



2026:DHC:648



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

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Date of decision: 22nd January 2026+ **MAC.APP. 286/2015, CM APPL. 5381/2015, CM APPL. 23214/2017, CM APPL. 23215/2017 & CM APPL. 23216/2017**

THE ORIENTAL INSURANCE CO LTD

.....Appellant

Through: Mr. A.K. Soni, Adv. (through VC).

versus

SUSHMA DEVI & ORS

.....Respondents

Through: Mr. Nimish Chib, Mr. Vartul Vishnoi,
Advs. (through VC).**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J: (ORAL)**

1. This appeal has been filed challenging the impugned Award dated 3rd January 2015 passed by the Motor Accident Claims Tribunal ('**MACT**') Patiala House Courts, New Delhi in Suit No.282/2014 titled as Smt. Sushma Devi & Ors. Vs. Sh. Shakeen & Ors, whereby compensation of Rs.37,04,000/- was awarded along with interest at the rate of 9% per annum.
2. The appeal has been filed by the Insurance Company seeking modification of the award on the following grounds:



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- I. Benchmark income for compensation was assessed at Rs.2,90,000/- per annum, based on Income-tax Returns (*ITR*) of years 2009-2010, whereas the accident occurred on 12th May 2013. *Mr. A.K. Soni*, therefore, contends on behalf of Insurance Company, considering that there was no other ITR produced nor any other proof of the engagement of the deceased as a Contractor for the Central Public Works Department (*'CPWD'*), as claimed by wife of deceased, the income should have been calculated based on *minimum wages* for a matriculate at Rs.9,386/- per month.
- II. *Mr. A.K. Soni* further states that the modification under other heads of compensation must be made keeping into account the principles in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680. Considering that the deceased was 45 years of age on the date of accident and was self-employed, *future prospects* ought to have been taken as 25% instead of 30% as awarded, the *loss of consortium* awarded at Rs.50,000/- should be Rs.40,000/- as per *Pranay Sethi (supra)* for the four family members (i.e., *the wife, two children and mother*) being a cumulative of Rs.1,60,000/-, *loss of estate* ought to be Rs.15,000/- as opposed to Rs.10,000/- awarded and *funeral expenses* at Rs.15,000/- as opposed to Rs.25,000/- awarded; further, Rs. 1,00,000/- towards *loss of love and affection* should not be awarded has been subsumed in *loss of consortium* as per *United India Insurance Co. Ltd. v. Satinder Kaur*, (2021) 11



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3. Counsel for respondent nos. 1-3 has no cavil with the components which to be adjusted based on *Pranay Sethi* (*supra*), however, as regards the issue of benchmark income, he states that the subsequent ITRs were persuasive indication of the amount of income that the deceased generated as a self-employed contractor for the CPWD. There was no reason to disbelieve that he would have not earned income in the subsequent years, even though the ITRs were not produced by the wife, who was illiterate.

4. In the opinion of this Court, there is merit in the submission of counsel for respondent nos. 1-3, considering that any respected self-employed person would endeavour to sustain, and even increase his income within the scope of self-employment, particularly since he was a Contractor with CPWD; there was no reason that his income would have dried up in the subsequent years till 2013.

5. The Court is, therefore, of the opinion that the presumption as considered by MACT in *paragraph no.20* of the Award, in the terms as extracted below is sustainable:

“Copy of the ITR for the assessment year 2009-2010 is Ex.PWI/1 as per which the gross total income of the deceased was Rs.3,00,369/- on which tax of Rs.10,882/- was payable. It is settled law that the actual income to be taken is the income after the deduction of income tax. The learned counsel for the insurance company had argued that no proof of income had been produced and as such the income of the deceased should be computed on the basis of minimum wages. It is true that no witness has been produced to



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prove the ITR but there is nothing to doubt the same. Accordingly the Income of the deceased for the computation of loss of dependency is taken as Rs.2,90,000/- p.a. (approximately).”

6. Accordingly, the compensation is recomputed as under:

S. No.	Heads of Compensation	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased Per Annum (A)	Rs.2,90,000/-	Rs.2,90,000/-
2	Add Future Prospects (B) 25%	Rs. 87,000/-	Rs. 72,500/-
3	Less Personal expenses of the deceased (C) 1/3 rd	Rs. 1,25,666/-	Rs. 1,20,833/-
4	Annual loss of dependency (D= A+B-C)	Rs.2,51,334/-	Rs.2,41,667/-
5	Multiplier (E)	14	14
6	Total loss of dependency (Dx12xE = F)	Rs.35,18,676/-	Rs.33,83,338/-
7	Medical expenses (G)	-	-
8	Compensation for loss of consortium (H)	Rs.50,000/-	Rs. 1,60,000/- (Rs. 40,000X4)
9	Compensation for loss of love and affection (I)	Rs. 1,00,000/-	Nil
10	Compensation for loss of estate (J)	Rs. 10,000/-	Rs. 15,000/-
11	Compensation towards funeral expenses (K)	Rs.25,000/-	Rs. 15,000/-
12	Total compensation (F+G+H+I+J+K = L)	Rs.37,03,676/-	Rs.35,73,338/-
13	Rate of Interest Awarded	9%	9%

7. *Vide* order dated 23rd March 2015 this Court had directed appellant to deposit 70% of the award amount along with proportionate interest in UCO



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Bank, Delhi High Court Branch, New Delhi in terms of impugned award. Further, it was directed that the deposited amount shall be proportionately released in favour of claimants in terms of the impugned award.

8. It is directed that balance amount as recalculated above be deposited with the Registry of this Court within a period of four weeks and same be released to the claimants in terms of the impugned award.

9. Statutory deposit be refunded to the appellant.

10. Appeal stands disposed of with above directions. Pending application are rendered infructuous.

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

ANISH DAYAL, J

JANUARY 22, 2026/ak/zb