



2026:DHC:1509



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

% *Date of decision: 20th February 2026*

(53)

+ **MAC.APP. 901/2015**

RELIANCE GENERAL INSURANCE CO LTDAppellant

Through: Mr. A.K. Soni, Advocate.

versus

MEENAKSHI @ MEENA DEVI & ORSRespondents

Through: Mr. Navneet Goyal, Mr. Netr Pal
Singh, Advocates for R-1 to R-5.

(54)

+ **MAC.APP. 987/2015**

MEENAKSHI @ MEENA DEVI & ORSAppellants

Through: Mr. Navneet Goyal, Mr. Netr Pal
Singh, Advocates.

versus

PAPPU RAM & ORS (RELIANCE GENERAL INSURANCE

CO LTD)Respondents

Through: Mr. A.K. Soni, Advocate for
Insurance Company.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

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1. The appeal [**MAC.APP. 901/2015**] has been filed by the Insurance Company [*appellant herein*] assailing the impugned award dated 31st August 2015 passed by the Motor Accident Claims Tribunal, Karkardooma Courts, Delhi [**“Tribunal”**] in **MACT No.344/2012**. The cross-appeal [**MAC.APP. 987/2015**], has been filed by the Legal Representatives [**‘LRs’**] of the deceased seeking enhancement of compensation. A total compensation of Rs.44,21,648/- was awarded to the LR of deceased/ *Bikram Singh alias Vikram Singh*, pursuant to assessment of claim petition filed under *Section 166* of the Motor Vehicles Act, 1988 [**“MV Act”**].

Incident

2. Accident had occurred on 22nd August 2010 at about 12:15 p.m. when the deceased, driving his *Indica* car bearing registration no. ‘*HR-20X-2319*’, reached near *Village Nathwan, District Fatehabad, Haryana*, where he noticed a tractor moving ahead and, therefore, signalled for side to overtake. The tractor driver gave a hand signal, permitting the same. However, when the deceased brought his car parallel to the tractor, the tractor driver suddenly accelerated. At that moment, a truck bearing registration no. ‘*RJ-07-G-6991*’ [*offending vehicle*], coming from the opposite direction, struck the *Indica* car from the front, resulting in a head on collision, and the *Indica* car was dragged back. The deceased sustained injuries and died on the spot. **FIR No.344/2012** was registered at Police Station *Ratio, District Fatehabad, Haryana*.



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Impugned Award

3. The Tribunal, upon appreciation of the pleadings and evidence on record, concluded that the deceased *Bikram Singh @ Vikram Singh* sustained fatal injuries in the accident dated 22nd August 2012 near *Village Nathwan, District Fatehabad, Haryana*, due to rash and negligent driving of Truck no. *RJ-07-G-6991* by driver [*respondent no.6 herein*]. The finding on negligence was returned primarily on the basis of the testimony of the eye-witness *Parvendra Singh [PW-1]*, who deposed that the truck driver, despite noticing the *Indica* car from a considerable distance, approached at a high speed and collided with it, dragging and crushing the vehicle. The Tribunal also relied upon the criminal record, including the FIR, site plan, mechanical inspection report and post-mortem report, and drew an adverse inference from the failure of the truck driver to enter the witness box.

4. With respect to the income of the deceased, the Tribunal relied upon the salary slip, appointment and employment records, and the testimony of employer witnesses *Mr. Rahesh Kashyap [PW-2]* and *Mr. Shubash Kumar [PW-4]*, along with TDS records, to establish that the deceased was gainfully employed and an income-tax assessee.

Compensation Awarded

5. The Tribunal assessed the age of the deceased at 31 years and applied multiplier '16'. It assessed the monthly income at *Rs.18,503/-* after excluding certain allowances, added 50% towards future prospects,



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and deducted one-fourth towards personal expenses, considering five dependents. The loss of dependency was computed at Rs. 36,96,648/-.

6. In addition, compensation was granted under conventional heads, including- *loss of consortium: Rs.1,00,000/-; loss of love and affection Rs.2,00,000/- (Rs.1,00,000/- to each child); loss of estate: Rs.1,00,000/- funeral expenses: Rs.25,000/-*

7. Total compensation awarded by the Tribunal was Rs.44,21,648/-, with interest @ 9% per annum from the date of filing of the claim petition, payable by the appellant/Insurance Company with penal interest @ 12% for delay beyond 30 days.

8. The compensation awarded by the Tribunal is summarised as under:

S.NO	HEADS	AWARDED BY TRIBUNAL
1.	Loss of Dependency	Rs.39,96,648
2.	Loss of Love and Affection to Children	Rs.2,00,000/-
3.	Funeral Expenses	Rs.25,000/-
4.	Loss of Estate	Rs.1,00,000/-
5.	Loss of Consortium	Rs.1,00,000/-
TOTAL		Rs.42,21,648/-
INTEREST		9%

Analysis

9. Mr. A.K. Soni, counsel for Insurance Company/appellant, has raised issue of liability and without prejudice thereto, of contributory negligence of the deceased, who risked overtaking a tractor despite oncoming traffic. Reliance is primarily placed on the testimony of



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Parvendra Singh [PW-1], eye-witness to the accident, who was driving behind the *Indica* car in his *Alto* car along with two friends. He states that *Bikram Singh* [deceased] was ahead of him at a distance of about 200-225 meters and was driving his *Indica* car at a slow speed while observing traffic rules.

10. When he reached near *DAV School, Nathwan, Haryana*, he found that a tractor was being driven in a zigzag manner and *Bikram Singh* requested side from the tractor's driver to overtake it from a safe distance. Since, a hand signal was given for overtaking, *Bikram Singh* [deceased] attempted to overtake and reached parallel to the tractor, but the tractor driver suddenly accelerated, due to which *Bikram Singh* [deceased] could not overtake and was stuck in the situation, resulting in a head-on collision with the truck coming from the opposite direction. The truck, coming from the opposite direction, was driven by *Pappu Ram* (driver/respondent no.6), owned by *Balvinder Kaur* (owner/respondent no.7) and insured by the appellant/Insurance Company.

11. *Mr. Soni*, counsel for appellant, therefore, states that the deceased was responsible for the accident and should not have taken the risk; in any event, there ought to have been a finding of some contributory negligence.

12. *Mr. Navneet Goyal*, counsel for respondents/claimants, however, states that in cross examination of *Parvendra Singh [PW-1]*, his testimony remained unshaken. He reiterated that when the deceased tried



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to overtake the tractor, after receiving a signal to proceed, the tractor driver suddenly increased the speed. It was wrong to suggest that there was any negligence on the part of the tractor driver, and incorrect to suggest that there was no negligence on the part of the driver of the alleged offending truck.

13. On this basis, *Mr. Goyal* contends that the testimony of *Parvendra Singh* [PW-1], if at all, ought to have been challenged by the appellant/Insurance Company in the cross-examination, and by examining the driver of the truck, which was not done. Moreover, the FIR registered was against the truck driver, who was subsequently charge sheeted. On this basis, he states that the plea of the appellant Insurance Company could not be accepted.

14. Considering the circumstances and the evidence of *Parvendra Singh* [PW-1], this Court is not inclined to allow the plea of the appellant/Insurance Company. The deceased possibly made a genuine attempt to overtake the tractor after receiving a signal to proceed, but due to the acceleration of the tractor, he was placed in a situation where he could not return to his lane. Needless to say, the offending truck, upon noticing the *Indica* car attempting to cross over, could have eventually slowed down and avoided the accident. It may be that the truck was moving at such a speed that the driver was not cognizant of the *Indica* car in front being clearly visible, and went ahead, resulting in a collision.

15. On the aspect of contributory negligence, the principle consistently applied by the Supreme Court is that such a defence must be



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specifically pleaded and supported by some material indicating that the claimant's own act or omission had a proximate role in the accident. In ***Jiju Kuruvilla v. Kunjamma Mohan***, (2013) 9 SCC 166, the Court held that apportionment of liability arises only when there exists tangible material to infer contributory negligence, and mere conjectures cannot dilute the tortfeasor's responsibility. Relevant paragraph is extracted as under:

“21. In view of the aforesaid, we, therefore, hold that the Tribunal and the High Court erred in concluding that the said accident occurred due to the negligence on the part of the deceased as well, as the said conclusion was not based on evidence but based on mere presumption and surmises.”

(emphasis added)

16. The Supreme Court in ***Prabhavathi & Ors. v. Managing Director, BMTC***, 2025 INSC 293, reaffirmed that a finding of contributory negligence cannot be inferred in the absence of direct or corroborative evidence. The Supreme Court held that the High Court erred in reversing the Tribunal's conclusion where the Tribunal had rightly found no material to indicate negligence on the part of the deceased. The Court reiterated, following ***Jiju Kuruvilla*** (*supra*), that negligence cannot be presumed on mere allegation. It further restated that Tribunal proceedings are governed by the standard of preponderance of probabilities, and strict rules of criminal evidence do not apply. Relevant paragraph is extracted as under:



“10. We are unable to agree with the view taken by the High Court on the 25% contributory negligence of the deceased and 75% upon the driver of the bus. We find ourselves to agree with the view taken by the Tribunal on this issue. The Tribunal rightly, after considering the evidence on record and on perusal of the Ex. P3 Spot Mahazar, came to the conclusion that there wasn't any sufficient evidence on record, indicating that the accident occurred due to negligent driving on the part of the deceased, and after considering the oral evidence of P.W.1, held the cause of the accident to be rash and negligent on the part only of the offending vehicle.

*11. Thus, in our considered view, the contributory negligence taken by the High Court at 25% of the deceased is erroneous. We advert to the principles laid down in **Jiju Kuruvila v. Kunjamma Mohan**, where it was held that in the absence of any direct or corroborative evidence on record, it cannot be assumed that the accident occurred due to the rash and negligent driving of both the vehicles. This exposition came to be followed in **Kumari Kiran v. Sajjan Singh and Ors.** In the present case, therefore, on an allegation simpliciter, it cannot be presumed that the accident occurred due to rash and negligent driving of both vehicles, for having driven at high speed.”*

(emphasis added)

17. In this regard, it must be stated that the Tribunal has been right in assessing that on the basis of preponderance of probabilities, in view of the statement of *Parvendra Singh [PW-1]*, and the criminal case record, that the fatal injuries were sustained due to rash and negligent driving of the offending vehicle.



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18. The other point raised by counsel for appellant/Insurance Company is on the computation of salary which has been computed, without deduction of tax, though only TDS has been deducted.

19. In the cross-appeal, *Mr. Navneet Goyal*/counsel for claimants, raises an issue regarding the computation of salary at Rs.18,503/-, which the Tribunal had taken after deduction of the allowances. Counsel for claimants points out to decisions of the Supreme Court in ***Manorma Sinha & Anr. v. the Divisional Manager, Oriental Insurance Company Ltd. & Anr.*** (2025) INSC 1237, to submit that it has been categorically held by the Supreme Court that there should be no exclusion of the allowances payable as per the last pay slip. Relevant paragraphs are extracted as under:

“6. The difference between the order of the Tribunal and that of the High Court as regards the mode of computation of compensation is clear. The High Court while computing the compensation has, inter alia, excluded the allowances payable as per the last pay slip and gave future prospects at the rate of 40% in place of 50% as was given by the Tribunal. Besides above, the High Court made a flat deduction of 30% towards income tax.

.....

8. The submission of the learned counsel for the appellant is that the High Court has erred in not including the allowances payable for computing the compensation and has also erred in reducing the income by a flat rate of 30% deductible towards income tax even though it might not be even leviable. It is submitted that if any deduction towards income tax is to be



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made it cannot be at a rate different from the rate at which the tax is payable on the annualized income based on the last pay slip. It has been submitted that the income tax slab prevailing in 2011 were: annual income up to Rs.1.60 lacs – Nil; annual income between Rs.1.60 lacs to Rs.5 lacs – 10%; annual income between Rs.5 lacs and Rs. 8 lacs – 20%; and annual income above Rs.8 lacs - 30%.

9. Per contra, the learned counsel for the respondent submitted that though the tax payable may vary but the allowances must be excluded in computation of salary in view of decision of this Court in the case of **Gestetner Duplicators (Pvt.) Ltd. v. Commissioner of Income Tax, West Bengal (1979) 2 SCC 354**. Further, while computing compensation deduction towards income tax is to be made as held by this Court in **Ranjana Prakash & others v. Divisional Manager & another (2011) 14 SCC 639**.

.....

12. Now, the next question is whether allowances are to be added to the salary for determining the multiplicand. In **National Insurance Co. Ltd. v. Indira Srivastava & Ors. (2008) 2 SCC 763**, it was held that “the term income has different connotations for different purposes. A court of law, having regard to the change in societal conditions consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family”. In **Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation [2018 SCC OnLine SC 193 paragraph 11]** a three-Judge Bench of this court noticing earlier decisions on the point observed that “the income should include those benefits, either in terms of money or otherwise, which are taken into



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*consideration for the purpose of payment of income tax or professional tax, although some elements thereof may not be taxable due to exemption conferred thereupon under the statute.” Following the decision in **Vijay Kumar Rastogi** (supra) in **National Insurance Company Ltd. v. Nalini & Ors.** [2024 SCC OnLine SC 2252], it was held by this Court that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, ought to be included irrespective of whether they are taxable or not. Thus, in our view, the High Court erred in excluding the allowances from the computation to arrive at the multiplicand. Hence, the total monthly income was rightly computed by the Tribunal at Rs.53,367.”*

(emphasis added)

20. There is yet another order of the Supreme Court in **Meenakshi v. Oriental Insurance Co. Ltd.** 2024 SCC OnLine SC 1872, wherein it has been held that allowances, under the head of Transport Allowance, House Rent Allowance, Provident Fund and Special Allowances, have to be added while considering the benchmark income. Relevant paragraph is extracted as under:

*“8. In **Raghuvir Singh Matolya v. Hari Singh Malviya**⁴, this Court held that the house rent allowance ought to be included for determining the income of the deceased. The relevant paras are extracted hereinbelow for ready reference:—*

“6. Dearness allowance, in our opinion, should form a part of the income. House rent allowance is paid for the benefit of the family members and not for the



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employee alone. What would constitute an income, albeit in a different fact situation, came up for consideration before this Court in *National Insurance Co. Ltd. v. Indira Srivastava* [(2008) 2 SCC 763] wherein it was held:

“19. The amounts, therefore, which were required to be paid to the deceased by his employer by way of perks, should be included for computation of his monthly income as that would have been added to his monthly income by way of contribution to the family as contradistinguished to the ones which were for his benefit. We may, however, hasten to add that from the said amount of income, the statutory amount of tax payable thereupon must be deducted.

20. The term ‘income’ in *P. Ramanatha Aiyar's Advanced Law Lexicon* (3rd Edn.) has been defined as under:

‘(iii) the value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or a person who has substantial interest in the company, and any sum paid by such company in respect of any obligation, which but for such payment would have been payable by the director or other person aforesaid, occurring or arising to a person within the State from any profession, trade or calling other than agriculture

‘It has also been stated: “‘Income” signifies “what comes in” (per *Selborne, C., Jones v. Ogle* [(1861-73) *All ER Rep* 918]). “It is as large a word as can be used” to denote a person's receipts (per *Jessel, M.R., Huggins, ex p., Re* [51 *LJ Ch* 935]). Income is not confined to receipts from business only and means periodical receipts from one's work, lands, investments, etc. *Secy. to the Board of Revenue,*



Income Tax v. Al. Ar. Rm. Arunachalam Chettiar & Bros. [AIR 1921 Mad 427] Ref. Vulcun Insurance Co. Ltd. v. Corpn. of Madras [AIR 1930 Mad 626 (2)].'

21. If the dictionary meaning of the word 'income' is taken to its logical conclusion, it should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax although some elements thereof may or may not be taxable or would have been otherwise taxable but for the exemption conferred thereupon under the statute.

To the same effect is the decision of this Court in Oriental Insurance Company Limited v. Ram Prasad Varma [(2009) 2 SCC 712 : (2009) 1 SCC (Cri) 853 : (2009) 1 Scale 598].

7. We, therefore, are of the opinion that “dearness allowance” and “house rent allowance” payable to the deceased should have been included for determining the income of the deceased and consequently the amount of compensation.”

(emphasis supplied)

9. Recently in a judgment dated 11th July, 2024 in National Insurance Company Ltd. v. Nalini [Petition for Special Leave to Appeal (C) No. 4230/2019], this Court held that, allowances under the heads of transport allowance, house rent allowance, provident fund loan, provident fund and special allowance ought to be added while considering the basic salary of the victim/deceased to arrive at the dependency factor.

10. Therefore, components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income



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by future prospects to determine the dependency factor. The Accident Claims Tribunal was justified in factoring these components into the salary of the deceased, before applying 50% rise by future prospects due to future prospects, while calculating the total compensation payable to the appellant.”

(emphasis added)

21. On this basis, and having perused the evidence of *Mr. Rahesh Kashyap [PW-2]*, HR manager of the *Crystal Corp Protection Pvt. Ltd.*, employer of deceased, it is stated that the gross salary was at Rs.25,471/- proof of which was also produced in terms of salary slip exhibited as **EX.PW2/2**. Tax of Rs.1,407/- was liable to be deducted on that account.

22. Counsel for claimant raises another issue of addition of the incentive of Rs.1,07,943/- paid on 21st June 2012, by the employer. However, it is not specified in the statement of *Mr. Rahesh Kashyap [PW-2]* that it was given as an annual incentive to the deceased.

23. Though counsel for claimant pleads for inclusion of this amount, in the opinion of this Court, a ‘one-time incentive’ paid to an employee cannot form part of income, particularly when there is no explanation as to why the incentive was granted or whether an incentive was given every year, in which case some kind of averaging could have been worked out.

24. Considering that no circumstances have been detailed in the evidence of *Mr. Rahesh Kashyap [PW-2]*, regarding the basis of the incentive, which may have been very well been a one-time incentive



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upon achieving a sales target, it cannot form part of the regular income which forms part of the multiplicand.

25. There are some other alignments as per the submissions of counsels, which have to be made in terms of the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi*** (2017) 16 SCC 680 and are as under:

- i. *Future prospects* will be added at 50%, considering the age of the deceased was 31 years as per *paragraph 59.3* of ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*)
- ii. *Loss of consortium* will be taken as Rs. 2,00,000/- [Rs.40,000/- $\times$ 5] towards LRs of deceased as per ***Magma General Insurance Co. Ltd. v. Nanu Ram***, (2018) 18 SCC 130 [*paragraphs 20 & 23*] and ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*) [*paragraph 59.8*].
- iii. *Loss of estate and Funeral expenses* awarded at Rs.15,000/- each as per *paragraph 59.8* of ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*).
- iv. *Loss of love and affection* will not be granted as per the decision of the Supreme Court in ***United India Insurance Co. Ltd. v. Satinder Kaur***, (2021) 11 SCC 780 [*paragraphs 6-7*].

26. As per above assessment, following is the revised computation of compensation:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
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1	Income of deceased (A) (less Income Tax)	Rs. 18,503/-	Rs.24,064 /- [Rs.25,471 – Rs.1407]
2	Add Future Prospects (B)	50%	50%
3	Less Personal expenses of the deceased (C)	1/4	1/4
4	Monthly loss of dependency [(A +B)-C = D]	Rs. 20,816/- [Round of Rs.20,815.37/-]	Rs. 27,072/-
5	Annual loss of dependency (D x12)	Rs.2,49,792 /-	Rs.3,24,864 /-
6	Multiplier (E)	16	16
7	Total loss of dependency (D x E = F)	Rs. 39,96,672/-	Rs.51,97,824 /-
8	Medical expenses (G)	Nil	Nil
9	Compensation for loss of consortium (H)	Rs.1,00,000/-	Rs. 2,00,000/- [40,000 x 5]
10	Compensation for loss of love and affection (I)	Rs.1,00,000 /-	Nil
11	Compensation for loss of estate (J)	Rs.1,00,000 /-	Rs.15,000 /-
12	Compensation towards funeral expenses (K)	Rs.25,000 /-	Rs.15,000 /-
TOTAL COMPENSATION (F+G+H+I+J+K = L)		Rs. 44,21,648/-	Rs.54,27,824 /-
RATE OF INTEREST AWARDED		9%	9%

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Conclusion

27. For the aforesaid reasons, the impugned award is modified. The compensation is enhanced by a sum of *Rs.10,06,176/-*, as computed hereinabove.

28. Entire compensation amount had been deposited by the appellant/Insurance Company before the Registrar General of this Court, pursuant to order dated 27th November 2015, of which 50% has been released to the claimant with the direction to keep the balance amount in Fixed Deposit Receipts [***'FDRs'***].

29. Enhanced amount of compensation along with interest at the rate of 9% from the date of filing of petition shall be deposited by appellant/Insurance Company before the Registry of this Court within 4 weeks.

30. Accordingly, a lumpsum amount of *Rs.5,00,000/-* shall be released in favor of the claimant and, balance amount shall be kept in FDRs of *Rs. 25,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession as may be calculated.

31. Interest accrued on the FDRs shall be credited to the designated Savings Bank Accounts of the LR's. Upon maturity of the FDRs, the principal amount shall also be transferred to their respective Savings Bank Accounts.

32. Appeals are disposed of in the above terms.

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

34. Statutory deposit, if any, be refunded to the appellant.



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35. A copy of this judgement be sent to the Registry of this Court for compliance.
36. Judgment be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

FEBRUARY 20, 2026/ak/tk

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