

DLNW010097062023



Presented on : 16-10-2023
Registered on : 18-10-2023
Decided on : 01-04-2026
Duration : 2 years, 5 months, 16 days

IN THE COURT OF
DJ1(NW)/MACT, NORTH WEST DISTRICT DELHI
Presided Over by Sh. Vikram

MACT/928/2023
FIR No. 44/21, PS Kanjhawala

In the matter of : Sh. Ramesh (Deceased)

*Sh. Poma Ram (Deleted as expired on 17.01.2026).
Father of deceased*

1. *Smt. Meera Devi
Mother of deceased*

R/o Kalbi Bas, Village Wasan, District Sirohi, Rajasthan.

.....Petitioners

vs.

1. *Sh. Suraj (since deceased) through his LRs:*

a. *Sh. Sahil Khatri
S/o Late Sh. Om Prakash
R/o Village & VPO Kulasi,
Bahadurgarh, Jhajjar, Haryana.*

b. *Ms. Pinky
D/o Late Sh. Om Prakash*

R/o Village Qila, Jafargarh, Jind, Haryana.

..... Driver-cum-owner/R1

2. *National Insurance Company Ltd.
2E/9, Jhandewalan Extension, New Delhi.*

.....Insurer/R2

*Appearance (s) : Sh. R. K. Jain, Ld. Counsel for the petitioner.
Sh. V. K. Gupta, Ld. counsel for R2/insurance.*

JUDGMENT/AWARD

1. Vide this judgment/award, I shall dispose off DAR filed by IO HC Ajender, PS Kanjhawala in regard to death of ***Sh. Ramesh***, (***in short, the deceased***), who died on in a road vehicular accident dated 26.01.2021.
2. Brief facts as per DAR Ex. PW1/5 (colly) are that on 26.01.2021, after taking birthday cake from market at Bawana, Sh. Uma Singh @ Pratap sat on the pillion seat of motorcycle bearing registration no.HR-10R-0173 which was being driven by deceased Ramesh Kumar at a very normal speed. At about 07:45 pm to 08:00 pm, when they reached on road leading from Village Punjab Khore towards Jhimar Pur Village, Delhi, in a meantime, a vehicle bearing registration no.HR13Q-0225 (***in short, “the offending vehicle”***) which was being driven by Sh. Suraj i.e. respondent no.1 with two pillion riders came at a very high speed driven in a zig zag manner rashly and negligently hit the motorcycle of deceased. As a result both fell down on the road and sustained grievous injuries. Deceased was taken

to Maharishi Valmiki Hospital where he was declared brought dead. Post mortem of deceased was conducted at Sanjay Gandhi Memorial Hospital vide PM report no.87/21 dated 28.01.2021. FIR no. 44/21 for the offences punishable under Section 279/304A IPC was registered at PS Kanjhawala.

3. As per DAR and investigation conducted by IO, R1 was driving the offending vehicle in negligent manner which caused the accident resulting in death of deceased. Cause of death, confirmed by PM report no.87/21. As such R1 was charge-sheeted for offences under section 279/304A IPC.
4. As per DAR deceased is survived by his father (expired at the stage of inquiry) and mother (hereinafter referred to as only petitioner).
5. No WS/reply filed by R1/driver-cum-owner of offending vehicle and his right to file WS/reply was closed.
6. Legal offer for an amount of Rs.10,74,662/- after 50 % contributory negligence, the total net compensation of Rs.5,37,331/- was filed by insurance company. The offer was not accepted by the petitioners stating that there was no contributory negligence and the income has been wrongly calculated.

ISSUES:

7. After completion of pleadings as legal offer was filed by

insurance, following issues were framed by this Tribunal on 09.05.2025: -

1. For what quantum of compensation, petitioner is entitled? OPP.

2. Relief.

EVIDENCE:

8. In evidence petitioner Sh. Poma Ram appeared as Pw1 and filed his affidavit Ex.PW-1/A and also relied on Ex.Pw1/1 to Ex.Pw1/5. He deposed that he is not eye witness of accident. He deposed that he has not any documentary proof regarding income/occupation of deceased. Thereafter, petitioner evidence was closed and matter was listed for respondents evidence.
9. No evidence was led by respondents. Thereafter, the evidence was closed. I have heard Ld. Counsel for the parties and have gone through the testimony of witnesses including the pleadings and the documents. My issue wise findings in the case are as under:-

ISSUE NO.1

1. For what quantum of compensation, petitioner is entitled? OPP.

COMPENSATION

10. 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 the (c) the number of dependents. The 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 of the age of the deceased. If these determinants are standardized, there will be uniformity and consistency in the decisions. There will be lesser need for detailed evidence. In this regard, though not quoted, reliance is placed upon, ***Sarla Verma & Ors. v. Delhi Transport Corporation & Anr. (2009) 6 SCC 121.***

11. As stated above, the claimants/petitioners are father (since deceased) and mother of deceased. As per the driving license of deceased, he was about 35 years old on the date of accident. PW-1 deposed that the deceased was engaged in agricultural work as labour in Delhi and earning Rs.25,000/- per month. Ld. counsel for insurance company submitted that the income of deceased should not be taken as more than the minimum wages for unskilled worker, as applicable in the State of Rajasthan on the date of accident, as the petitioner has failed to prove that the deceased was residing and employed in Delhi. Insurance company has placed reliance on judgment of the ***Hon'ble Supreme Court in Kirti Vs. Oriental Insurance Company Ltd., Civil Appeal No.1920 of 2021.***

12. On the other hand, Ld. counsel for petitioner has relied upon the judgment of ***Hon'ble High Court of Delhi in MAC. APP. No.8/2026 titled as The New India Assurance Company Ltd. Vs. Pratima Kumari and Ors.,*** wherein it has been observed that:

14. It is a common knowledge that thousands of workers who

are residents outside Delhi find their avocation and employment in Delhi and are therefore, entitled to minimum wages given in the jurisdiction of Delhi, and not the minimum wages where their original residence may be.

13. The deceased was native of Rajasthan. Unlike in Kirti (Supra), where the deceased was resident of Haryana, from where one can commute to Delhi on daily basis, the deceased here in, was resident of Rajasthan. It is not usual that one would come to Delhi from Rajasthan on daily basis. Therefore, deceased must be residing in Delhi. Further, chargesheet specifically takes note that deceased was working as labour in agricultural land at Village Khairpur, Punjab Khore, Delhi. Hence, on the basis of above discussion and material available on record, this tribunal is of the considered opinion that the deceased was working in Delhi. As petitioners have failed to prove the exact income of deceased by way of cogent evidence, on the basis of fact that the deceased was studied upto 8th class, the income of the deceased, as on the date of the accident, is treated as that of “**non matriculate person**”. Therefore, on the date of accident i.e 26.01.2021, the minimum wages of non matriculate person in Delhi is **Rs.17,069/-** per month.

14. Age of the deceased as per record was **35 years** as on the date of accident. Hence, the multiplier of “**16**” would be applicable in view of pronouncement made in case titled as ***Sarla Verma (supra)***.

15. Claimant/petitioner is only LR of deceased and she was unemployed. Hence, there has to be 1/2 (**one half**) deduction, as per

the mandate of *Sarla Verma (supra)*. Thus, total loss of dependency would come out as under:

16. Thus, total loss of dependency would come out as under:

S N	Head	Amount (Rs.)	Remarks
1.	Monthly Income of deceased (A)	17,069	
2.	Add: Future prospects @ 40 (B)	6,827.6	40% of A
3.	Less: Personal expenses of deceased @ one half (1/2) (C)	11,948.3	[(A) + (B)] 1/2= (C)
4.	Monthly loss of dependency(D)	11,948.3	[(A)+(B)]- (C)= (D)
5.	Annual Loss of dependency (E)	1,43,379.6	(D) x 12 = (E)
6.	<i>Multiplier @ 16</i>		
7.	Total Loss of dependency (F)	22,94,073.6	(E) x 16 (multiplier) = (F)

17. The insurance company would also seek deduction of contributory negligence on the ground that the deceased was not wearing helmet. Although, there is no evidence of having helmet is placed in DAR, there is no indication in DAR that deceased was not wearing helmet. Contributory negligence being distinct fact has to be proved by leading evidence, which was not done by R2. Therefore, deduction for same is declined.

LOSS OF LOVE & AFFECTION

18. After the judgment passed in *National Insurance Company Ltd. v.*

Pranay Sethi & Ors. (supra) and recent judgment titled as *New India Assurance Company Limited v. Somwati & Ors., Civil Appeal no. 3093 of 2020* the petitioners are not entitled to be compensated under this head. Further, Hon'ble Delhi High Court in appeal titled as *Bajaj Allianz General Insurance Company Ltd. Vs. Pooja & Ors, (supra)* has been pleased to observe in para 18 of the judgment that the Constitution Bench decision in *Pranay Sethi (supra)* does not recognize any other non-pecuniary head of damages. **Hence, no amount of compensation is being awarded under this head.**

LOSS OF CONSORTIUM

19. In view of the judgment of Hon'ble Supreme Court in case titled as, “*Rojalini Nayak & Ors. Vs. Ajit Sahoo & Ors.* ”, *Civil Appeal* dated 07.08.2024, I am of the considered opinion that LR of deceased is entitled for payment of **Rs.48,400** towards loss of consortium. **Consequently, a sum of Rs. 48,400/- is awarded to the petitioner under this head.**

LOSS OF ESTATE & FUNERAL EXPENSES

20. In view of the facts and circumstances of the present case and in view of decision of Hon'ble Apex Court in the case of “*Rojalini Nayak & Ors. Vs. Ajit Sahoo & Ors.* ”, *Civil Appeal* dated 07.08.2024 mentioned supra, a sum of **Rs. 18,150** is awarded in favour of petitioner on account of loss of estate and a sum of **Rs. 18,150/-** is awarded in favour of petitioner towards funeral expenses. Thus, the total compensation is assessed as under:

S. No.	Head	Amount (Rs.)
1	Loss of dependency	22,94,074
2	Loss of Consortium	48,400
3	Loss of Estate & Funeral Expenses (Rs.18,150 + 18150)	36,300
	Total	23,78,774

LIABILITY

21. Now, the question which arises for determination is as to which of the respondents is liable to pay the compensation amount. As the offending vehicle has been duly insured with respondent no.2 and there is no contributory negligence, the respondent no.2/Insurance company is liable to pay the amount of compensation. Issue No.1 is decided accordingly.

ISSUE NO.3: RELIEF

22. In view of the aforesaid discussion, I award compensation of **Rs.23,78,774/- (Rupees Twenty Three Lacs Seventy Eight Thousand Seven Hundred Seventy Four only)** alongwith interest @ 9% per annum w.e.f the date of filing of DAR i.e. 18.10.2023 till the date of its realization in favour of petitioner.

APPORTIONMENT

23. The statement of petitioner in terms of Clause 29 MCTAP was recorded on 13.03.2026.

RELEASE

24. Out of the awarded amount, 30 % of amount be released to petitioner immediately in her MACT saving bank account no.

18720110056271, IFSC Code: UCBA0001872 in UCO Bank, Branch Rohini, New Delhi. The remaining amount alongwith interest amount of the petitioner is directed to be kept in the form of FDRs in the multiples of Rs.30,000/- each for a period of one month, two months, three months and so on and so forth, having cumulative interest.

25. *The following conditions are to be adhered to by SBI, Rohini Courts, Delhi with respect to the fixed deposits:-*

(a) The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the claimant(s) i.e. the savings bank account(s) of the claimant(s) shall be an individual savings bank account(s) and not a joint account(s).

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

(c) The monthly interest be credited by Electronic Clearing System (ECS) in the savings bank account of the claimant(s) near the place of their residence.

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

(e) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Court.

(f) The concerned bank shall not be issue any cheque book and/or debit card to claimant(s). However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount. The bank shall debit card (s) freeze the account of the claimant(s) so that no debit card be issued in respect of the account of the claimant(s) from any other branch of the bank.

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

(h) It is clarified that the endorsement made by the bank along with the duly signed and stamped by the bank official on the passbook(s) of the claimant(s) is sufficient compliance of clause (g) above.

26. Concerned Manager, SBI, Rohini Court Branch, Delhi is directed to transfer the disbursed amount immediately to the petitioner in her aforesaid saving bank accounts, on completing necessary formalities as per rules.

27. **Form V and IVB in terms of MCTAP are annexed herewith as Annexure-A.**

28. A separate file be prepared for compliance report by the Nazir and put up the same on 02.05.2026.

File be consigned to record room after due compliance.

**ANNOUNCED IN THE OPEN COURT
ON 1st DAY OF APRIL, 2026**

**VIKRAM
DJ-1+MACT, NORTH WEST,
ROHINI COURTS, DELHI**