



2026:DHC:2021



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

% ***Date of decision: 11th March 2026***

(3)

+ **MAC.APP. 982/2013**

ORIENTAL INSURANCE CO. LTD

.....Appellant

Through: Mr. Pankaj Seth, Ms. Shruti Jain,
Advocates.

versus

FUL KUWAR DEVI & ORS

....Respondents

Through: Mr. Manish Maini, Ms. Anjali
Singh, Advocates for Respondent
Nos.1-5.

(4)

+ **MAC.APP. 336/2014**

FUL KUWAR DEVI & ORS

.....Appellant

Through: Mr. Manish Maini, Ms. Anjali
Singh, Advocates.

versus

ORIENTAL INSURANCE COMPANY LTD

....Respondent

Through: Mr. Pankaj Seth, Ms. Shruti Jain,
Advocates.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. These cross-appeals have been filed in respect of impugned award dated 31st August 2013 passed by the Motor Accident Claims Tribunal



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[‘**MACT**’], Karkardooma Courts, New Delhi (hereinafter, ‘**Tribunal**’) in MACT No. 83/2011 whereby compensation of Rs. 5,80,392/- along with interest at the rate of 7.5% per annum was granted. While the Insurance Company has filed **MAC.APP. 982/2013** seeking modification in impugned award, the claimants have filed **MAC.APP.336/2014** for enhancement of impugned award.

2. On 19th October 2010 at about 08:05 P.M., *Pappu Pal* (hereinafter, ‘**deceased**’) was travelling in *Tata truck* bearing registration no. DL-1M-3464, when he reached near *Ghazipur Toll Tax* at NH-24, the driver of the offending *Canter* bearing registration no.DL-1LG-6919 driven in a rash and negligent manner hit the *Tata truck*, as a result of which the deceased sustained injuries. He was taken to LBS Hospital where he was declared as brought dead. Claim petition was filed on behalf of claimants *i.e.* parents, two brothers and sister of the deceased. Deceased was 20 years of age on the date of accident and was working as a helper/conductor on the *Tata truck*.

3. The Tribunal had calculated the benchmark income on the basis of minimum wages of an unskilled worker prevalent at that time, considering that no evidence was placed on record as regards to the vocation of deceased. *Mr. Manish Maini*, counsel for claimants has argued that it should be taken as that of a skilled worker, considering that the deceased was doing a private job of a conductor and helper in the same truck. However, this Court is not inclined to accept this argument since the deceased was working only as a helper in the truck and the appellation of a ‘*skilled worker*’ may not apply to him.



4. Future prospects have been granted at 30%. However, the same ought to be granted at 40% in view of the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680. Relevant observation of the Supreme Court in ***Pranay Sethi*** (*supra*) is extracted as under:

“59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”

(emphasis added)

5. Multiplier of ‘13’ was applied in view of the age of mother of deceased (46 years), however, it should be taken as ‘18’ in terms of the principles of ***Pranay Sethi*** (*supra*) and ***Sarla Verma v. DTC***, (2009) 6 SCC 121, considering that the deceased was 20 years old at the time of accident.

6. *Personal and living expenses* have been deducted at 50%, since he was a bachelor. In this respect, *Mr. Manish Maini* states that it was a family of meagre income and he was survived by his parents, two younger brothers and one younger sister, therefore, the deduction ought to be 1/3rd. For this, he has relied upon the decision of Supreme Court in ***Magma General Insurance Co. Ltd. v. Nanu Ram***, (2018) 18 SCC 130 in particular, *paragraph no. 16*, which is extracted as under:

“16. With respect to the issue of deduction from the



income of the deceased, the Insurance Company contended that the deduction ought to have been $\frac{1}{2}$, and not $\frac{1}{3}$ rd, since the deceased was a bachelor. This issue has been dealt with in para 32 of the judgment in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] wherein this Court took the view that where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third, as contribution to the family will be taken as two-third. Considering that the deceased was living in a village, where he was residing with his aged father who was about 65 years old, and Respondent 2, an unmarried sister, the High Court correctly considered them to be dependants of the deceased, and made a deduction of $\frac{1}{3}$ rd towards personal expenses of the deceased. The judgment of the High Court is, therefore, affirmed on this count.

(emphasis added)

7. Mr. Manish Maini, therefore, states that it is a similar situation and, therefore, deference must be made to the opinion of Supreme Court in this respect. Mr. Pankaj Seth, counsel for appellant/Insurance Company, however raises an objection on account that, as opposed to the facts in **Nanu Ram** (*supra*), where the father was 65 years of age and there was an unmarried sister; in this case, the father and mother of deceased, at the time of filing the claim petition were of 45 and 40 years, respectively, with the other three children being minor in age of 14, 12 and 10 years and therefore, would have been taken care of by the earning member of the family.



8. *Mr. Seth*, therefore, states that the case is not similar to ***Nanu Ram*** (*supra*) and, therefore, *personal and living expenses* ought to be taken at 50% only.
9. Accounting for the submissions by *Mr. Maini*, would introduce unnecessary subjectivity in what has been largely standardized by the Supreme Court. In the opinion of this Court, the parameters which have been provided by ***Sarla Verma*** (*supra*) and further, endorsed by ***Pranay Sethi*** (*supra*) may continue to be applied without introducing further subjectivity into it. Accordingly, deduction towards *personal and living expenses* will be taken as 50%.
10. *Loss of affection* will be reduced from Rs.25,000/- to Nil in view of ***United India Insurance Company Limited vs. Satinder Kaur Alias Satwinder Kaur and Others*** (2021) 11 SCC 780 as this head has been subsumed under loss of consortium. Relevant observations of the Supreme Court are as under:

“34. At this stage, we consider it necessary to provide uniformity with respect to the grant of consortium, and loss of love and affection. Several Tribunals and the High Courts have been awarding compensation for both loss of consortium and loss of love and affection. The Constitution Bench in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] , has recognised only three conventional heads under which compensation can be awarded viz. loss of estate, loss of consortium and funeral expenses. In Magma General [Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130 : (2019) 3 SCC (Civ) 146 : (2019) 3 SCC (Cri) 153], this Court gave a comprehensive interpretation to consortium to include



spousal consortium, parental consortium, as well as filial consortium. Loss of love and affection is comprehended in loss of consortium.

35. The Tribunals and the High Courts are directed to award compensation for loss of consortium, which is a legitimate conventional head. There is no justification to award compensation towards loss of love and affection as a separate head.

(emphasis added)

11. Other alignments with respect to *Loss of estate, funeral expenses* shall be according to ***Pranay Sethi*** (*supra*) and will therefore be increased from Rs.10,000/- to Rs.15,000/-. Relevant observations in this regard are extracted as under:

“59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

12. *Loss of consortium* has not been granted. Since there are five family members, *loss of consortium* would be granted at Rs.2,00,000/- (40,000 × 5) in view of ***Pranay Sethi*** (*supra*).

13. Revised computation is as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A)	Rs.5278/-	Rs.5278/-
2	Add: Future Prospects (B)	Rs.1584 /-	Rs.2113/-
3	Less: Personal expenses of deceased (C)	Rs.3432/-	Rs.3,696/-
4	Loss of dependency (A+B)-C=D	Rs.3432/-	Rs.3,696/-



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5	Annual loss of dependency (Dx12) = (E)	Rs.41,184/-	Rs.44,340/-
6	Multiplier (F)	13	18
7	Total loss of dependency (E x F)= (G)	Rs.5,35,392/-	Rs.7,98,120/-
8	Compensation for loss of consortium (H)	Nil	Rs.2,00,000/-
9	Compensation for loss of love and affection (I)	Rs.25,00/-	Nil
10	Compensation for loss of estate (J)	Rs.10,000/-	Rs.15,000/-
11	Compensation towards funeral expenses (K)	Rs.10,000/-	Rs.15,000/-
12	Total compensation (G+H+I+J+K)= L	Rs.5,58,392/-	Rs.10,28,120/-
13	Rate of Interest Awarded	7.5%	7.5%

14. By order dated 30th October 2013, this Court had directed the Insurance Company to deposit entire awarded amount along with accrued interest with the Registrar General of this Court and further, directed release of 80% of awarded amount in favour of claimants. Rest of the amount has been retained in UCO Bank, Delhi High Court Branch in the form of a fixed deposit receipt (**'FDR'**).

15. Accordingly, the enhanced amount along with interest at the rate of 7.5% from the date of filing of petition be deposited before the Registrar General of this Court within a period of four weeks.

16. Thereafter, balance 20% amount along with enhanced compensation will be released in favour of the claimants in terms of the scheme of impugned award.

17. Appeal stands disposed of in above terms.

18. Pending applications, if any, are rendered infructuous.



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19. Statutory deposit, if any, be refunded to Insurance Company.
20. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

MARCH 11, 2026/ak/sp