra in a *Santero Car* bearing No. DL 3C XP 7777. At about 6:30 am, when they reached near village *Prithla*, the deceased saw a green colour *L&T Tractor-trolley* (hereinafter,



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‘*offending vehicle*’) loaded with bricks driving in the middle of the road. In an attempt to overtake the offending vehicle, which gave way to the deceased to pass from the right side, the offending vehicle steered towards the right side diagonally without any warning, horn or signal resulting in collision with the front portion of the *Santro* car, which was badly smashed. Multiple injuries were suffered by various persons and deceased/*Vijay Punjani* succumbed to the said injuries.

3. Appellant/Insurance Company has filed this appeal challenging the quantum of compensation awarded to respondent no.1/injured claimant-*Lata Punjani* (wife of *Vijay Pujani*) for the injuries sustained by her. As a result of the accident, she suffered 40% permanent disability in relation to her left lower and left upper limb.

4. *Mr. Pankaj Seth*, counsel for appellant/Insurance Company, has raised the following issues: **Firstly**, *minimum wages* assessed by the Tribunal for respondent no.1/injured claimant, have been computed on the basis of a skilled worker, despite the fact that she was a homemaker; **secondly**, even otherwise, minimum wages of the year 2008 have been taken, despite the accident having occurred in 2005; **thirdly**, *minimum wages* had been enhanced by 1.5 times by the Tribunal, considering that minimum wages for a skilled workers are for the working hours, whereas, a homemaker performs 24 hours without any break; **fourthly**, *loss of income* was given at Rs. 3,65,100/- for the period of 5 years from 2005 to 2010, calculated at Rs. 6,085/-, considering that she had multiple surgeries, but while calculating *loss of future income*, the Tribunal mistakenly included this amount to form a part of compensation awarded at Rs.14,60,400/-.



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5. On the other hand, *Mr. Durgesh Gupta*, counsel for respondent no.1/injured claimant, contends that *future prospects* have been granted at 25%, despite respondent no.1/injured claimant being 34 years of age on the date of the accident, therefore, 40% ought to have been granted.

6. In order to align the compensation on the basis of these assertions, after having perused the records, Court is of the opinion that the Tribunal was not amiss in calculating monthly income on the basis of minimum wages of a skilled worker for the services of a homemaker. This issue has already been considered by the Supreme Court in *Kirti v. Oriental Insurance Co. Ltd.*, (2021) 2 SCC 166 wherein, the Supreme Court relied upon *Arun Kumar Agrawal v. National Insurance Co. Ltd.*, (2010) 9 SCC 218 and observed as under:

“21. In Arun Kumar Agrawal v. National Insurance Co. Ltd., this Court, while dealing with the grant of compensation for the death of a housewife due to a motor vehicle accident, held as follows:

“26. In India the courts have recognised that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by the wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of the husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to



them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean, etc. but she can never be a substitute for a wife/mother who renders selfless service to her husband and children.

27. It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. the husband and children. However, for the purpose of award of compensation to the dependants, some pecuniary estimate has to be made of the services of the housewife/mother. In that context, the term “services” is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. The amount payable to the dependants cannot be diminished on the ground that some close relation like a grandmother may volunteer to render some of the services to the family which the deceased was giving earlier.”

The above pronouncement has been followed by this Court in its recent judgment in Rajendra Singh v. National Insurance Co. Ltd. [Rajendra Singh v. National Insurance Co. Ltd., (2020) 7 SCC 256 : (2020) 4 SCC (Civ) 99 : (2020) 3 SCC (Cri) 134] , wherein the notional income of a deceased housewife was calculated for the purposes of granting compensation in a motor accident case.”

(emphasis added)

7. As regards calculating the benchmark income of the housewife, the Court in **Kirti** (*supra*), made the following observations:

“31. Returning to the question of how such notional income



of a homemaker is to be calculated, there can be no fixed approach. It is to be understood that in such cases the attempt by the court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and circumstances.

...

34. However, it must be remembered that all the above methods are merely suggestions. There can be no exact calculation or formula that can magically ascertain the true value provided by an individual gratuitously for those that they are near and dear to. The attempt of the court in such matters should therefore be towards determining, in the best manner possible, the truest approximation of the value added by a homemaker for the purpose of granting monetary compensation.

35. Whichever method a court ultimately chooses to value the activities of a homemaker, would ultimately depend on the facts and circumstances of the case. The court needs to keep in mind its duty to award just compensation, neither assessing the same conservatively, nor so liberally as to make it a bounty to claimants.

(emphasis added)

8. On the issue of minimum wages prevalent in Delhi at the time of accident *i.e.* in 2005, ought to have been taken, from as rightly contended by Mr. Pankaj Seth, counsel for appellant/Insurance Company. Therefore, monthly income of respondent no.1/injured claimant will be considered as Rs.3468.9/-.

9. Enhancement of monthly income by 1.5 times on a notional basis, considering the minimum wages are for working hours and not for 24 hours services that a homemaker is expected to do, may not be a rational



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assessment, therefore, that aspect stands deleted. It would be disproportionate to introduce an additional factor of 1.5 to the notional wages.

10. *Loss of future income* has been wrongly calculated by including *loss of income* assessed by the MACT during the period of treatment, therefore, that aspect shall stand modified.

11. *Future prospects* shall be taken as 40% as per ***National Insurance Company Ltd. v. Pranay Sethi*** (2017) 16 SCC 680.

12. As regards the compensation awarded towards *loss of inconvenience/hardship/disappointment/mental stress*, in view of the decision in ***Raj Kumar v. Ajay Kumar***, (2011) 1 SCC 343, compensation towards this head cannot be awarded under a separate head as these elements are already subsumed within the recognised heads of pain and suffering and loss of amenities of life.

13. This Court has also perused the compensation awarded towards non-pecuniary loss, reference may be drawn to the decision of the Supreme Court in ***R.D. Hattangadi v. Pest Control (India) (P) Ltd.***, (1995) 1 SCC 551 where the Court has examined various heads under which pecuniary and special damages are awarded. The Court noted that no amount of compensation can restore the physical frame of the injured claimant and therefore, the object is to compensate such injury “so far as money can compensate”, since it is impossible to equate money with human sufferings or personal deprivations. Relevant observations of the Supreme Court are extracted as under:

“11. In the case *Ward v. James* [(1965) 1 All ER 563] it was



said:

“Although you cannot give a man so gravely injured much for his ‘lost years’, you can, however, compensate him for his loss during his shortened span, that is, during his expected ‘years of survival’. You can compensate him for his loss of earnings during that time, and for the cost of treatment, nursing and attendance. But how can you compensate him for being rendered a helpless invalid? He may, owing to brain injury, be rendered unconscious for the rest of his days, or, owing to a back injury, be unable to rise from his bed. He has lost everything that makes life worthwhile. Money is no good to him. Yet judges and juries have to do the best they can and give him what they think is fair. No wonder they find it well nigh insoluble. They are being asked to calculate the incalculable. The figure is bound to be for the most part a conventional sum. The judges have worked out a pattern, and they keep it in line with the changes in the value of money.

12. In its very nature whenever a tribunal or a court is required to fix the amount of compensation in cases of accident, it involves some guesswork, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused. But all the aforesaid elements have to be viewed with objective standards.

...

14. In Halsbury's Laws of England, 4th Edn., Vol. 12 regarding non-pecuniary loss at page 446 it has been said: “Non-pecuniary loss: the pattern.— Damages awarded for pain and suffering and loss of amenity constitute a conventional sum which is taken to be the sum which society deems fair, fairness being interpreted by the courts in the light of previous decisions. Thus there has been evolved a set of conventional principles providing a provisional guide to the comparative severity of different injuries, and indicating a bracket of damages into which a particular



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injury will currently fall. The particular circumstances of the plaintiff, including his age and any unusual deprivation he may suffer, is reflected in the actual amount of the award.

The fall in the value of money leads to a continuing reassessment of these awards and to periodic reassessments of damages at certain key points in the pattern where the disability is readily identifiable and not subject to large variations in individual cases.”

(emphasis added)

14. In view of this, the Court is inclined to increase compensation awarded towards *loss of amenities of life and mental and physical shock* by Rs. 1,00,000/- each.

15. Therefore, revised computation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1	Expenditure on Medical Expenses (A)	Rs. 10,53,031/-	Rs. 10,53,031/-
2	Expenditure on conveyance (B)	Rs. 27,500/-	Rs. 27,500/-
3	Expenditure on special diet (C)	Rs. 60,000/-	Rs. 60,000/-
4	Expenditure on attendant charges (D)	Rs. 60,000/-	Rs. 60,000/-
5	Income of injured (E)	Rs. 6,085/-	Rs.3,468.9/-
6.	Add: Future prospects (F)	-	Rs. 1,387.56/-
7.	Multiplier (G)	16	16
8	Functional disability (H)	25%	25%
9	Loss of income (I)	Rs. 3,65,100/-	Rs. 2,08,134/-
10	Loss of future income/future earnings [(E+F) x 12 x G x	Rs. 14,60,400/-	Rs. 2,33,110/-



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	H] = (J)		
NON-PECUNIARY LOSS			
11	Pain and suffering (K)	Rs. 2,00,000/-	Rs. 2,00,000/-
12	Loss of amenities of life (L)	Rs. 1,00,000/-	Rs. 2,00,000/-
13	Mental and Physical Shock (M)	Rs. 1,00,000/-	Rs. 2,00,000/-
14	Disfiguration (N)	Rs. 1,00,000/-	Rs. 1,00,000/-
15	Loss of inconvenience/hardship/disappointment/mental stress (O)	Rs. 30,000/-	Nil
16	Total compensation (A + B + C + D + I + J+ K + L+M+N) = P	Rs. 32,27,441/- (rounded off to Rs. 32,28,000/-)	Rs. 23,41,775/- (rounded off to Rs. 23,42,000/-)
17	Interest awarded	9%	9%

Directions

16. In view of the above computation, the compensation payable to respondent no.1/claimant has been reduced by Rs. 8,86,000/- along with interest at the rate of 9% per annum, as awarded by the MACT.

17. *Vide* order dated 11th April 2018, this Court had directed the appellant/Insurance Company to deposit the entire awarded amount with up-to-date interest before the Tribunal within 30 days and 40% amount was directed to be released in favour of respondent no.1/injured claimant. The balance amount was directed to be kept in an interest-bearing account initially for a period of one year to be renewed from time to time, thereafter till further orders from this Court.

18. In case any excess amount has been deposited by the Insurance Company, same shall be refunded to the Insurance Company, along with



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accrued interest thereon. The claimants shall be entitled to release of the balance amount in terms of the directions contained in the impugned award.

19. Accordingly, the appeal is disposed of. Pending applications (if any) are rendered infructuous.

20. Copy of the judgment be sent to the concerned MACT.

21. Statutory deposit be refunded to appellant/Insurance Company, only if the order of deposit has been complied with.

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

**ANISH DAYAL
JUDGE**

APRIL 27, 2026/RK/sp