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

\+ MAC.APP. 825/2013 & CM APPL. 1933/2014

SMT RASHMI & ANR .....Appellants

Through: Mr. S N Prashar, Adv.

versus

SH KRISHAN LAL DOGRA & ORS .....Respondents

Through: Mr. Pradeep Gaur, Mr. Amit Gaur & Mr. Kaarrtikey Parashar, Advs. for Respondent No. 2 (National Ins. Co.)

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

<u>O R D E R</u>

% 11.03.2026

1. This appeal has been filed assailing the impugned award dated 7th May 2013, passed by Motor Accident Claims Tribunal-1, New Delhi ('***MACT/Tribunal***'), whereby the MACT has awarded an amount of *Rs. 9,33,987/-,* along with interest @ 7.5% per annum, in favour of the appellants/claimants to be paid by the Insurance Company.

2. The accident occurred on 25th October 2011, when *Mr. Anuj Kumar* was travelling on motorcycle no. DL-6SM-5502, and was hit by an *Indigo Car* bearing no. DL-3C-AF-6519. He fell down and sustained multiple grievous injuries and passed away during treatment on 30th October 2011.

3. *Mr. Pradeep Gaur,* Advocate for Insurance company, has raised an issue with respect to sanctity of Income Tax Returns ('***ITR***') for assessment year 2011-2012 [Financial Year 2010-11] relied upon by *Mr. S N Prashar,*

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Advocate for calculation of benchmark income.

4. *Mr. S N Prashar*, Counsel for the appellants, draws attention to Form 26AS filed for Assessment Year (***'AY'***) 2011-12, which shows that TDS of *Rs. 27,477/-* was deducted and deposited by *M/s Authentic Travels Pvt. Ltd.* in favour of *Mr. Anuj Kumar*, the deceased. This document, however, has been placed through an application bearing no. *CM APPL. 10933/2014* filed for leading additional evidence in this appeal. He correlates this document with Income Tax Return Verification Form for AY 2011-12 filed by the father on behalf of *Mr. Anuj Kumar* to declare gross income of *Rs.4,17,478/- per annum* with net tax payable of *Rs.26,520/-* and noting deposit of TDS of *Rs. 27,477/-,* thereby resulting in a refund of *Rs.957/-*, which *Mr. Prashar* states that the father of deceased received thereafter.

5. Since the accident occurred on 25th October 2011, the deceased must have earned his income in *Financial Year (**'FY'**) 2010-11* from his business, *M/s Space Travels Pvt. Ltd*., of which he was the proprietor.

6. *Mr. Prashar* submits that the MACT did not consider this *ITR of AY 2011-12* on the basis that it had been filed after the death of the deceased and reflected an exaggerated income. The previous return filed by the deceased for *FY 2009-10 (AY 2010-11)* disclosed an income of *Rs.1,61,824/-* on which a tax of *Rs.190/-* was paid. On this basis, income of the deceased was taken at *Rs.1,61,634/-* per annum.

7. Accordingly, *loss of dependency* was calculated, considering *50%* towards *personal and living expenses* and applying a *multiplier* of *11*.

8. Objecting to reliance being placed by appellants on the ITRs for AY 2011-12 and TRACES Certificate, *Mr. Pradeep Gaur*, counsel for the insurance company, states that these documents have not been proved by

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any authority from Income Tax Department and were filed after the death of the deceased. He further contends that reliance by appellants on testimony of **PW3**, the Chartered Accountant, may not be tenable. During cross examination, **PW3** stated that he does not maintain the accounts of the parties, and the balance sheets filed were prepared based on records of accounts submitted to him by the party and maintained by them. He also stated that the books of accounts maintained in the usual course of business were not in his possession. On this basis, *Mr. Gaur* states that testimony of Chartered Accountant cannot be fully relied upon, and it is upto the appellant to prove the ITRs and documents, if they intend to rely upon the same.

9. For this purpose, it would be appropriate if the matter is remanded back to the Tribunal for giving an opportunity to the appellants to prove the said documents through Income Tax authorities or in any other manner. Needless to say, opportunity of rebuttal shall also be provided to the Insurance Company with respect to the evidence that may be led by the appellants before the MACT.

10. As far as other aspects are concerned, the same are required to be duly aligned with principles enunciated in ***Smt*. *Sarla Verma & Ors v. Delhi Transport Corporation & Anr*.** (2009) 5 SCC 121 and ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.*** (2017) 16 SCC 680. Since deceased was *22 years old* on the date of accident, multiplier of *18* ought to be applied; *future prospects* ought to be granted at *40*%, considering that deceased was self-employed, for the purpose of calculating loss of dependency. As regards *loss of consortium,* an amount of *Rs. 40,000/-* each should be granted to the parents of the deceased, i.e., *Rs. 40,000/- X 2*, as the

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deceased is survived by both his parents, who are the claimants herein.

11. Further, *funeral expenses* and *loss of estate* were awarded at *Rs. 10,000/-* each, whereas they ought to have been awarded at *Rs. 15,000/-* under each of these heads.

12. There is no dispute with respect to these components as they are in consonance with the principles laid down in ***Pranay Sethi*** (*supra*).

13. Accordingly, the matter is remanded back to the Tribunal to enable the appellants to lead evidence and for the Tribunal to pass a fresh and recomputed/revised award on the basis of the assessment of evidence and including the amounts noted above in para 10 and 11.

14. List before the MACT on 25th March 2026.

15. Counsels for the parties agree, considering that the accident took place in the year 2011 and the appeal was filed before this Court in 2013, that parties shall not delay the proceedings before the MACT and shall endeavour to conclude the evidence within a period of two months. The MACT shall thereafter return its revised award within a period of one month thereafter.

16. With these observations, the appeal stands disposed of.

17. Pending applications are rendered infructuous.

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

ANISH DAYAL, J

MARCH 11, 2026/sm/bp

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