2026:DHC:4412

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

% ***Date of decision: 13th May, 2026***

\+ **MAC.APP. 572/2014**

SMT. SUMAN & ORS .....Appellant

Through: Mr. Sunil Kumar Verma, Advocate.

versus

HDFC ERGO GENERAL INSURANCE CO. LTD & ANR .....Respondents

Through: Ms. Mouli Sharma, Advocate for Ms. Suman Bagga, Advocate for Respondent no.1.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This appeal has been filed by the claimants seeking enhancement of compensation awarded by judgment dated 31st January 2014 passed by Motor Accident Claims Tribunal [‘***MACT***’], Dwarka Court, Delhi in MACT No. 214/11, whereby compensation of *Rs. 10,37,783/-* along with interest *@7.5%* was awarded to the claimants.

2. The accident occurred on 16th January 2011 when deceased accompanied one Vipin Kumar to CNG station to fill CNG gas in RTV mini bus bearing registration no. DL-IVA-1247. Sh. Vipin Kumar was informed that there was sparking of battery but the same was ignored by him, which resulted in vehicle catching fire. The deceased could not get out of the bus in time resulting in fatal injuries. He taken to DDU Hospital where he was

declared brought dead. FIR no. 4/11 was registered under Sections 285/336/337/304A of Indian Penal Code, 1860 at PS Dwarka.

3. The enhancement is sought by the claimant on the following counts:

(i) that the notional income taken by the MACT for the purpose of calculating loss of dependency was *Rs. 4,278/-* applicable to an unskilled worker, whereas it ought to have been taken as *Rs. 7,826/-,* being the minimum wages payable to a skilled worker at the relevant time;

(ii) that the amounts awarded towards loss of consortium, cremation charges, loss of estate, and loss of care and guidance ought to be aligned with the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680; and

(iii) that the interest awarded at the rate of 7.5% per annum was inadequate and ought to have been awarded at 8.5% per annum, being the rate of interest applicable to fixed deposits as notified by the RBI for the year of the accident.

4. The issue relating to the minimum wages to be adopted was canvassed by counsel for claimants on the basis that the deceased possessed a driving license issued by the Dehradun RTO, Uttarakhand, which was valid till 06th October 2011 as per its last renewal. The same formed part of the Trial Court Record ('***TCR***'). Reliance was also placed on the testimony of *Smt. Suman,* wife of the deceased, who testified as **PW-1** and stated that her husband/deceased was employed as a driver by one *Sh. Mahinder Singh*. She further stated that though the vehicle was in the name of *Rajnish Thakur*, son of *Mahinder Singh,* her husband was paying him every month since he had taken the vehicle in his name. A sum of *Rs. 10,000/-* was being paid to *Sh.*

Mahinder Singh every month, though there was no written agreement in this regard. She confirmed that no documentary evidence had been filed to show that her husband was earning *Rs. 25,000/-* per month. She also stated that no educational certificates had been provided. However, she stated that her husband was a graduate, their daughters were studying in government schools, and their son was studying in *D.A. School, Sector-6, Dwarka.*

5. In her cross-examination, **PW-1** stated that she did not own a house and was residing in her brother's house. She further stated that apart from day-to-day family expenses and the fees payable towards the studies of the children, there were no other major requirements, though compensation would be needed for the marriage of her daughters. Counsel for claimants, on the basis of the said testimony, argued that the minimum wages applicable to a matriculate, as per the notification of April 2011, were Rs.7,826/- and ought to have been considered.

6. *Ms. Mouli Sharma*, counsel for the Insurance Company, however, countered these submissions by highlighting the fact that **PW-1** had merely stated in her testimony that the deceased was a graduate without providing any documentary proof in support thereof. She further referred to the evidence by way of affidavit of **PW-1**, wherein she stated that all educational documents were in possession of her in-laws and were not traceable since they had passed away. Counsel also highlighted that **PW-1** had stated in her evidence-in-chief that the income of her husband was increasing with the passage of time and that he was providing *Rs.10,000/-* to her towards direct financial support. It was further submitted that the *future prospects* for computation of loss of dependency for the deceased, who was 47 years of age on the date of the accident, ought to have been taken as *25%* and not *30%* as awarded by the MACT.

Analysis

7. Having considered the submissions and upon perusal of the record, this Court is inclined to consider the issue of notional income being assessed at minimum wages higher than that of an unskilled worker. This view is based on the testimony of **PW-1** that the deceased was a graduate, which remained unrebutted, though no documentary proof could be furnished. The claimants have also placed on record the driving license, which stands proved and shows that it had been issued to the deceased and was valid on the date of the accident. **PW-1** further stated that her husband used to drive his own vehicle, a Maruti Van, and she was not cross-examined on this aspect.

8. It appears from the testimony of **PW-1** and her cross-examination that the deceased was certainly not an unskilled worker. He possessed a valid driving license and was engaged in driving a vehicle to earn his livelihood. Respondent no.1, who was the driver-cum-owner, was driving the offending vehicle on the day of the accident, and the vehicle caught fire after refuelling at a CNG petrol pump. The deceased died due to burn injuries, as he could not be pulled out of the offending vehicle in time. The MACT held that the accident occurred due to the negligence of respondent no.1. According to the claimants, the deceased was employed as a driver by vocation and was earning *Rs.15,000/-* per month.

9. Considering these circumstances, this Court is of the opinion that the minimum wages applicable to a matriculate ought, at the very least, to be considered, which were comparable to the minimum wages of a skilled worker as on 01st February 2010, applicable at the time of accident. The minimum wages canvassed by counsel for claimant for the period of April 2011 would not apply as the same are notified for a period after the date of

the accident. Therefore, the minimum wages applicable to a matriculate at *Rs. 6,448/-* is taken as the benchmark income.

10. As regards future prospects, in line with the principles enunciated in ***Pranay Sethi*** (*supra*), the future prospects shall be taken at *25%* and not *30%,* considering that the deceased did not hold a permanent job and was 47 years of age at the time of the accident. Considering the age of the deceased as 47 the multiplier shall continue to be 13.

11. Regards compensation under the non-pecuniary heads*, loss of consortium*, in terms of the decision in ***Pranay Sethi*** (*supra*), shall be granted at *Rs.40,000/-* for each of the five dependents, totaling *Rs.2,00,000/-. Funeral expenses* and *loss of estate* shall be awarded at *Rs.15,000/-* each. The amount of *Rs.1,00,000/-* granted towards *loss of care and guidance* shall stand deleted in terms of the principles enunciated in ***United India Insurance Co. Ltd. v. Satinder Kaur***, (2021) 11 SCC 780.

12. As regards interest, the RBI rates for fixed deposits prevailing during 2010–2011 were between *8.5%* and *8.75%.* The applicable rate of interest ought to be revised as *8.75%* per annum. Accordingly, the interest is granted @*8.75%* per annum from the date of filing the petition.

13. The revised compensation is as under:

S.no.	**Heads of Compensation**	**Awarded by the Tribunal**	**Awarded by this Court**
1.	Loss of income per month (A)	Rs. 5,278/-	Rs. 6,448/-
2.	Future Prospects @*25* % (B)	Rs. 1,583/-	Rs. 1,612/-
3.	Less Personal expenses of the deceased (C) *1/4th*	Rs. 1,715/-	Rs. 2,015/-
4.	Monthly Loss of Dependency (A+B-C=D)	Rs. 5,146/-	Rs.6,045/-

5.	Annual loss of dependency (D x 12=E)	Rs. 61,752/-	Rs.72,540/-
6.	Multiplier (F)	13	13
7.	Total loss of dependency (E x F = G)	Rs. 8,02,783/-	Rs.9,43,020/-
8.	Compensation for loss of consortium (H)	Rs.1,00,000/-	Rs.2,00,000/-
9.	Loss of love and guidance (I)	Rs. 1,00,000/-	*Part of loss of consortium*
10.	Compensation for loss of estate (I)	Rs.10,000/-	Rs.15,000/-
11.	Compensation towards funeral expenses/ cremation charges (J)	Rs.25,000/-	Rs.15,000/-
12.	**Total compensation** **(G+H+I+J = K)**	**Rs. 10,37,783/-**	**Rs. 11,73,020/-**
13.	Rate of Interest Awarded	7.5%	8.75%

14. Accordingly, the compensation is enhanced by *Rs. 1,35,237/-*.

15. It is directed that enhanced compensation along with interest @ *8.75%* per annum from the date of filing the petition be deposited before the MACT within a period of four weeks. Needless to clarify that the interest @ *8.75%* per annum shall be applicable on the entire award amount granted from the date of filing of the petition, accordingly, interest on the entire award amount @*8.75%* shall also be deposited before the MACT. It is directed that the enhanced compensation shall be kept in Fixed Deposit Receipts (***FDRs***) of *Rs. 10,000/-* each for periods of 1 month, 2 month, 3 month and so on, in succession as maybe calculated. Interest accruing on the 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.

16. Accordingly, the appeal is disposed of in above terms. Pending application if any is rendered infructuous.

17. A copy of this Judgment be sent to the concerned bank for information and compliance.

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

(ANISH DAYAL)
JUDGE

MAY 13, 2026/ak/zb