



2026:DHC:1947



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on* : 12th January 2026
Pronounced on : 10th March 2026
Uploaded on : 11th March 2026

+ **MAC.APP. 301/2017**

NATIONAL INSURANCE COMPANYAppellant

Through: Mr. Rahul Raj, Advocate.

versus

NEETA & ORS

.....Respondents

Through: Ms. Deepshikha Rai, Advocate for
Respondent nos.1-3 & 6.

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This appeal has been preferred against the impugned judgment dated 03th February 2017 passed by Motor Accident Claims Tribunal, North East District, Karkardooma Courts, Delhi (*'MACT/Tribunal'*) in MACT No. 24/2015, whereby the Tribunal awarded Rs.25,30,000/- along with interest @ 9% per annum from the date of filing.
2. Brief facts of the case are that the accident took place on 14th October 2014, at about 8:30 PM, when *Sh. Davender Kumar* while cycling reached near *Chaprouli Chungi, Barout, UP*, when a bus bearing no. UP-17C-7141 coming from *Saharanpur side*, driven by *Sh. Sachin Kumar Sharma* hit the cycle due to which the cyclist along with his cycle fell down and sustained



grievous injuries. *Sh. Davender Kumar* was taken to Government Hospital Barout later transferred to *Astha Multi Specialist Hospital, Delhi Road, Barout* where despite the best efforts the deceased died due to injuries suffered by him in this accident. An FIR no. 843/2014 was registered under sections 279/427/304A Indian Penal Code, 1860 and subsequently a chargesheet was filed.

3. Claimant/petitioner was the Legal Representatives (*'LRs'*) of *Devender Kumar* under Section 166 & 140 of the Motor Vehicles Act, 1988 (*'MV Act'*). On basis of pleadings the following issues were framed:

- (i) *Whether deceased Davender Kumar died on account of injuries sustained in accident taking place on 14th October 2014 at about 08:30pm at near Chaproli Chungi, facing TVS Motorcycle Agency, Barout, UP within the jurisdiction of PS Barout due to rash and negligent driving of vehicle bearing no. UP 17C 7141 by respondent no. 1?*
- (ii) *Whether petitioners are entitled to compensation? If so, to what amount and from whom?*
- (iii) *Relief.*

4. *Issue no.1* was decided in favour of claimants on grounds of testimony of **PW/2/ Mohd Arif**, who was eyewitness and deposed about the facts of the case. The Tribunal found no reason to disbelieve the testimony of **PW2** post cross examination by respondents and came to the conclusion that deceased suffered fatal injuries due to rash and negligent driving of driver. Further, there was a criminal case record including FIR, and chargesheet against the



respondent/driver, which was taken as proof of rash and negligence of driver.

5. As regards *Issue no.2*, the wife of deceased was examined as **PW1/ Smt. Neeta**, who deposed that her husband was earning *Rs.15,000/-* per month but could not produce any document to show his income. Further, **PW-3/Ram Niwas**, was also examined to determine the salary of the deceased, who deposed that deceased was working with him for seven to eight years as a supervisor and was a permanent employee in the company *M/s Shyam Engineering Works* with a last drawn salary as *Rs.15,000/-*. No appointment letter, salary slip and identity card of deceased was produced. The Tribunal, based on the same, held that there was no reason to disbelieve the testimony of **PW-3** and accordingly income of the deceased was taken to be *Rs.15,000/-*.

6. As per the age of deceased, multiplier of *17* was applied and with four dependents a deduction of $1/4^{th}$ was made towards personal expenses, thus the loss of total dependency was calculated as *Rs.22,95,000/-*. Compensation was also awarded under non-pecuniary heads i.e. *Rs. 1,00,000/-* for loss of love and affection, *Rs.1,00,000/-* for loss of consortium, *Rs.10,000/-* for *loss of estate* and *Rs.25,000/-* for *funeral expenses* totalling to *Rs.2,35,000/-*.

7. In presence of valid insurance policy and no violation of terms and conditions of the policy, the insurance company was directed to satisfy the award.

8. Counsel for appellant assailed the impugned award on the limited ground that the Tribunal has taken income of the deceased as *Rs.15,000/-*



merely on the testimony of **PW-3** without any salary slips, appointment letter, ID card of deceased or any employment proof to substantiate the income. The income of deceased in these circumstances should have been calculated as per Minimum Wages Act. Further, the interest @ 9% per annum awarded by the Tribunal is high and should therefore be reduced to either 6% per annum or 7.5% per annum.

9. In response, Counsel for respondent/ claimants contended that the MV Act is a beneficial legislation and that the Tribunal as a fact-finding body correctly exercised its discretion by accepting the oral evidence, especially since the deceased was working in informal sector and did not have salary slips, therefore, reliance placed by the Tribunal on testimony of *PW-3* is sound and needs no interference. As regards interest @ 9% per annum, the same is neither excessive nor contrary to law. Thus, contending that the present appeal should be dismissed with exemplary cost and the impugned award dated 03rd February 2017 be upheld.

Analysis

10. The only issue which has been raised by appellant/Insurance Company relates to the assessment of the benchmark income of deceased at Rs.15,000/-, on the basis that he was working with *M/s Shyam Engineering Works* and **PW3** had deposed that his last drawn salary was Rs.15,000/-. The Insurance Company contends that there was no appointment letter, salary slip or ID card produced and, therefore, the Tribunal ought not to have taken the testimony of **PW3** on the face of it.

11. In this regard, the testimony of *Neeta*, claimant and wife of deceased,



who deposed as **PW1** should be considered. She stated that at the time of the accident, the deceased was of about 30 years and was working in *Jyoti Nagar*, but she did not have any document. Further she stated that her husband was earning *Rs.15,000/-* per month, though she did not have any document to show his income. She denied the suggestion put to her that her statement was wrong.

12. The testimony of **PW3/Ram Niwas** would have to be seen in this context. He was summoned as a witness and stated that the deceased had been working with him for the last 7–8 years as a Supervisor and was a permanent employee. He deposed that the last drawn salary of the deceased was *Rs.15,000/-* per month. Documents relating to the company including Form B, Form S.T.-8 of the Central Sales Tax (Registration & Turnover) Rules, 1957 are exhibited as **Ex. PW3/1 (OSR) (colly)**.

13. In his cross-examination, **PW3** admitted that he had not filed any appointment letter, salary slip and identity card, nor does he have the attendance register. Based on this the MACT, while assessing the income of the deceased, noted that there was no contradictory evidence and nothing on the record to not rely upon the testimony of **PW3** and took the income of the deceased at *Rs.15,000/-* per month.

14. Further, Supreme Court in *Nur Ahamad Abdulsab Kanavi v. Abdul Munaf & Ors.* 2025 INSC 191, has held that in the absence of any material to discard the oral evidence of the wife of the deceased, such evidence can be relied upon. In that case, though the claimant asserted that the deceased was earning *Rs.10,000/-* per month as a sole breadwinner working as a *goundy*, the Tribunal assessed the income at *Rs.7,500/-* per month, which was



affirmed by the High Court. In this regard, the Supreme Court noted as under:

“9. We have heard the learned counsel for the parties. We are unable to agree with the view taken by the Tribunal and High Court on the income of the Appellant. This Court in Chandra v. Mukesh Kumar Yadav had placed reliance on the statement of the deceased’s wife therein to establish the income of the person. Similarly, in the absence of any material to discard the oral evidence of PW1 Wife, we deem it appropriate to fix the monthly income of the Claimant-Appellant as Rs.10,000/-.”

15. In **Chandra alias Chanda alias Chandraram & Anr. v. Mukesh Kumar Yadav & Ors.** (2022) 1 SCC 198, income of deceased was taken at Rs.5,746/- per month by MACT, despite the claimant having stated that the deceased was earning Rs.15,000/- per month. The appeal before the High Court was dismissed. The Supreme Court then considered the fact that the specific case of claimants was that deceased was earning Rs.15,000/- per month by driving a heavy vehicle. The salary certificate was not filed and the Tribunal had fixed it by adopting the minimum wage for skilled labour. Notably, the Supreme Court held as under:

“9...In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal,



same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs.15000/ per month.”

(emphasis supplied)

16. Reliance can also be placed on the Supreme Court judgment in ***Ramachandrappa v Manager Royal Sundaram Alliance Insurance Co. Ltd.***, (2011) 13 SCC 236 where injured/claimant was working as a *coolie* and earning Rs.4,500/- per month and due to the accident, his right hand was totally disabled and his livelihood suffered. As regards the issue of income it was stated that injured was earning Rs.4,500/- per month; the Tribunal assessed the income as Rs.3,000/- on the assumption that the wages of a labour during the relevant period were Rs.100/- per day. The Supreme Court thereafter noted as under:

“13...This assumption in our view has no basis. Before the Tribunal, though Insurance Company was served, it did not choose to appear before the Court nor did it repudiated the claim of the claimant. Therefore, there was no reason for the Tribunal to have reduced the claim of the claimant and determined the monthly earning a sum of 3000/- per month. Secondly, the appellant was working as a Coolie and therefore, we cannot expect him to produce any documentary evidence to substantiate his claim. In the absence of any other evidence contrary to the claim made by the claimant, in our view, in the facts of the present case, the Tribunal should have accepted the claim of the claimant.

14. We hasten to add that in all cases and in all circumstances, the Tribunal need not accept the claim of the claimant in the absence of supporting



material. It depends on the facts of each case. In a given case, if the claim made is so exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guess work, which may include the ground realities prevailing at the relevant point of time.

15. In the present case, appellant was working as a Coolie and in and around the date of the accident, the wage of the labourer was between 100/- to 150/- per day or 4500/- per month. In our view, the claim was honest and bonafide and, therefore, there was no reason for the Tribunal to have reduced the monthly earning of the appellant from 4500/- to 3000/- per month. We, therefore, accept his statement that his monthly earning was 4500/-.”

(emphasis supplied)

17. The Supreme Court in Special Leave Petition (Civil) 26253/2025 case titled “**Sabita Nath & Ors. v Shriram General Insurance Co. Ltd.**” in a similar situation where claimant asserted that the deceased was earning Rs. 15,000/- working as wholesale trader of fish and was sole breadwinner of the family, the Tribunal assessed the income as Rs. 7,000/-, which was affirmed by High Court. The Supreme Court noted as regards assessment of income of deceased as under:

“ 8. We are inclined to interfere with the findings of the Courts below in assessing the income of the deceased at Rs.7,000/- per month as the same was not assessed correctly on the basis of the evidence on record. This Court in *Chandra v. Mukesh Kumar Yadav*, has held that “In the absence of documentary evidence on record, some guesswork is required to be done”. Also, in the case of *Prabhavathi v. Bangalore*



Metropolitan Transport Corpn., this Court has held that:

“13. It is the settled law that under the Motor Vehicle Act, 1988 it is established that in compensation cases, the strict rules of evidence used in criminal trials do not apply. Instead, the standard of proof is based on the preponderance of probability. This Court in *Sunita v. Rajasthan SRTC* observed that:

“22. It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.”

The exposition came to be reiterated in *Rajwati alias Rajjo v. United India Insurance Company Ltd.*, wherein it was observed that:

“20. It is well settled that Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the Tribunal's role would be to award just and fair compensation. As held by this Court in *Sunita (Supra)* and *Kusum Lata (Supra)*, strict rules of evidence as applicable in a criminal trial, are not applicable in motor accident compensation



cases, i.e., to say, “the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.”

9. The Courts below have not given due appreciation to the uncontroverted oral evidence given by one Mr. Kishore Kumar Behera (PW-3), the manager of the fish firm owned by the deceased, who deposed that the deceased used to earn Rs.15,000/- per month from the wholesale business of fish. We in these circumstances and in light of the law laid down by this Court proceed to reassess the income of the deceased @ Rs.15,000/- per month. Furthermore, as per this Court's judgment in National Insurance Co. v. Pranay Sethi³, we deem it appropriate to enhance and award the claimant-appellant(s) consortium charges to the tune of Rs.48,400/- x 5 = Rs.2,42,000/-.”

(emphasis supplied)

18. Similarly, in the present case, the testimony of **PW3**, Ram Niwas, Proprietor of *M/s Shyam Engineering Works*, with whom the deceased was employed, remained uncontroverted. He deposed that the deceased was drawing a last salary of Rs.15,000/- per month. The Tribunal was therefore justified in relying upon the said testimony to assess the benchmark income of the deceased at Rs.15,000/- per month.

19. It would be pertinent to look at the Supreme Court observation as regards assessment of benchmark income of deceased, when he is employed in unorganised sector. The following judgments are referred for the same:

19.1. ***Syed Sadiq v. United India Insurance Co. Ltd.***, (2014) 2 SCC 735, wherein the issue was regarding the assessment of benchmark income



of vegetable vendor was considered. The Supreme Court is noted as under:

“8. The appellant claimant in his appeal further claimed that he had been earning Rs 10,000 p.m. by doing vegetable vending work. The High Court however, considered the loss of income at Rs 3500 p.m. considering that the claimant did not produce any document to establish his loss of income. It is difficult for us to convince ourselves as to how a labour involved in an unorganised sector doing his own business is expected to produce documents to prove his monthly income. In this regard, this Court, in Ramachandrappa v. Royal Sundaram Alliance Insurance Co. Ltd. [(2011) 13 SCC 236 : (2012) 3 SCC (Civ) 452 : (2012) 1 SCC (Cri) 825] , has held as under: (SCC pp. 242-43, paras 13-15)

....

9. There is no reason in the instant case for the Tribunal and the High Court to ask for evidence of monthly income of the appellant claimant. On the other hand, going by the present state of economy and the rising prices in agricultural products, we are inclined to believe that a vegetable vendor is reasonably capable of earning Rs 6500 per month.
(emphasis supplied)

19.2. ***Kubrabibi v. Oriental Insurance Co. Ltd.***, 2023 SCC OnLine SC 1855, wherein the assessment of benchmark income of a mechanic was considered. The Supreme Court noted as under:

“ 6. It is unfortunate that in a case of the present nature, the High Court while assessing the evidence available on record, has sought to seek strict evidence with regard to the income of the deceased. When the wife and children of the deceased were before the Court, they would not be in a position to



secure all evidence when the deceased earning member was not in secure job. Despite the same we note that in the instant case, a perusal of the judgment and award passed by the MACT, would indicate that an effort was made to examine the owner of the two wheeler repair shop where the deceased was said to be working. The High Court has discarded the same on the ground that no documents, to indicate that he is the owner of the shop and he had employed three persons, has been produced.

7. In a matter of the present nature where the compensation is sought and even in the absence of definite proof of the income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and the notional income in any event is required to be taken into consideration. The fact that the deceased had three dependents to be cared for and had claimed that he was working as a mechanic, the amount payable to an unskilled labour, cannot be the basis and in that circumstance when he was a skilled person, the daily income at Rs. 200/- per day in any event could have been taken even if the income from jeep transport business was discarded for want of documents. More so in a circumstance, where the MACT had referred to the evidence available on record and then arrived at its conclusion, the re-appreciation of evidence by the High Court is without being sensitive to nature of lis before it.”

(emphasis supplied)

20. The principles that can be culled from the aforesaid judgments of the Supreme Court are that, **firstly**, where the deceased or injured was working in the informal/ unorganised sector and is unable to produce documentary evidence of employment, the Court may undertake a reasonable assessment



of income. Even where the claimant's testimony is supported only by oral evidence, including that of another witness, some degree of reasonable guesswork may be adopted, having regard to the facts and circumstances of the case and the nature of work being performed by the deceased/injured, as observed in *Chandra (supra)*.

21. **Secondly**, where the Insurance Company has neither repudiated the claim nor produced any evidence to the contrary, it becomes incumbent upon the Court to evaluate the testimony of the claimant and other evidence on record. It cannot be ignored that in cases where documentary evidence is unavailable, the Courts have often adopted minimum wages of the appropriate category as a guiding benchmark. However, such a standard cannot be applied inflexibly, as each case involves distinct facts concerning the life and livelihood of the claimant. The Court must remain conscious of the realities of employment in India, particularly within the informal sector.

22. **Thirdly**, earnings in these sectors are often received in cash and, therefore, supporting documents such as bank statements or income tax returns may not be available. Further, employers tend to avoid documentation in cases where the employee are from lower rungs of the employment hierarchy; thus there is lack of documentary compliance unless mandated by a statute. In a labour market where supply often exceeds demand, many individuals are compelled to work without proper documentation merely to sustain themselves and their families.

23. Any assessment by the Court must therefore take into account these broader socio-economic contours of our society. rather than adopting a pedantic or inflexible approach. Reducing the assessments of benchmark



income to formulaic exercise would defeat the object of the MV Act, which is a beneficial legislation and leans towards providing just and reasonable compensation.

24. In this regard, it would be important to note that the observation of the Supreme Court with regards to just compensation. The Constitutional Bench of the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680 emphasised that “*just compensation*” under Section 168 of the Motor Vehicle Act 1988 must rest on fairness, reasonableness and equity, avoiding both windfall gains and inadequate awards. The assessment must be grounded in proven age and income, followed by application of the appropriate multiplier as standardised in ***Sarla Verma v. DTC***, (2009) 6 SCC 121 and affirmed in ***Reshma Kumari v. Madan Mohan***, (2013) 9 SCC 65. The Court stressed pragmatic and uniform computation, including future prospects, to ensure proximity to real loss. Relevant paragraph is extracted as under:

“55. Section 168 of the Act deals with the concept of “just compensation” and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. The conception of “just compensation” has to be viewed through the prism of fairness, reasonableness and non-violation of the principle of equitability. In a case of death, the legal heirs of the claimants cannot expect a windfall. Simultaneously, the compensation granted cannot be an apology for compensation. It



cannot be a pittance. Though the discretion vested in the tribunal is quite wide, yet it is obligatory on the part of the tribunal to be guided by the expression, that is, “just compensation”. The determination has to be on the foundation of evidence brought on record as regards the age and income of the deceased and thereafter the apposite multiplier to be applied. The formula relating to multiplier has been clearly stated in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] and it has been approved in Reshma Kumari [Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826] . The age and income, as stated earlier, have to be established by adducing evidence. The tribunal and the courts have to bear in mind that the basic principle lies in pragmatic computation which is in proximity to reality. It is a well-accepted norm that money cannot substitute a life lost but an effort has to be made for grant of just compensation having uniformity of approach. There has to be a balance between the two extremes, that is, a windfall and the pittance, a bonanza and the modicum. In such an adjudication, the duty of the tribunal and the courts is difficult and hence, an endeavour has been made by this Court for standardisation which in its ambit includes addition of future prospects on the proven income at present. As far as future prospects are concerned, there has been standardisation keeping in view the principle of certainty, stability and consistency. We approve the principle of “standardisation” so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age.”

(emphasis added)

25. The Supreme Court rightly even in *National Insurance Co. Ltd. v.*



Pranay Sethi, (2017) 16 SCC 680, did not give any formulaic approach regarding the assessment of benchmark income.

26. In view of the uncontroverted testimony of **PW1** and **PW3**, the absence of any evidence to contrary from appellant/Insurance Company, and the settled position of law laid down by the Supreme Court in *Chandra (supra)*, *Ramachandrappa (supra)*, *Syed Sadiq (supra)* and, *Nur Ahamad Abdulsab Kanavi (supra)*, this Court finds that the MACT adopted a pragmatic and legally sound approach in assessing the benchmark income of the deceased at *Rs.15,000/-* per month. The determination is neither speculative nor excessive but is founded on the standard of preponderance of probabilities and aligns with the object of the MV Act to award just, fair and reasonable compensation. Therefore, in light of the above discussion, the Court is inclined to accept the justification and assessment provided by the MACT and does not find any reason to displace the same.

27. The appeal is therefore dismissed. Pending applications (if any) are rendered infructuous.

28. *Vide* order dated 24th March 2017, this Court directed that the impugned award would be stayed till the next date of hearing. Further, *vide* order dated 10th July 2017, 50% of the awarded amount was directed to be released in terms of the directions in the impugned award and the balance amount was directed to be deposited in interest bearing fixed deposit in auto renewal mode.

29. It is directed that the balance amount along with accrued interest be released in favour the claimants as per the Scheme given in the impugned award.



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30. Statutory deposit, if any, be refunded to the appellant.
31. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

MARCH 10, 2026/ak/zb