



2026:DHC:2238



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 17th March 2026*+ MAC.APP. 793/2018 & CM APPL. 35938/2018

NATIONAL INSURNACE CO LTDAppellant

Through: Mr. Zorawar Singh, Mr. Jayant
Rastogi, Advocates.

versus

LAXMI BISHT & ORSRespondents

Through: Mr. Diwan Singh Chauhan,
Advocate.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the Insurance Company assailing the Award dated 9th July 2018 passed by the Motor Accident Claims Tribunal, Shahdara District, Karkardooma Courts, Delhi [**MACT**] in *MACP No.1157/2016*, whereby compensation of Rs.48,96,000/- along with interest at the rate of 9% per annum was granted.

2. On 9th June 2013, *Balwant Singh Bisht (deceased)* was riding his motorcycle from *Dilshad Garden* towards *Ghaziabad* when a bus bearing number *UP-15AT-4990* [**offending vehicle**] struck his motorcycle, causing fatal injuries which resulted in his demise. A criminal case being **FIR No.744/2013** under Section 279/338/304A/427 of the Indian Penal Code 1860, was registered against the driver [*respondent no.3 herein*] of the offending vehicle and a chargesheet was filed against him. The offending



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vehicle was insured by the appellant/Insurance Company. *Balwant Singh Bisht (deceased)* was aged about 26 years and was a *bachelor* at the time of the accident. He was working as a ‘*Lecturer*’ with Lovely Professional University and was drawing a salary of *Rs.30,435/-* per month.

Analysis

3. *Mr. Jayant Rastogi*, counsel for appellant/Insurance Company, assails the award on two main grounds: ***firstly***, that there was no concrete proof of the accident having occurred and it was the duty of the claimants [*respondent no.1 & 2 herein*] to prove negligence of driver/respondent no.3 of the offending vehicle. He places his reliance on the Supreme Court’s decision in ***Oriental Insurance Co. Ltd. Vs. Meena Variyal & Ors.*** 2007 (5) SCC 428.

4. As per as counsel for appellant, the MACT has solely relied upon the testimony of the Investigating Officer (‘***I.O.***’) *S.I Vimal Kumar [PW-3]*. In the cross-examination, he stated that he could not say whether the accident occurred due to the negligence of the driver. Further, there was no eyewitness to the accident.

5. Counsel for respondent/claimants countered this by stating that the MACT was not bound by strict rules of evidence and that the proceedings before the MACT are in the nature of an inquiry based on a finding of negligence on the touchstone of *preponderance of probabilities*.

6. The Court has perused the documents on record, in particular, the testimony of **PW-3**. He categorically states that, “*during investigation, he had found that an accident had taken place in which motorcyclist was hit from behind by the bus. The offending vehicle was found on the spot and its driver had already fled leaving the bus unattended*”. He further stated that the “*motorcycle was found under the front wheel of the bus and the driver*



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was arrested later on, who was subsequently charge sheeted”. He had filed a copy of the chargesheet as **Exhibit PW3/2** and prepared the site plan, which was exhibited as **Exhibit PW3/3**. He stated that the motorcyclist was on his correct *left-hand side* and that the accident had taken place due to the rash and negligent driving of the driver of the bus in question.

7. In cross examination, **PW-3** stated he “*could not remember who had given the information about the accident and that no witness was available*”. He denied the suggestion that he had falsely implicated the driver. The portion of the cross examination on which the counsel for appellant relies is merely a denial of the suggestion whether the accident had occurred due to the negligence of the driver of the offending bus or the driver of the motorcycle. The MACT, in its Award, assessed this as part of *Issue No.1* [“*Whether Balwant Singh Bisht suffered fatal injuries in the accident occurred on 09/06/2013 due to rash and negligent driving of vehicle no. UP-15-AT-4990 (Tata Bus) being driven by respondent no.1? OPP*”], and noted the existence of the criminal proceedings.

8. The MACT noted the testimony of the **PW-3** to the extent that he had deposed that the owner [*respondent no.4 herein*] of the offending vehicle disclosed that the driver/respondent no.3 in question was driving the vehicle at the time of the accident and that the fact of his having been charge sheeted was not disputed. The driver/respondent no.3 chose not to contest the case to support the plea of false implication. There is nothing else on record to support the plea of the appellant/ Insurance Company that negligence was not proved.

9. The Supreme Court has consistently held that negligence in motor accident claims is to be assessed on the touchstone of *preponderance of*



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probabilities and not proof beyond reasonable doubt. Relevant decisions are mentioned below:

1. ***Bimla Devi & Ors. v. Himachal Road Transport Corporation & Ors.***
(2009) 13 SCC 530:

“11. While dealing with a claim petition in terms of Section 166 of the Motor Vehicles Act, 1988, a Tribunal stricto sensu is not bound by the pleadings of the parties; its function being to determine the amount of fair compensation in the event an accident has taken place by reason of negligence of that driver of a motor vehicle. It is true that occurrence of an accident having regard to the provisions contained in Section 166 of the Act is a sine qua non for entertaining a claim petition but that would not mean that despite evidence to the effect that death of the claimant's predecessor had taken place by reason of an accident caused by a motor vehicle, the same would be ignored only on the basis of a post mortem report vis-à-vis the averments made in a claim petition.

.....
13. The learned Tribunal, in our opinion, has rightly proceeded on the basis that apparently there was absolutely no reason to falsely implicate the respondent Nos.2 and 3. Claimant was not at the place of occurrence. She, therefore, might not be aware of the details as to how the accident took place but the fact that the First Information Report had been lodged in relation to an accident could not have been ignored.

14. Some discrepancies in the evidences of the claimant's witnesses might have occurred but the core question before the Tribunal and consequently before the High Court was as to whether the bus in question was involved in the accident or not. For the purpose of determining the said issue, the Court was required to apply the principle underlying burden of proof in terms of the provisions of Section 106 of the Indian Evidence Act as to whether a dead body wrapped in a blanket had



been found at the spot at such an early hour, which was required to be proved by the respondent Nos.2 and 3.

15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.

16. The judgment of the High Court to a great extent is based on conjectures and surmises. While holding that the police might have implicated the respondents, no reason has been assigned in support thereof. No material brought on record has been referred to for the said purpose.”

(emphasis added)

2. *Dulcina Fernandes v. Joaquim Xavier Cruz* (2013) 10 SCC 646:

“7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pick-up van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probability and certainly not on the basis of proof beyond reasonable doubt. [Bimla Devi & Ors. Vs. Himachal RTC (2009) 13 SCC 530].

(emphasis added)

3. *Mangla Ram v. Oriental Insurance Company Ltd. & Ors.* (2018) 5 SCC 656:

“24. It will be useful to advert to the dictum in *N.K.V. Bros. (P) Ltd. Vs. M. Karumai Ammal and Ors.* 16, wherein it was contended by the vehicle owner that the criminal case in relation to the accident had ended in acquittal and for which reason the claim under the



Motor Vehicles Act ought to be rejected. This Court negated the said argument by observing that the nature of proof required to establish culpable rashness, punishable under the IPC, is more stringent than negligence sufficient under the law of tort to create liability. The observation made in paragraph 3 of the judgment would throw some light as to what should be the approach of the Tribunal in motor accident cases.

The same reads thus:

“3. Road accidents are one of the top killers in our country, specially when truck and bus drivers operate nocturnally. This proverbial recklessness often persuades the courts, as has been observed by us earlier in other cases, to draw an initial presumption in several cases based on the doctrine of *res ipsa loquitur*. Accidents Tribunals must take special care to see that innocent victims do not suffer and drivers and owners do not escape liability merely because of some doubt here or some obscurity there. Save in plain cases, culpability must be inferred from the circumstances where it is fairly reasonable.

The court should not succumb to niceties, technicalities and mystic maybes. We are emphasizing this aspect because we are often distressed by transport operators getting away with it thanks to judicial laxity, despite the fact that they do not exercise sufficient disciplinary control over the drivers in the matter of careful driving. The heavy economic impact of culpable driving of public transport must bring owner and driver to their responsibility to their neighbour. Indeed, the State must seriously consider no fault liability by legislation.

A second aspect which pains us is the inadequacy of the compensation or undue parsimony practised by tribunals.

We must remember that judicial tribunals are State organs and Article 41 of the Constitution lays the jurisprudential foundation for State relief against



accidental disablement of citizens. There is no justification for niggardliness in compensation. A third factor which is harrowing is the enormous delay in disposal of accident cases resulting in compensation, even if awarded, being postponed by several years. The States must appoint sufficient number of tribunals and the High Courts should insist upon quick disposals so that the trauma and tragedy already sustained may not be magnified by the injustice of delayed justice. Many States are unjustly indifferent in this regard.”

.....
27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 & 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646, noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the Tribunal.”

(emphasis added)



4. **Sunita & Ors. v. Rajasthan State Road Transport Corporation (SRTC) & Ors.** (2020) 13 SCC 486:

“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.”

(emphasis added)

5. **Anita Sharma & Ors. v. New India Assurance Company Ltd. & Anr.** (2021) 1 SCC 171:

“21. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eye-witnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true.”

(emphasis added)

10. In view of the same, the Court is not inclined to upset the finding of the MACT in this regard.



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11. **Secondly**, counsel for appellant/Insurance Company further contends that that the benchmark income assessed by the MACT is erroneous on the ground that it has included an increment of Rs.4,200/- w.e.f. 1st August 2013, whereas the accident took place on 9th June 2013. In this regard, the MACT's assessment in *paragraph 7.4* of the Award deserves consideration. For ease of reference, said paragraph is extracted as under:

“7.4. Determination of Income of deceased/injured: After deciding the age and multiplier, the income of the deceased has to be determined. The deceased was a lecturer with Lovely Professional University and PW2 has proved his salary slip for the month of May, 2013, as per which, he was drawing a salary of Rs.30,435/- pm including Laptop Allowance of Rs. 335/-. PW2 has also proved the job documents of deceased Ex.PW2/2 to Ex.PW2/7 to prove the job record. Document Ex,PW2/6 has proved that the deceased was likely to receive his assured increment of Rs.4200/- w.e.f 01/08/2013 which is also liable to be included. Though it was discretion of management, yet there is no record that it was not likely to be granted. As such, it is considered and to be added to his income. Form 16 of deceased which is EX.PW2/7 has proved that the annual income of the deceased was Rs. 3,56,905/- per annum after deducting the conveyance allowance of Rs. 9600/- per annum for the financial years 2012-2013. However, an amount of Rs. 4200/- pm has to be added to the salary of the deceased in view of his assured increment and his net salary comes to Rs. 34,300/- pm. Annual income comes to Rs. 4,07,305/- per annum after deducting his conveyance allowance. The income of the deceased was covered under 10% income tax slab and 10% earning of the deceased has to -be deducted towards, his tax liability after deduction of standard exempted earning of Rs. 2,00,000/- per annum. The total tax liability of deceased Comes to Rs 25680/- which is to be deducted out of his earning. As such, annual income comes to Rs.3,81,625/-per annum.”



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12. The MACT relied upon the document **Exhibit PW2/6**, which was proved by **PW-2**, a summoned witness and an official [*Senior Accountant*] of the Lovely Professional University, wherein *Late Balwant Singh Bisht* was working as a '*Lecturer*'. **PW-2** denied the suggestion that this document was false and fabricated. No suggestion was put to **PW-2** to counter the issue of the increment. For ease of reference, said document, **Exhibit PW2/6**, is extracted as under:

Annex - 27

 **LOVELY
PROFESSIONAL
UNIVERSITY**
Transforming Education Transforming India

LPU/REG/EC/140311/003/01/04
11th March, 2014

TO WHOM IT MAY CONCERN

The present performance appraisal system for teaching staff is based on various parameters like Teaching, learning and Evaluation related activities, Co-curricular and professional development related activities, Research and academic contribution, Pass percentage, Monthly appraisals and Class room inspections by heads and such other parameters as decided by the University from time to time.

The increments are awarded on the basis of performance on aforesaid parameters with weight ages as stipulated by the University from time to time.

With reference to Mr. Balwant Singh Bisht (UID-13942) who joined Lovely Professional University as a lecturer in Chemistry on 4-9-2009 at a gross salary of Rs.25000/-, the following increments had been granted:

- Rs 1000/- (rupee one thousand) w.e.f 1st February, 2011 enhancing his gross salary to Rs 26,000/- (rupees twenty six thousand)
- Rs 2600/- (rupee two thousand six hundred) w.e.f. 1st February, 2012 enhancing his gross salary to Rs 28,600/- (rupees twenty eight thousand six hundred)
- Rs 1500/- (rupee one thousand five hundred) w.e.f. 1st August, 2012 enhancing his gross salary to Rs 30,100/- (rupees thirty thousand one hundred)

Deceased Mr. Balwant Singh Bisht would had been entitled to an increment of Rs 4200/- (rupee four thousand five hundred) w.e.f. 1st August, 2013 enhancing his gross salary to Rs 34,300/- (rupees thirty four thousand three hundred)


(Mr. Manish Gupta)
Deputy Registrar

Manish Gupta
Deputy Registrar
Lovely Professional University
Phagwara (Punjab)

Ext PW/6
JUDGE
12/3/2014

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Jalandhar-Delhi G.T. Road (NH-1), Phagwara, Punjab (India)-144411
Ph : +91-1824-501274 (M) +91-9815766677, 9876740030 Fax : +91-1824-509425
E-mail : dl@lpu.co.in website : www.lpu.in

Signature Not Verified

Digitally Signed
By: MANISH KUMAR
Signing Date: 24.03.2026
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13. In this respect, the issue arises that whether the principle of considering benchmark income is based on the actual income which the deceased was earning at the date of accident. In this regard, counsel for appellant relies upon the Constitution Bench judgment in **National Insurance Co. Ltd. v. Pranay Sethi** (2017) 16 SCC 680. Relevant paragraph relied upon is *paragraph 31*, which is extracted as under:

“31. Though we have devoted some space in analysing the precedential value of the judgments, that is not the thrust of the controversy. We are required to keenly dwell upon the heart of the issue that emerges for consideration. The seminal controversy before us relates to the issue where the deceased was self-employed or was a person on fixed salary without provision for annual increment, etc., what should be the addition as regards the future prospects. In Sarla Verma [Sarala Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002], the Court has made it as a rule that 50% of actual salary could be added if the deceased had a permanent job and if the age of the deceased is between 40-50 years and no addition to be made if the deceased was more than 50 years. It is further ruled that where deceased was self-employed or had a fixed salary (without provision for annual increment, etc.) the courts will usually take only the actual income at the time of death and the departure is permissible only in rare and exceptional cases involving special circumstances.”

(emphasis added)

14. Counsel for respondent, however, points out that the document **Exhibit PW2/6**, which stood proved by **PW-2**, specifically stated that periodic increments were being granted and that the deceased was assured an increment w.e.f. 1st August 2013 of Rs.4,200/-. Therefore, he contends that benchmark income ought to take that into account as an exceptional situation



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since the increment was only two months away and the employer, of Lovely Professional University, had confirmed that his entitlement was in order.

15. In this regard, counsel for respondent draws attention to the sentence emphasized in extract above in *paragraph 13* from the Constitution Bench judgement in ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*), wherein the Supreme Court noted that the rationale was derived from the principle stated in ***Sarla Verma v. DTC*** (2009) 6 SCC 121.

16. In the present case, the increment of Rs.4,200/- w.e.f. 1st August 2013 stood duly established on record through **Exhibit PW2/6** proved by **PW-2**, an official witness from the employer institution, who confirmed that the deceased was entitled to periodic increments in the ordinary course of service and that the said increment had already been assured prior to the accident. The effective date of increment being barely two months after the accident and the entitlement thereto remaining unchallenged in cross-examination, the same cannot be treated as a speculative future advancement but constituted a definite and ascertainable component of income. The present case therefore falls within the category of “*rare and exceptional cases involving special circumstances*” contemplated in ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*), where departure from strict reliance on income as on the date of accident is permissible. In that context, the beneficial nature of the Motor Vehicles Act, as noticed in the decisions referred to hereafter, further supports adoption of an interpretation which ensures award of *just compensation*.

17. The Motor Vehicles Act is a “*beneficial*” legislation enacted with the primary objective of providing a statutory framework for awarding compensation to victims of motor vehicle accidents or to their family members who are rendered helpless and disadvantaged due to the untimely



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death or injury of a family member, provided the claim is found to be genuine. There is a catena of judgments which have consistently held that the Motor Vehicles Act is a “*beneficial piece of legislation*”. Reference in this regard may be drawn to the judgment of the Supreme Court in ***Helen C. Rebello (Mrs.) & Ors. v. Maharashtra State Road Transport Corporation & Anr.*** (1999) 1 SCC 90, which held as under:

“36. As we have observed, the whole scheme of the Act, in relation to the payment of compensation to the claimant, is a beneficial legislation. The intention of the legislature is made more clear by the change of language from what was in the Fatal Accidents Act, 1855 and what is brought under Section 110-B of the 1939 Act. This is also visible through the provision of Section 168(1) under the Motor Vehicles Act, 1988 and Section 92-A of the 1939 Act which fixes the liability on the owner of the vehicle even on no fault. It provides that where the death or permanent disablement of any person has resulted from an accident in spite of no fault of the owner of the vehicle, an amount of compensation fixed therein is payable to the claimant by such owner of the vehicle. Section 92-B ensures that the claim for compensation under Section 92-A is in addition to any other right to claim compensation in respect whereof (sic thereof) under any other provision of this Act or of any other law for the time being in force. This clearly indicates the intention of the legislature which is conferring larger benefit on the claimant. Interpretation of such beneficial legislation is also well settled. Whenever there be two possible interpretations in such statute, then the one which subserves the object of legislation, viz., benefit to the subject should be accepted. In the present case, two interpretations have been given of this statute, evidenced by two distinct sets of decisions of the various High Courts. We have no hesitation to conclude that the set of decisions, which applied the principle of no deduction of the life insurance amount, should be accepted and the other set,



which interpreted to deduct, is to be rejected. For all these considerations, we have no hesitation to hold that such High Courts were wrong in deducting the amount paid or payable under the life insurance by giving a restricted meaning to the provisions of the Motor Vehicles Act basing mostly on the language of English statutes and not taking into consideration the changed language and intents of the legislature under various provisions of the Motor Vehicles Act, 1939.”
(emphasis added)

18. Moreover, the Supreme Court in the case of ***Ningamma v. United India Insurance Co. Ltd.*** (2009) 13 SCC 710, has also held that the Court is duty-bound to award “*just compensation*”, even if the same has not been specifically pleaded by the claimant. Relevant part of the judgment is extracted as under:

“25.....Needless to say, the MVA is beneficial and welfare legislation. In fact, the court is duty bound and entitled to award “Just Compensation” irrespective of the fact whether any plea in that behalf was raised by the claimant or not.....”

(emphasis added)

19. Further, the Supreme Court in paragraph 19 of ***Parminder Singh v. Honey Goyal and Others*** 2025 INSC 361, held as under:

“19. It is also a fact that substantial amount of compensation in motor accident cases remains deposited in the Tribunal as the claimant(s) may not have approached the Tribunal for release thereof for various reasons. Delay for any reason in release of compensation in motor accident cases by the Tribunal to the claimant(s), where the amount is deposited in Tribunal, as directed, results in loss of interest to the claimant(s). In case the aforesaid process is followed, the gap would be bridged. The real object of the beneficial legislation, namely to compensate for the loss



of earning member of the family or for the injuries suffered by the claimant(s), will be achieved and compensation can be disbursed without any delay.”

(emphasis added)

20. In the present case, the Court is of the opinion that, considering that the *Motor Vehicles Act, 1988* is a “beneficial” legislation and aims to award “just and reasonable compensation”, there is no reason why benchmark income should not include an assured increment which stood confirmed by the employer and which was imminent for the deceased. Depriving him of the assured increment would deprive the dependents of substantial amounts which would have been available to them.

21. This does not overlap with the *loss of future prospects*, which relate to the prospective enhancement of income and is to be computed on the basis of the established income of the deceased at the relevant time. The deceased, aged 26 years, and employed as a ‘Lecturer’ in a university, was on a structured pay scale with regular increments duly proved on record. Therefore, merely because the assured increment is taken into account for determining the benchmark income, the addition towards *future prospects* in terms of *National Insurance Co. Ltd. v. Pranay Sethi (supra)* cannot be denied. This approach is consistent with paragraph 31 of *Pranay Sethi (supra)*, which permits departure from strict reliance on income as on the date of accident in *rare and exceptional cases involving special circumstances*, while paragraphs 59.4 and 61(iv) clarify that addition towards *future prospects* remains a distinct component based on the nature of employment and age of the deceased.

22. Accordingly, the appeal is dismissed.

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



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24. By order dated 20th November 2018, 50% of the awarded amount had been released along with accrued interest. Since the appeal has been dismissed, claimants shall be entitled to full amount of compensation along with accrued interest which have been deposited before the Registry of this Court *vide* order dated 04th September 2018. Same shall be released in favour of claimants within a period of four weeks by the Registry of this Court.

25. It has been mentioned by counsel for claimants/respondent that the father of the deceased, *Mr. Harish Singh Bisht*, passed away on 4th May 2021. Needless to say that whatever amount of compensation, which was apportioned in favour of the father, shall now enure to the benefit of his estate, to which the legitimate successors would be entitled to.

26. Statutory deposit, if any, be refunded to appellant.

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

(ANISH DAYAL)
JUDGE

MARCH 17, 2026/ak/tk