

IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL
EAST DISTRICT ; KARKARDOOMA COURTS; DELHI
PRESIDED OVER BY- MS. APARNA SWAMI

MACP No.87/2018

CNR No.-DLET01-004665-2018

In the matter of:

Sapna Kumari & Anr. Vs. Sunita Srivastava & Ors.

1. **Smt. Sapna Kumari (Wife of the deceased)**
W/o late Sh. Umesh Kumar Sharma
2. **Smt. Kusum Sharma (Mother of the deceased)**
W/o- Sh. Anand Kumar Sharma
3. **Anand Kumar Sharma (Father of the deceased)**
S/o- Sh. Murari Lal Sharma

All R/o- H. No.10, B-Block, Gali No.5, 25 Futa
Road, Budh Vihar, Sector-63, Gautam Budh Nagar,
Noida-201301.

.....Petitioners

Versus

1. **Sunita Srivastava (LR of Driver-cum-Owner)**
W/o Late Sh. Anurag Srivastava
R/o- H. No.-592, 1st Floor, Shakti Khand-4,
Indirapuram, Ghaziabad, U.P.-201001.
2. **IFFCO Tokio General Insurance Co. Ltd. (Insurer)**
IFFCO Sadan C1, Distt. Centre,
Saket, New Delhi.

.....Respondents

Date of Institution : 17.07.2018
Date of Arguments : 06.02.2026.
Date of pronouncement : 24.03.2026

Advocates appearing in the case:

For Petitioners : Sh. Upendra Singh and
Sh. Kumar Shivam.
For Respondent No.2-Ins. Com. : Sh. Rajesh Goel

AWARD

1. This award shall decide the claim petition filed on behalf of the petitioners under Sections 166 and 140 of the Motor Vehicles Act, 1988.

FACTS OF THE CASE:

2. **Briefly stated** that on 19.03.2018 at about 07:00 pm, the deceased namely Sh. Umesh Kumar Sharma alongwith his friends namely Shelender, Priya, and Anurag Srivastava was travelling to Jaisalmer, Rajasthan from Sam, Rajasthan in an Innova Car, which was being driven by Anurag Srivastava (now deceased). It is alleged that the vehicle was being driven at a very high speed, rashly and negligently and in a zig-zag manner. It is further stated that driver Anurag Srivastava was warned several times by the occupants of the vehicle not to drive in such a manner; however, he paid no heed to their advice and continued driving carelessly, rashly and negligently without observing the traffic norms.

3. Further, it is averred that at about 07:00 P.M., when the car reached near Village Kanoi, Police Station-Sam, District-Jaisalmer, Rajasthan; Anurag Srivastava suddenly lost control over the vehicle and the car overturned at a turning point. As a result of the aforesaid accident, all the occupants sustained grievous injuries and Sh. Umesh Kumar Sharma died on the spot due to the injuries sustained by him. The post-mortem of Umesh Kumar Sharma was conducted at the Mortuary District Hospital, Jaisalmer, Rajasthan.

4. In this connection, FIR No. 16/18 under Sections 279/337/304A IPC was registered at Police Station Sam, District-Jaisalmer, Rajasthan.

5. In response to the notice of this petition, Respondent No.2-Insurance Company appeared and filed its separate written statement. As Respondent No. 1-Ms. Sunita Srivastava did not appear despite being served, on 04.08.2022, she was proceeded ex-parte.

Written Statement filed by Respondent No.2 i.e. the Insurance Company.

5(i). In the written statement, Respondent No.2-Insurer has stated that the Toyota Fortuner car was not involved in the alleged accident, and that the said vehicle was later implicated only to extract the compensation. It is further stated that the FIR was lodged after a delay of four days. It is also submitted that as per the MLC of the deceased namely Anurag Srivastava, the Toyota Fortuner car had met with an accident with another four-wheeler, and the offending vehicle was a different four-wheeler which could not be traced. Therefore, the criminal case was allegedly lodged against the Toyota Fortuner Car. It is also submitted that there is no MLC and Post Mortem Report of the deceased Sh. Umesh Kumar Sharma hence it is stated that the deceased had not sustained any injuries in the alleged accident. It is also submitted that the Toyota Fortuner Car was not registered at the time of the accident. Apart from the above, other general defences have been taken by Respondent No.2-Insurer.

ISSUES:

6. On the basis of pleadings, following issues were framed on 04.08.2022:

- i). *Whether Mr. Umesh Kumar Sharma died in a motor vehicular accident which happened on 19.03.2018 at about 7:00 pm, at District Jaisalmer, Rajasthan, within the jurisdiction of Police Station-Sam, due to rash and negligent driving of the offending vehicle the Toyota Fortuner bearing Engine No.1GDA151611, and Chasis No.MBJAA3CS4005300851217, being driven by Mr. Anurag Kashyap, (since deceased) husband of Respondent No.1-Sunita Srivastava? OPP*
- ii). *Whether the petitioners are entitled to compensation on account of said death and if yes, to what extent and from whom ? (OPP)*
- iii). *Whether the petitioners are entitled to interest on the award amount, and if so, at what rate and for which period? (OPP)*
- iv). *Relief.*

PETITIONER'S EVIDENCE:

7. In order to establish their claim, the petitioners have examined the following witnesses:

7(a). PW1-Ms. Sapna Kumari (wife of the deceased Sh. Umesh Kumar Sharma) tendered her evidence by way of affidavit Ex.PW1/A, wherein she deposed about the employment of her deceased husband Mr. Umesh Kumar Sharma and she relied upon the following documents:

- (i) Copy of Aadhar Card of deceased Late Sh. Umesh Kumar Sharma is Ex.PW1/1.
- (ii) Copy of PAN Card of deceased Sh. Umesh Kumar Sharma is Ex.PW1/2.

- (iii) Copy of Aadhar Card of Sapna Kumari (Petitioner No.1) is Ex.PW1/3.
- (iv) Copy of PAN Card of Sapna Kumari (Petitioner No.1) is Ex.PW1/4.
- (v) Copy of Aadhar Card of Kusum Kumari (Petitioner No.2) is Ex.PW1/5.
- (vi) Copy of PAN Card of Kusum Kumari (Petitioner No.2) is Ex.PW1/6.
- (vii) Copy of Aadhar Card of Anand Kumar Sharma (Petitioner No.3) is Ex.PW1/7.
- (viii) Copy of PAN Card of Anand Kumar Sharma (Petitioner No.3) is Ex.PW1/8.
- (ix) Copies of ITR are Ex.PW1/9.
- (x) Copy of School Certificate of deceased Sh. Umesh Kumar Sharma is Ex.PW1/10.

7(b). Ms. Preeti @ Priya was examined as PW2. She is relative of the deceased Mr. Umesh Kumar Sharma. She tendered her evidence by way of affidavit Ex.PW2/A, and relied upon a copy of her Aadhar Card Ex.PW2/1. This witness deposed about the manner in which the accident took place. She further deposed that she had also sustained multiple injuries in the present accident.

7(c). PW3-Sh. Ranveer Singh, the Income Tax Officer from Sector-24, Noida, Uttar Pradesh was examined as a summoned witness. He relied upon the Income Tax Returns of the deceased Mr. Umesh Kumar Sharma for the Assessment Year 2015-16, 2016-17 & 2017-18, which are exhibited as Ex.PW3/A.

7(d). PW4-Sh. Anand Kumar Sharma father of the deceased Mr. Umesh Kumar Sharma tendered his evidence by way of affidavit Ex.PW4/A, wherein he deposed about the manner of the accident and relied upon the following documents:

- * Certified copies of FIR is Ex.4/1.
- * Certified copy of application for vehicle release order Ex.P/W4/2.
- * Certified copy of Superdarinama/Jamanat Nama is Ex.PW4/3.
- * Certified copy of Jamanat Nama is Ex.PW4/4.
- * Certified copy of vehicle purchase invoice is Ex.PW4/5.
- * Certified copy of cover note is Ex.PW4/6.
- * Certified copy of case file report is Ex.PW4/7.
- * Certified copy of final report is Ex.PW4/8.
- * Copy of crime Details form is Mark A.
- * Copy of statement under Section 161 Cr.P.C. of Sh. Shailesh Kumar, S/o- Sh. Avdhesh Kumar is Mark B.
- * Copy of statement under Section 161 Cr.P.C. of Smt. Sunita, w/o- Sh. Anurag Srivastava is Mark C.
- * Copy of statement under Section 161 Cr.P.C. of Gyanendra Kumar is Mark D.
- * Copy of statement under Section 161 Cr.P.C. of Preeti @ Priya , D/o- Sh. Gauri Shankar is Mark E.
- * Copy of panchnama of dead body of deceased Umesh is Mark F.
- * Copy of Superdginama of dead body alongwith application of receiving of dead body is Mark G.
- * Copy of application for examination of postmortem is Mark H.

- * Copy of death report is Mark I.
- * Copy of identification of dead body is Mark J.
- * Copy of GD Entry No.15 dated 20.03.2019 is Mark K.

8. All of the petitioner's witnesses were duly cross-examined by the Ld. Counsel for respondents. Thereafter, the petitioners closed their evidence.

RESPONDENT'S EVIDENCE:

9. Respondent No.2 chose to examine one witness in his defence.

9(i). Ms. Ashna Khan was examined as R2W1. This witness relied upon copy of MLC No.500085544/23 of the deceased (driver) Anurag Srivastava exhibited as Ex.R2W1/1. She was duly cross-examined by Ld. Counsel for petitioners and thereafter discharged.

10. This Tribunal has heard Sh. Upender Kumar and Sh. Kumar Shivam, Ld. Counsels for the petitioners and Sh. Rajesh Goel, Ld. Counsel for Respondent No.2-Insurer. The record of the case has also been perused.

11. Dealing with the issues in hand:-

ISSUE No. 1: Whether Mr. Umesh Kumar Sharma died in a motor vehicular accident which happened on 19.03.2018 at about 7:00 pm, at District Jaisalmer, Rajasthan, within the jurisdiction of Police Station-Sam, due to rash and negligent driving of the offending vehicle the Toyota Fortuner bearing Engine No.1GDA151611, and Chasis No.MBJAA3CS4005300851217, being driven by Mr. Anurag Kashyap, (since deceased) husband of Respondent No.1-Sunita Srivastava?

FINDINGS:

12. It is pertinent to mention here that as per settled proposition of law, in an action founded on the principle of fault liability under Section 166 of the Motor Vehicles Act, the proof of rash and negligent driving of the offending vehicle is *sine qua non*. However, the standard of proof is not as strict as applied in criminal cases and evidence is to be tested on the touchstone of preponderance of probabilities. A holistic view is to be taken while dealing with the Claim Petition based upon negligence. Further, in holding any inquiry under Section 168, The Claims Tribunal may follow such summary procedure as it deems fit. In this regard, reliance is placed on the judgment of “*Anita Sharma & Ors. Vs. The New India Assurance Ltd. & Anr.*”, *Civil Appeal No.440140011 of 2020*”, wherein it was observed :

“...22. 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 nonexamination of some best eyewitnesses, 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.....”

13. In the case at hand, in order to prove the case, the petitioner(s) examined four witnesses. **PW2 Ms. Preeti @ Priya is an eye-witness to the accident.** This witness clearly deposed that the accident occurred due to the rash and negligent driving of

the driver namely Anurag Srivastava. She further deposed that while she was travelling alongwith the deceased Mr. Umesh Kumar Sharma and other friends namely Shelender and Anurag Srivastava from Sam Rajasthan to Jaisalmer, Rajasthan in a Fortuner Car and when they reached near Village Kanoi, Police Station-Sam, District-Jaisalmer, Rajasthan, the vehicle was being driven by Sh. Anurag Srivastava (since deceased) at a very high speed, rashly, negligently and in a zig-zag manner. She further deposed the the driver was warned several times by all the occupants of the vehicle not to drive the Car in such a manner, however, he paid no heed to their advice and continued driving the vehicle in a rash and negligent manner. She deposed that all of a sudden, driver Anurag lost his control over the car, as a result of which the car overturned at a turning point consequent to the aforesaid driving. Sh. Umesh Kumar, who was also an occupant of the car, died on the spot and the remaining occupants sustained grievous injuries. This witness also deposed that the accident had taken place due to the rash and negligent driving of Anurag Srivastava. The testimony of PW2 could not be shaken in her cross-examination done by the Ld. Counsel for Respondent No.2.

14. During her cross-examination, this witness PW2 stated that she did not know that a temporary registration number is affixed on the car, as it was a new vehicle; however, she clarified that the Fortuner Car was of white colour. She further deposed that the Fortuner car had hit the divider and overturned. This witness voluntarily stated that the driver Anurag of the Fortuner car was repeatedly requested to drive slowly but he did not listen

to them. She further deposed that the road at the place of accident was a wide road to accommodate two vehicles at a time, but it did not have any divider. She denied the suggestion that an Innova Car had hit the Fortuner; because of which, the Fortuner overturned. She further deposed that the FIR was lodged after a delay of four days as she was admitted in the hospital for about 2-3 days for her treatment. The FIR shows that the matter was reported to the police by Sheelendra Kumar, wherein he stated that he was travelling with his deceased friend Umesh Kumar and others in the Fortuner Car at the time of the accident. A suggestion was also put to PW2 that she was not an eye-witness, which was denied by her. It is an admitted position that the FIR was registered after four days of the accident. However, Respondent No.1 & Respondent No.2 have not disputed the occurrence of the accident in question. In the FIR itself, the reason for delay has been explained. It is also deposed by PW2 that she was admitted to the hospital for 2-3 days, which resulted in the delay in registration the FIR. Hence, the delay stands reasonably from the record.

15. Respondent No.1 Sunita Srivastava i.e. Legal Representative of Driver-cum-Owner of the offending vehicle failed to lead any evidence to rebut the claim of the petitioners. In the absence of any evidence to the contrary, an adverse inference is liable to be drawn against them. In this context, it is relevant to refer to the case of *Cholamandalam MS General Insurance Company Ltd vs Smt. Kamlesh and Others* 2009 (3) *AD Delhi 310* wherein it was held that an adverse inference can be drawn when the driver of the offending vehicle does not enter

into the witness box.

16. In the present case The FIR in the present case was registered at Police Station Sam, District- Jaisalmer, Rajasthan. After the investigation, police filed the charge-sheet against the husband of Respondent No.1 namely Sh. Anurag Srivastava (since deceased), the driver of the offending Fortuner. As per law, the filing of the charge-sheet against the driver of offending vehicle *prima-facie* points to his culpability. In this regard, reliance is placed on the case of *New India Assurance Company Ltd vs Smt. Washeema Bano (2022) SCC OnLine All 403* and *Mangla Ram vs Oriental Insurance Company Ltd (2018) 5SCC 656*.

17. Also, in the case of *New India Assurance Company Ltd vs Pazhaniammal (2011) (2) KLT 648*, the Hon'ble High Court of Kerala has held that as a general rule, it can be accepted that production of charge-sheet is *prima-facie* sufficient evidence of negligence for the purpose of claim under Section 166 of the Motor Vehicles Act. If any party does not accept such charge-sheet, the burden must be on such party to adduce evidence. If the Tribunal feels that the charge-sheet is collusive, it can record that charge-sheet cannot be accepted and call upon the parties at any stage to adduce oral evidence of accident and alleged negligence. In such cases, issue of negligence must be decided on other evidence ignoring the charge-sheet.

18. It is not disputed that after detailed investigation of the case, Mr. Anurag Srivastava was charge-sheeted under Sections

279/337/338/304-A IPC for causing fatal injury to deceased Umesh Kumar. The filing of charge-sheet and testimony of eye-witness PW2 shows that Mr. Anurag Srivastava was driving the offending vehicle rashly and negligently. Moreover, in motor vehicular accident claims, contents of charge-sheet are admissible in evidence and deemed to be correct under Rule 7 of Delhi Motor Accident Tribunal Rules, 2008. Thus, the facts that FIR has been registered and charge-sheet has also been filed against Mr. Anurag Srivastava by the police, are sufficient proof to conclude that he was negligent. In this regard reliance is placed upon the judgment of Hon'ble Delhi High Court in the case titled as **Shabina v. Satvir & Ors. MAC. APP. 980/17 dated 24.01.2020**, wherein Hon'ble Delhi High Court observed that insofar as FIR has been registered, criminal case has been initiated against driver of offending vehicle and vehicle was seized, the requirement of proving the preponderance of probability of accident having been caused by rash and negligent driving of the offending vehicle has been established.

19. The Respondent No.3-Insurance Company has sought to dispute the manner of the accident by relying upon the testimony of R2W1 Ms. Ashna Khan, Senior Legal Executive, IFFCO TOKIO GIC Ltd., who deposed that as per the attested copy of MLC No.500085544/2023 prepared by Jai Prakash Narayan Apex Trauma Centre, Delhi, the history recorded therein reflected that the injured Anurag Srivastava had sustained injuries when a four-wheeler hit another four-wheeler. It was further argued that the said history was inconsistent with the version put forth in the claim petition and therefore, the

petitioners had failed to establish the manner of the accident.

20. However, this Tribunal does not find merit in the said contention. Firstly, the said witness admittedly had no personal knowledge regarding the occurrence and categorically stated during the cross-examination that her knowledge was derived only from the office record. She further admitted that she could not say as to which relative had furnished the history to the Doctor for the preparation of the MLC. She also admitted that the said fact did not form part of the criminal case record. Thus, the testimony of R2W1 is purely formal in nature and is incapable of discrediting the otherwise cogent evidence led by petitioners.

21. It is settled law that the history recorded in MLC is not a substantive piece of evidence and only meant for medical treatment of the injured. The said history is often furnished by the attendants or relatives in emergent circumstances and cannot overwrite the contents of the FIR, charge-sheet and ocular evidence available on record; particularly when no contrary evidence has been produced by the insurance company to establish any false implication of the offending vehicle. Moreover, Respondent No.3 has neither examined the Investigating Officer nor led any independent evidence to rebut the case setup by the petitioners. No material contradiction has been shown between the criminal record of the testimony of the eye-witness.

22. Moreover, the FIR, site-plan, charge-sheet and other police records placed on record clearly shows that after investigation, police found sufficient material to prosecute the

driver of the offending vehicle. The filing of the charge-sheet against Sh. Anurag Srivastava (deceased husband of Respondent No.1) also lends corroboration to the case of the petitioner.

23. As the proceedings under the Motor Vehicles Act are summary in nature and strict rules of evidence are not required to be followed, the claimants are required to establish their case on preponderance of probabilities. Hence, in the present case, the evidence led by the petitioners inspires confidence and sufficiently establishes that the accident took place due to the rash and negligent driving of the offending vehicle by Sh. Anurag Srivastava (deceased husband of Respondent No.1).

24. Thus, in view of the above, this Tribunal is of the opinion that petitioners have been able to prove that there is sufficient material on record to establish that the accident had occurred due to the rash and negligent driving of the offending vehicle by Sh. Anurag Srivastava (deceased husband of Respondent No.1); which resulted in fatal injuries to Sh. Umesh Kumar Sharma. Therefore, Issue No.1 is decided in favour of the petitioner(s).

ISSUE No. 2: Whether the petitioners are entitled to compensation on account of said death and if yes, to what extent and from whom ?

25. In view of the finding on issue no.1, the petitioners in the claim case are entitled to get compensation. However, the quantum of compensation still needs to be adjudicated.

COMPUTATION OF COMPENSATION

26. Section 168 of the Motor Vehicles Act, 1988 enjoins upon the Claim Tribunal to hold an inquiry into the claim and to

make an award determining the amount of compensation which appears to be just and reasonable. As per settled law, compensation is not expected to be windfall or a bonanza nor it should be pittance. A person is not compensated for the physical injury alone; he is compensated for the loss which he suffers as a result of that injury (**Baker v. Willoughby (1970) Ac 467 at page 492 per Lord Reid**).

27. In death cases, the guidelines for computation of compensation have been laid down by the Hon'ble Supreme Court in case of **Sarla Verma and Others v. Delhi Transport Corporation & Anr. (2009) 6 Supreme Court Cases 121**. Further, the guidelines have been reiterated by the Constitution Bench of the Hon'ble Supreme Court in a case titled as **National Insurance Company vs. Pranay Sethi & Ors., decided on 31.10.2017**, laying down the general principles for computation of compensation in death cases. The relevant paras of the judgment are reproduced here as under:

“18. Basically only three facts need to be established by the claimants for assessing compensation in the case of death:

- (a) age of the deceased;
- (b) income of the deceased; and
- (c) the number of dependents.

These issues to be determined by the Tribunal to arrive at the loss of dependency are:

- (i) additions/ deductions to be made for arriving at the income;
- (ii) the deduction to be made towards the personal living expenses of the deceased; and
- iii) the multiplier to be applied with

reference to the age of the deceased.

If these determinations are standardized, there will be uniformity and consistency in the decisions. There will be lesser need for detailed evidence. It will also be easier for the insurance companies to settle accident claims without delay.

19. To have uniformity and consistency, the Tribunals should determine compensation in cases of death, by the following well-settled steps: **death case**

Step-1 (Ascertaining the multiplicand)

The income of the deceased per annum should be determined. Out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of personal and living expenses. The balance expired which is considered to be the contribution to the dependent family, constitutes the multiplicand.

Step-2 (Ascertaining the multiplier) death case

Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased.

Step-3 (Actual Calculation)

The annual contribution to the family(multiplicand) when multiplied by such multiplier gives the 'loss of dependency' to the family.

Thereafter, a conventional amount in the range of Rs.5,000/- to Rs.10,000/- may be added as loss of estates. Where the deceased is survived by his widow, another conventional amount in the range of Rs.5,000 to Rs.10,000 should be added under the head of loss of consortium. But no amount is to be awarded under the head of pain, suffering or hardship caused to the legal heirs of the deceased.

The funeral expenses, cost of transportation of the body (if incurred) and the cost of any medical treatment of the deceased before death (if incurred) should also be added.”

Therefore, in view of the aforesaid judgment, it is essential to take into consideration the following parameters:-

PECUNIARY DAMAGES:

(A). AGE OF DECEASED:

28. As per the Aadhar Card of the deceased Ex. PW1/1, his date of birth is 15.10.1996. The date of accident is 19.03.2018. Thus, as per the record, the age of the deceased was 21 years and 05 months and 04 days at the time of the accident.

(B) ASSESSMENT OF INCOME OF THE DECEASED:

29. PW1-Sapna Kumari is wife of the deceased and one of the claimants. The deceased was aged about 21 years, 05 months and 04 days at the time of accident (as mentioned in his Aadhar Card Ex.PW1/1). PW1 deposed that deceased was a businessman and running his business in the name and style of “M/s. Umesh Kumar Sharma” at H. No.10, 25 Futa Road, Noida. She also deposed that the deceased was earning Rs. 4,00,781/- per annum.

In proof of the economic status of deceased, PW1 filed on record the Income Tax Returns of the deceased. The petitioners have examined PW3- Mr. Ranveer Singh, the Income Tax Officer. He produced the income tax record of the deceased Umesh Kumar for Assessment Year (AY) 2015-16, 2016-17 and 2017-18. The ITR for the Assessment Year 2017-18 also bears the stamp of Income Tax Officer. The ITR for the AY- 2017-18 reflects that the same was submitted on 15.12.2017 by the deceased himself. As per the same, the gross annual income was Rs.4,00,781/- and the income tax payable was Rs.992/-. Thus, the annual income of the deceased is taken to be Rs.4,00,781/-. The petitioners have also filed educational documents of the deceased. The address of the deceased in the Aadhar Card as well in the FIR is mentioned as that of Gautam Buddha Nagar, Uttar Pradesh. Thus, on the basis of the latest ITR for Assessment Year-2017-18, his income on the date of accident i.e. 19.03.2018 is considered to be **Rs.4,00,781/-** per annum.

(C)APPLICATION OF MULTIPLIER:

30. The age of the deceased was stated to be 21 years, 05 months and 04 days at the time of accident. An appropriate multiplier is required to be applied for the computation of compensation. The judgment titled as **Sarla Verma v. DTC (2009) 6 SCC 121** is relevant for determining the appropriate multiplier. In Paragraph 21 of the said judgment, the guidelines for the selection of multiplier which are reproduced herein below:-

MULTIPLIER	AGE GROUP OF DECEASED
M-18	Age group between 15 to 20 & 21 to 25 years)

M-17	Age group between 26 to 30 yrs
M-16	Age group between 31 to 35 yrs
M-15	Age group between 36 to 40 yrs
M-14	Age group between 41 to 45 yrs
M-13	Age group between 46 to 50 yrs
M-11	Age group between 51 to 55 yrs
M-9	Age group between 56 to 60 yrs
M-7	Age group between 61 to 65 yrs
M-5	Age group between 66 and above

Accordingly, the multiplier of 18 is applicable to the age group between 21 to 25 years shall be applied in this case.

(D) FUTURE PROSPECTS:

31. This issue was considered by the Hon'ble Supreme Court in the case of **Pranay Sethi & Others (Supra)**. The relevant particulars of the judgment are reproduced here as under:

“(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

(iv) 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.”

32. The deceased can be presumed to be as self-employed. Since the deceased Umesh Kumar Sharma was 21 years 05 months old, 40% future prospects has to be granted.

(E) DEDUCTION TOWARDS PERSONAL LIVING EXPENSES:

33. After choosing the age, multiplier and income of the deceased, necessary deductions have to be made out of the income of the deceased towards her personal expenses. Hon’ble Supreme Court in case titled as **Reshma Kumari & Ors. v. Madan Mohan & Anr., (2013) 9 SCC 65**, in para 30, laid down the necessary deductions towards personal living and expenses of deceased as under :

Deductions out of earning of the deceased	Number of dependents
Married Persons	
Where dependent is 1	Half
Where the number of dependent family members is 2 to 3	1/3rd
Where the number of dependent family members is 4 to 6	1/4th
Where the number of dependent family members exceeds 6 (six)	1/5th

Deductions out of earning of the deceased	Number of dependents
Bachelor	
In case family is not large	Half
In case dependents are the widowed mother and large number of younger non-earning sisters and brothers	1/3rd

34. The petitioners are wife and parents of the deceased. Hence, all petitioners i.e. Petitioner No.1, Petitioner No.2 and Petitioner No.3 can be considered as dependents of the deceased. Thus, an amount of 1/3rd has to be deducted for personal and living expenses of the deceased.

35. Thus, the loss of dependency is computed as **Rs.67,33,120.8/-** (4,00,781 x 18 x 140/100 x 2/3).

NON-PECUNIARY DAMAGES:

36. In case of **Pranay Sethi (supra)**, a compensation of Rs.40,000/-, 15,000/- and Rs.15,000/- respectively has been fixed on account of loss of consortium, loss of estate and funeral expenses and further, it is required to be enhanced @ 10% in every three years. Therefore, a compensation of Rs.48,000/-, 18,000/- and Rs.18,000/- respectively on account of loss of consortium, loss of estate and funeral expenses is required to be granted. Further, in view of recent decision of Hon'ble Supreme Court in the case titled as **United India Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur & Ors.**, Civil Appeal no. 2705 of 2020, decided on 30.06.2020, loss of consortium has to be

fixed for each of the LRs. In this case, there were three legal heirs of the deceased at the time of accident and filing of the claim petition. Thus, all three claimants are entitled to a sum of Rs.1,50,000/- (40,000x3+15,000+15,000) under this head.

Thus, the petitioner is entitled for total compensation of **Rs.68,83,120.8/-**(Rs.67,33,120.8/-+Rs.1,50,000/-) rounded off to **Rs.68,84,000/-** (Rupees Sixty Eight Lakhs and Eighty Four Thousand only).

ISSUE No.3-INTEREST: Whether the petitioners are entitled to interest on the award amount, if so, at what rate and for which period?

37. The petitioners shall also be entitled to interest @ 7.5% per annum on the award amount from the date of filing of the petition till its realization **except for the period from 18.03.2021 to 09.11.2021.**

LIABILITY

38. Now, the question arises as to which of the respondents are liable to pay the compensation amount. As the insurance company namely IFFCO Tokio GIC Ltd. has contractual and statutory liability to indemnify the insured and, in the present case, insurance company has not been able to prove that any term or condition of insurance policy was breached or violated by the insured, therefore, Respondent no.2 i.e. Insurance Company is liable to pay the aforesaid compensation amount to the petitioners.

ISSUE No.4-RELIEF:

39. This Tribunal awards a compensation of **Rs.68,84,000/-**

(Rupees Sixty Eight Lakhs and Eighty Four Thousand only) to the petitioners, along with interest @ 7.5% per annum from the date of filing of petition till realization to be paid by Respondent No.2 i.e. the Insurance Company. The amount of interim award, if any, shall be deducted from the compensation amount, alongwith the waiver of interest, if any, as directed by the Tribunal during the pendency of the case.

ENTITLEMENT, APPORTIONMENT AND DISBURSEMENT

40. The petitioners in this case are the wife and parents of the deceased. Accordingly, the awarded amount of **Rs.68,84,000/-** (Rupees Sixty Eight Lakhs and Eighty Four Thousand only) apportioned be among the petitioners in the following manner:

Sl. No.	Name of the Petitioner	Age (Present Age)	Relation with Deceased	Share in the Award Amount
1	Sapna Kumari	29 years	Wife	Rs.41,84,000/- along with the interest on entire award amount.
2.	Kusum Sharma	49 years	Mother	Rs.15,00,000/- along with the corresponding interest
3.	Vijay Yadav	57 years	Father	Rs.12,00,000/- along with the corresponding interest

41. The Manager of UCO Bank, Karkardooma, Delhi is directed that after the deposit of the award amount, out of the share of Petitioner No.1 Smt. Sapna Kumari-amounting to Rs.41,84,000/-, a sum of Rs.11,84,000/- along with the corresponding interest shall be forthwith released to her. The remaining share of Rs.30,00,000/- shall be kept secured with the UCO Bank, Karkardooma Courts, Delhi in MACAD (Motor

Accident Claims Annuity Deposit) in the following manner :-

SL No.	Amount	Period of FDR
1.	Rs.1,50,000/-	1 year
2.	Rs.1,50,000/-	2 years
3.	Rs.1,50,000/-	3 years
4.	Rs.1,50,000/-	4 years
5.	Rs.1,50,000/-	5 years
6.	Rs.1,50,000/-	6 years
7.	Rs.1,50,000/-	7 years
8.	Rs.1,50,000/-	8 years
9.	Rs.1,50,000/-	9 years
10.	Rs.1,50,000/-	10 years
11.	Rs.1,50,000/-	11 years
12.	Rs.1,50,000/-	12 years
13.	Rs.1,50,000/-	13 years
14.	Rs.1,50,000/-	14 years
15.	Rs.1,50,000/-	15 years
16.	Rs.1,50,000/-	16 years
17.	Rs.1,50,000/-	17 years
18.	Rs.1,50,000/-	18 years
19.	Rs.1,50,000/-	19 years
20.	Rs.1,50,000/-	20 years
21.	Interest Amount	21 years

42. The Manager, UCO Bank, Karkardooma, Delhi, is directed that after the deposit of the award amount, out of the share of Petitioner No.2-Kusum Sharma , amounting to Rs.15,00,000/-, a sum of Rs.5,00,000/- along with the corresponding interest shall be forthwith released to her and the remaining share of Rs.10,00,000/- shall be kept secured with UCO Bank, Karkardooma Courts, Delhi in MACAD (Motor Accident Claims Annuity Deposit) in the following manner :-

SL No.	Amount	Period of FDR
1.	Rs.1,00,000/-	1 year
2.	Rs.1,00,000/-	2 years
3.	Rs.1,00,000/-	3 years
4.	Rs.1,00,000/-	4 years
5.	Rs.1,00,000/-	5 years
6.	Rs.1,00,000/-	6 years
7.	Rs.1,00,000/-	7 years
8.	Rs.1,00,000/-	8 years
9.	Rs.1,00,000/-	9 years
10.	Rs.1,00,000/-	10 years
11.	Interest Amount	11 years

43. The Manager, UCO Bank, Karkardooma, Delhi, is directed that after the deposit of the award amount, out of the share of Petitioner No.3-Anand Kumar Sharma, amounting to Rs.12,00,000/-, a sum of Rs.4,00,000/- along with the corresponding interest shall be forthwith released to him and the remaining share of Rs.8,00,000/- shall be kept secured with UCO Bank, Karkardooma Courts, Delhi in MACAD (Motor Accident Claims Annuity Deposit) in the following manner :

SL No.	Amount	Period of FDR
1.	Rs.1,00,000/-	1 year
2.	Rs.1,00,000/-	2 years
3.	Rs.1,00,000/-	3 years
4.	Rs.1,00,000/-	4 years
5.	Rs.1,00,000/-	5 years
6.	Rs.1,00,000/-	6 years
7.	Rs.1,00,000/-	7 years
8.	Rs.1,00,000/-	8 years
9.	Interest Amount	9 years

DIRECTIONS TO THE PETITIONERS & THEIR BANKS :

44. The petitioners shall open savings bank accounts near their place of residence. The concerned bank is directed to ensure compliance with the following conditions:

(a)The Bank shall not permit the inclusion of any joint name(s) in the savings bank account or fixed deposit account of the claimant(s). The account(s) of the claimant(s) shall be individual saving bank account(s) and not joint account(s).

(b)The original fixed deposit (FDR) shall be retained by the bank in safe custody. However, the bank shall furnish to the claimants a statement containing FDR number, amount, date of maturity and maturity amount.

(c)The monthly interest accrued on FDR(s) shall be credited through the Electronic Clearing System (ECS) into the savings bank account of the claimant(s) near their place of residence.

(d)The maturity amounts of the FDR(s) shall also be credited through Electronic Clearing System (ECS) into the savings bank account of the claimant(s) near their place of residence.

(e)No loan, advance, withdrawal or pre-mature discharge shall be permitted against the fixed deposits without the permission of this Court.

(f)The concerned bank shall not issue any cheque book and/or debit card to claimant(s). However, if a cheque book or debit card has been issued, the bank shall cancel the same before disbursement of the award amount. The bank shall also freeze the debit card facility so that no debit card is issued or operated in respect of the account of the claimant(s) from any other of the branch of the bank.

(g)The bank shall make an endorsement on the passbook of the claimant(s) stating that no cheque book and/or debit card has been issued and shall not be issued without the permission of the Court. The claimant(s) shall produce the passbook with the given endorsement before the Court on the next date fixed for compliance.

As per 'The Central Motor Vehicles Rules, 1989 (Annexure-

f.	Total loss of dependency (DxE = F)	Rs.67,33,120.86/-
g.	Medical Expenses (G)	Nil
h.	Compensation for loss of consortium (H) (40,000x3)	Rs.1,20,000/-
i.	Compensation for loss of love and affection (I)	--
j.	Compensation for loss of estate (J)	Rs.15,000/-
k.	Compensation towards funeral expenses (K)	Rs.15,000/-
l.	TOTAL COMPENSATION (F+G+H+I+J+K = L)	Rs.68,83,120.86/- rounded off to Rs.68,84,000/-
m.	RATE OF INTEREST AWARDED	7.5%
n.	Interest amount up to the date of award (N) (for 07 years, 08 months and 07 days).	Rs.39,68,339/-
o.	Total amount including interest (L+N)	Rs.1,08,52,339/-
p.	Award amount released	Rs.20,84,000/- along with corresponding interest
q.	Award amount kept in FDRs	Rs.48,00,000/- along with corresponding interest
r.	Mode of disbursement of the award amount to the claimants (s).	Bank transfer
s.	Next Date for compliance of the award.	27.04.2026.

45. With these observations, the present claim petition stands disposed of.

46. The file be consigned to the Record Room.

**Announced in the open
Court on 24.03.2026
Total pages 28**

**(Aparna Swami)
Presiding Officer-MACT (East)
Karkardooma Courts, Delhi**