



2026:DHC:4333



§~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 12th May 2026.**

%

+ **MAC.APP. 939/2015**

UNITED INDIA INSURANCE CO. LTD.

.....Appellant

Through: Mr. Pankaj Seth, Advocate with
Ms. Shruti Jain, Advocate.

versus

KALPANA PANDEY & ORS.

.....Respondent

Through: Mr. S.N. Parashar, Advocate with
Mr. Ritik Singh, Advocate for
respondent nos. 1 to 3.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT**

%

ANISH DAYAL, J :(ORAL)**CM APPL. 23608/2026 (for early hearing)**

1. This application has been filed by the respondent nos.1-3 seeking early hearing of the appeal.

2. In view of what has been stated in the application, application is allowed and disposed of.

MAC.APP. 939/2015

1. This appeal has been filed by the Insurance Company challenging the award dated 04th August 2015 passed by the Motor Accident Claims Tribunal, Rohini Courts, Delhi (*'MACT/Tribunal'*) in Suit No. 259/2013, awarding compensation of Rs.51,83,640/- along with interest



@9% per annum.

2. *Mr. Pankaj Seth*, counsel for the Insurance Company, raises issue on computation of the compensation on the following counts: **firstly**, that the notional income was taken at Rs.23,463/- per month on the basis of the salary certificate but included all the variable perks which should not have been considered and ought to have been deducted; **secondly**, that the MACT wrongly deducted $1/4^{th}$ towards *personal expenses* instead of $1/3^{rd}$, despite the mother of the deceased having passed away during the pendency of the proceedings (in 2011), leaving behind only three dependents and not four; **thirdly**, that *future prospects* at 50% ought not to have been granted, considering the deceased was in private employment and, therefore, *future prospects* at 40% should be granted as per the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi and Ors.*** (2017) 16 SCC 680; and **lastly**, that other elements of compensation are also required to be aligned in accordance with the principles enunciated in ***Pranay Sethi*** (*supra*).

3. As regards the issue of deduction towards *personal expenses*, *Mr. S. N. Parashar*, counsel for claimants, draws attention of this Court to a decision in ***IIFCO Tokio Gen. Ins. Co. Ltd v. Sh. Anil Kumar Kaushik & Ors*** 2026:DHC:2695, where a similar situation had been dealt with by this Court. Herein also the dependent at the time of the accident was alive, however, subsequently passed away during the pendency of proceedings.

4. This Court relied upon the decision of the Supreme Court in ***Kirti and Another v. Oriental Insurance Company*** (2021) 2 SCC 166, particularly on *paragraph 9*, to hold that the deduction towards *personal*



expenses has to be considered on the basis of the status of the family and the number of dependants on the date of death of the deceased. Relevant paragraph of **Kirti** (*supra*) is extracted as under:

“I. Deduction for personal expenses

9. We have thoughtfully considered the rival submissions. It cannot be disputed that at the time of death, there in fact were four dependants of the deceased and not three. The subsequent death of the deceased's dependant mother ought not to be a reason for reduction of motor accident compensation. Claims and legal liabilities crystallise at the time of the accident itself, and changes post thereto ought not to ordinarily affect pending proceedings. Just like how the appellant claimants cannot rely upon subsequent increases in minimum wages, the respondent insurer too cannot seek benefit of the subsequent death of a dependant during the pendency of legal proceedings. Similarly, any concession in law made in this regard by either counsel would not bind the parties, as it is legally settled that advocates cannot throw away legal rights or enter into arrangements contrary to law.”

(emphasis added)

5. In **Anil Kumar Kaushik** (*supra*), the conclusion drawn is as under:

“19. Calculation of compensation in cases where there is subsequent death of a parent has also been dealt with by the Coordinate Bench of this Court in **Rajwant Kaur v. Rakesh Kumar**, 2025 SCC OnLine Del 3414 where the claim petition was filed by widow, minor children and father of the deceased, who had expired during the pendency of claim proceedings. Placing reliance on the decision of Supreme Court in **Kirti** (*supra*), this Court overturned the findings of the Tribunal to the extent where 1/3rd had been deducted on account of personal and living expenses. Relevant observations of the Court are extracted as under:

“12. In the present case, the deceased was survived by his wife, two minor children, and



his father—who was originally impleaded as a claimant and declared to be wholly dependent in the affidavit (Ex. PW1/A). Although the father of the deceased passed away during the pendency of the claim, dependency at the time of the accident is the relevant consideration for this computation and the fact remains that on the date the cause of action arose there were four claimants.

13. The learned Tribunal failed to appreciate this legal position and thus erred in applying the deduction of one-third instead of one-fourth. The same is liable to be corrected.”

20. In the present case, finding of the Tribunal as regards the issue of dependency is extracted as under:

“22. It was contended by Ld. counsel for the respondent no.3 that the mother of deceased has died during the proceedings and the petitioner is not financially dependent on the deceased, so in view of the law laid down in the case of Saria Verma (Supra), the petitioner is not entitled to compensation towards Loss of Dependency. I do not agree with this contention as at the time of the death of deceased, the mother of the deceased was alive. Even otherwise, he would have contributed to the income of the family. He could be the source of survival for his father at his old age.”

21. In the present case, the claim petition had been filed by mother of deceased, as also the police complaint. While she subsequently passed away during the pendency of the proceedings, the Tribunal has rightly granted loss of dependency, considering that she was alive when the accident took place and her subsequent death would not make a difference and she would be considered a dependent. However, father of deceased



being 40 years of age at the time of accident, would not be a considered to be dependent on his minor son.”

(emphasis added)

6. Considering that this view has already been taken by this Court, the argument of the appellant/Insurance Company, in this regard, cannot be accepted since at the date of the accident, the mother of the deceased was alive.

7. *Mr. Pankaj Seth*, counsel for the appellant, vehemently countered this issue on the ground that the name of the mother of the deceased had been deleted from the array of parties before the MACT and, therefore, neither compensation in her favour nor loss of dependency was considered.

8. On this account, he has contended that, for the purpose of deduction towards *personal expenses*, the mother ought not to be taken into account as a dependent. However, in view of the decisions of the Supreme Court in *Kirti (supra)* and this Court in *Anil Kumar Kaushik (supra)*, the deletion of the mother as a claimant may not affect the assessment of notional income, which has to be made in reference to the date of the accident.

9. Loss of dependency no doubt is calculated on the basis of the notional income, however, it is also noted that no compensation has been granted in the name of the mother of the deceased.

10. The MACT has granted compensation only to the widow and the two children in the ratio of 50:25:25. This was also confirmed by the order of this Court dated 08th February 2016.

11. As regards deduction of allowances, the Court has examined the salary certificate and is inclined to accept the plea of the Insurance



Company, considering that the variable perks under the head of *Oil Incentive, Mobile Allowance, Vehicle Maintenance Allowance, Medical Allowance, and Bonus* are not only classified as “variable” but are also not for the benefit of the family.

12. Therefore, keeping this in mind, these allowances should not have been taken as part of the notional income, and the same shall stand deducted from the notional income. Accordingly, the notional income of the deceased will be **Rs. 20,512/-** per month.

13. As regards the issue of *future prospect*, there is no doubt that the deceased was in private employment, and whether *future prospects* at 50% or 40% are to be considered will depend on the permanency of the job of the deceased.

14. To this effect, *Mr. Parashar* has drawn attention, **firstly**, to the testimony of **PW2**, Manager (Administration), *M/s Svam Power Plants Pvt. Ltd.*, recorded on SA. It was stated that the deceased was serving in the company as Assistant Manager in 2007. His service record, including his salary slips, appointment letter, promotion letter, increment policy, provident fund, and joining letter, had been placed on record.

15. **Secondly**, it was stated in his testimony that every employee of the company was entitled to 50% increase in gross salary as annual increment and that the work of the deceased was satisfactory. It was further stated that the deceased would have been promoted as Senior Manager getting a salary of **Rs. 45,000/-** per month (*gross*) in case he was in service.

16. **Thirdly**, it was stated that the deceased was in service since 2007 prior to the accident.



2026:DHC:4333



17. This Court in the *Uttar Pradesh State Road Transport Corporation v. Rajender Singh and Ors.* 2026:DHC:2693, wherein the Court relying upon salary slips, letter of traineeship, appointment letters, and progressive career plan of the deceased, which shows that the deceased's salary was consistently increasing, and relying on the judgment of High Court of Madhya Pradesh at Jabalpur in *Anjum Ansari v. R. Rajesh Rao* 2024 SCC OnLine MP 9613, held that since the deceased was below 40 years of age and had a fixed income job in a private company, therefore, future prospects should be 50%.

18. In the present case, considering the testimony of **PW2** and the documents placed on record before the Tribunal, it is evident that, had the deceased continued in service, he would have received regular increments. In light of the judgments in *Rajender Singh* (*supra*) and *Anjum Ansari* (*supra*), this Court is of the considered opinion that the Tribunal rightly applied future prospects at 50%.

19. 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* 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. *Funeral expenses* ought to be Rs. 15,000/- instead of Rs. 25,000/-;
 - iii. *Loss of consortium* will be Rs. 40,000/- x 3 = 1,20,000/- instead of Rs. 10,000/-;
 - iv. *Loss of estate* will be Rs. 15,000/-.
20. Revised compensation, therefore, is as under:



2026:DHC:4333



Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court
1.	Monthly income of the deceased (A)	Rs. 23,463/-	Rs. 20,512/-
2.	Add-Future Prospects (B)	50% of Rs. 17,597.25 = Rs. 8,798.63/-*	50% of Rs. 20,512/- = Rs. 30,768/-
3.	Less-personal expenses of the deceased (C)	1/4 th of Rs. 23,463/- = Rs. 5,865.75/-*	1/4 th of Rs. 30,768/- = Rs. 7,692/-
4.	Annual loss of dependency [(A+B) - C] x 12= D]	Rs. 3,15,540/-*	Rs. 2,76,912/-
5.	Multiplier (E)	16	16
6.	Total loss of dependency (D x E) = (F)	Rs. 50,48,640/-	Rs. 44,30,592/-
7.	Compensation for loss of love and affection (G)	Rs. 1,00,000/-	Nil
8.	Compensation for loss of consortium (H)	Rs. 10,000/-	Rs. 1,20,000/-
9.	Compensation for loss of estate (I)	Nil	Rs. 15,000/-
10.	Compensation towards funeral expenses (J)	Rs. 25,000/-	Rs. 15,000/-
11.	Total Compensation (F+G+H+I+J = K)	Rs. 51,83,640/-	Rs. 45,80,592/-
12.	Interest Awarded	9% per annum	9% per annum
13.	Reduced Compensation	Rs. 6,03,048/-	

*These components have been wrongly calculated by the Tribunal, as the Tribunal has inadvertently first reduced the personal expenses and then later added future prospects to them. However, the same has been corrected by this Court in the revised computation.

21. Accordingly, the compensation is reduced by Rs. 6,03,048/-.

22. By order dated 18th December 2015, this Court directed the Insurance Company to deposit the awarded amount with the Registrar General of this Court. Further, direction was passed for release of 50% of the amount in terms of the Award.

23. The balance compensation as per the revised compensation be

Signature Not Verified

Digitally Signed By: RAHUL
KUMAR CHODHARY
Signing Date: 15.05.2026
17:07:38

MAC. APP. 939/2015

Page 8 of 9



2026:DHC:4333



released to the claimants as per the scheme in the impugned award, and the reduced amount be refunded to the Insurance Company, along with accrued interest.

24. Accordingly, the appeal is disposed of. Pending applications are rendered infructuous.

25. Statutory deposit, if any, shall be refunded to the appellant/Insurance Company.

26. Copy of this judgment be sent to the UCO Bank, High Court of Delhi Branch for information and necessary compliance.

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

(ANISH DAYAL)
JUDGE

MAY 12, 2026/RK/bp