2026:DHC:4551

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

% ***Date of decision: 18th May 2026***

\+ **MAC.APP. 825/2018 & CM APPL. 37714/2018 CM APPL. 62741/2023**

ROYAL SUNDARAM GENERAL INSURANCE CO LTD

.....Appellant

Through: Ms. Suman Bagga, Advocate with Ms. Mouli Sharma, Advocate

versus

SUSHIL KUMAR SACHDEVA & ORS .....Respondent

Through: Mr. Sumit Dutt Dixit, Advocate for R-1 to R-4.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGEMENT

ANISH DAYAL, J:(ORAL)

1. *Ms. Suman Bagga*, counsel appearing on behalf of appellant/Insurance Company, challenges the award of the MACT dated 29th November 2017, on the following grounds:

(i) The benchmark income of the deceased *Sadhna Sachdeva* was taken as *Rs.83,823/- per month,* which was as per the salary slip of July 2015, considering that the accident had occurred on 06th July 2015; whereas counsel for appellant contends that the salary of June 2015 ought to have been taken into account, as per which the salary was *Rs.81,563/-*.

(ii) For calculating the loss of dependency, a deduction of *1/3rd* was made towards personal and living expenses, as there were two sons/dependants, who were 20½ years and 23½ years of age at the date of the accident, but were not financially independent. *Ms. Bagga* states that, even otherwise, the husband of the deceased was also an earning member and was drawing a salary of *Rs.76,458/-* at the time of the accident as an employee of *Indian Bank* and, therefore, the dependency of family cannot be restricted solely on the income of the deceased wife. *Ms. Suman Bagga*, counsel for appellant/Insurance Company, contends that, as regards dependency, the two children were only partially dependent on the deceased and, therefore, 1/2 ought to have been deducted, instead of 1/3rd.

(iii) Transport allowance of *Rs.6,816/-* ought to have been deducted from the gross salary. Further, she contends that transport allowance would have to be excluded, since only the income, which accrued to the personal benefit of deceased, would have to be taken into account. Counsel contends that transport allowance is a component which is not *personal* to the deceased and, therefore, will not be taken into account post his death.

2. *Mr. Sunil Dutt Dixit*, counsel for respondents/claimants, in response to the submissions made by *Ms. Suman Bagga*, counsel for appellant/Insurance Company recorded in the order passed by this Court

on 24th February 2026, has made the following submissions:

(i) MACT had taken the benchmark income of deceased on the basis of income on the date of accident, which was slated as *Rs.83,823/-*, as per the salary slip given for July 2015. Even though the deceased had only served for 6 days in the month of July 2015 before the accident occurred, the salary slip was enough proof to show that this said amount was deceased's *gross pay*.

(ii) On the issue of dependency, he states that both children of the deceased were not working at the time of accident; the younger son, who was about 20 years, had completed his 1st year of Bachelors of Business Administration ('***BBA***') Degree and the elder son, who was about 23 years of age, was looking for a job, even though he had completed his Bachelors of Technology ('***B.Tech.***') Degree. Therefore, he contends that the husband and father-in-law of deceased were not considered as dependants and only the two children were considered as dependants.

(iii) As regards transport allowance, *Mr. Dixit*, counsel for respondents/claimants, has relied upon judgments in ***Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation***, 2018 SCC OnLine SC 193, ***National Insurance Co. Ltd. v. Nalini & Ors.*** 2024 SCC OnLine SC 2252, ***Meenakshi v. Oriental Insurance Co. Ltd.***, 2024 SCC OnLine SC 1872, ***Kavita Devi & Ors. v. Sunil Kumar & Anr.*** 2025 INSC 938 and ***Manorma Sinha***

& Anr. v. The Divisional Manager, Oriental Insurance Company Ltd & Anr. 2025 INSC 1237 to contend that transport allowance forms part of the income of deceased, which was taxable and was therefore, for benefit of the family and should not be deducted from the salary.

(iv) *Mr. Dixit*, counsel for respondents/claimants, further contends that the MACT has already deducted *20%* towards Income Tax and, therefore, amounts which form part of the transport allowance should also be considered as a part of income for the purpose of computation of loss of dependency.

3. Having considered the submissions of counsels for the parties, in the opinion of the Court, the benchmark income taken by the MACT need not be displaced, considering that the salary slip for July 2015 categorically stated the salary to which the deceased was eligible.

4. *Ms. Bagga's* submission that deceased had only worked for 13 days in the month of July 2015 may not be relevant, considering that the salary slip issued by the Office of the District and Sessions Judge clearly mentions the salary for July, which indicates that the deceased was entitled to that salary starting from July 2015.

5. On the issue of *transport allowance,* yet again, the Court is not in agreement with *Ms. Suman Bagga's* assertion, since there are various judgments, as noted above in *paragraph 2 (iii)*, which categorically provide that transport allowance forms part of the income of the deceased.

6. On the third issue of *dependency, Ms. Bagga* has drawn the

attention of the Court to the cross-examination of **PW1** recorded on 02nd May 2016, which notes that her older son, *Kunal Sachdeva,* was working in a private company in Bangalore and was earning Rs. 22,000/-, while his younger son, *Pulkit Sachdeva*, was studying in second year of BBA.

7. Though the accident took place on 06th July 2015, and, as per *Mr. Dixit*, the elder son of the deceased was not working when the accident took place, considering that this evidence has been placed on record a year after the accident, the elder son ought to be considered as contributing to family income.

8. 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 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 (2009) 6 SCC 121 and it has been approved in Reshma Kumari (2013) 9 SCC 65 . 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)

9. Therefore, considering that the Motor Vehicles Act, 1988 has been enacted with the primary object of providing a statutory framework for awarding just and reasonable compensation to victims of motor vehicle

accidents, or to their dependents who are rendered helpless and financially vulnerable due to the untimely death or injury of a family member, the provisions of the Act cannot be permitted to be misused for obtaining undue benefit or making a profit out of a claim.

10. As held by the Supreme Court in ***Sarla Verma v. Delhi Transport Corporation*** (2009) 6 SCC 121, compensation under the Act is intended to be fair, equitable, and not a bonanza. The relevant paragraphs from ***Sarla Verma*** (*supra*) in this regard are extracted as under:

> "***16.*** *Compensation awarded does not become "just compensation" merely because the Tribunal considers it to be just. For example, if on the same or similar facts (say the deceased aged 40 years having annual income of Rs 45,000 leaving his surviving wife and child), one Tribunal awards Rs 10,00,000 another awards Rs 5,00,000, and yet another awards Rs 1,00,000, all believing that the amount is just, it cannot be said that what is awarded in the first case and the last case is just compensation. "Just compensation" is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit.*
>
> (emphasis added)

11. Moreover, since the father was also earning and was not considered a dependent, the question of partial dependency would also arise. However, no legal substantiation has been provided by *Ms. Bagga* in this regard. Nevertheless, the Court is of the view that the deduction towards personal expenses from the benchmark income shall be taken as 1/2 instead of 1/3rd .

12. On the basis of principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi and Ors***. (2017) 16 SCC 680, the following will be altered:

i. *Loss of love and affection* awarded st Rs. 1,00,000/- ought not to be granted on the basis of the principles enunciated in ***United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur and Ors***. (2021) 11 SCC 780;

ii. Loss of consortium will be Rs. 40,000/- x 4 = 1,60,000/- instead of Rs. 40,000/-;

13. Revised compensation, therefore, is as under:

Sr. No.	**Heads**	**Awarded by the Tribunal**	**Awarded by the Court**
1.	Monthly income of the deceased (A)	Rs.83,823/-	Rs.83,823/-
2.	Add-Future Prospects (B)	30% of Rs.83,823/- = 25,146.90/-	30% of Rs.83,823/- = 25,146.90/-
3.	Less-personal expenses of the deceased (C)	1/3 of Rs. 1,08,969.90/- = Rs. 36,323.30/-	1/2 of 1,08,969.90/- = 54,484.95/-
4.	Annual loss of dependency [(A+B) - C] x 12= D]	Rs.8,71,764/-	Rs. 6,53,819.40/- (rounded of to Rs. 6,53,820/-)
5.	Multiplier (E)	13	13
6.	Total loss of dependency (D x E) = (F)	Rs,90,66,343/-	Rs. 84,99,660/-
7.	Compensation for loss of love and affection (G)	Rs. 1,00,000/-	Nil
8.	Compensation for loss of consortium (H)	Rs. 40,000/-	Rs. 1,60,000/-
9.	Compensation for loss of estate (I)	Rs. 15,000/-	Rs. 15,000/-
10.	Compensation towards funeral expenses (J)	Rs. 15,000/-	Rs. 15,000/-
11.	Total Compensation (F+G+H+I+J = K)	Rs. 92,36,343/-	Rs. 86,89,660/-
12.	Interest Awarded	9% per annum	9% per annum
13.	Reduced Compensation	**Rs. 5,46,683/-**	

14. Accordingly, the compensation is reduced by *Rs. 5,46,683/-*.

15. *Vide* order dated 14th September 2018, this Court directed the appellant to deposit 90% of awarded amount, along with accrued interest, with the Registrar General of this Court within four weeks from today.

16. On 18th September 2023, this Court directed release of *60%* of the amount deposited by the appellant.

17. Accordingly, the balance amount of the revised compensation, if any, be deposited by the appellant within 4 weeks with the Registrar General of this Court, along with accrued interest. Upon such deposit, this balance amount be released as a lump sum to the claimants in accordance with the apportionment directed by MACT in the impugned award.

18. Appeal is disposed of. Pending applications (if any) are rendered infructuous.

19. Statutory deposit shall be refunded to appellant/Insurance Company only upon deposit of the enhanced amount along with the accrued interest.

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

(ANISH DAYAL)
JUDGE

MAY 18, 2026/RK/*bp*