IN THE COURT OF VIJAY KUMAR JHA
PRESIDING OFFICER:
MOTOR ACCIDENT CLAIMS TRIBUNAL-01, SHAHDARA
KARKARDOOMA COURTS, DELHI

In the matter of :

MACT no.221/2022
Munesh Devi & Ors. v. Shiva Punia & Ors.

1. **Munesh Devi** (wife of the deceased)
   Wife of late Sh. Ramchail
   R/o 417/324, Gali no.9, Adarsh Mohalla,
   Maujpur, Gadhi Mendu, North-East, Delhi-110053.

2. **Ravi Verma** (elder son of the deceased)
   S/o late Sh. Ramchail
   Since deceased (as died in the same accident), through his LRs:

   (a) **Payal Verma** (aged 11 years)
   D/o late Sh. Ravi Verma

   (b) **Aarushi** (aged 7 years)
   D/o late Sh. Ravi Verma

   Both 2(a) & 2(b) being minors represented
   through their natural guardian/ mother
   Smt. Geeta w/o late Sh. Ravi Verma
   R/o 41/2, Gali no.7, Johripur Extn., Gokalpur,
   Delhi-110094.

3. **Devender** (younger son of the deceased)
   S/o late Sh. Ramchail
   R/o 417/324, Gali no.9, Adarsh Mohalla, Maujpur,
   Gadhi Mendu, North-East, Delhi-110053. ……………..**Petitioners**

Versus

1. **Shiva Punia** (Driver)
   S/o Sh. Anil Kumar
   R/o 127, Village Oon, Jhinjhana,

District Shamli, U.P.-2477724.

2. **Ankit** S/o Sh. Rama (Regd. Owner)
   R/o 4, Gali no.3, Panchwati, Loni Dehat,
   Ghaziabad, U.P.-201102.

3. **The New India Assurance Co. Ltd.** (Insurer)
   Through its Director
   E-9, Connaught Place, New Delhi. ……………**Respondents**

Date of filing of claim petition : 26.05.2022
Final arguments concluded on : 25.04.2026
Date of Award : 27.04.2026

JUDGMENT

1. The present claim petition under Section 166 of the 'Motor Vehicle Act, 1988' was filed by the claimants/ legal representatives of Ramchail (hereinafter, '**the deceased'**) seeking compensation from the respondents on account of fatal injuries received by the deceased in a motor vehicular accident.

2. Important facts of the case as per claim petition are that on 28.01.2022, the deceased, along with his family members, was taking the wedding procession of his son Devender from Delhi to Ayodhya in bus bearing registration number UP17AT-9292 (hereinafter, **'offending vehicle'**) being driven by the respondent no.1 at a high speed, rashly and negligently. On 29.01.2022 at about 03:10 p.m., when the offending vehicle reached at 174/800 KM milestone, Lucknow-Agra Expressway, while overtaking a truck moving ahead, it hit the rear of the truck from the conductor's side, due to which the deceased Ramchail, Ravi Verma (elder son of the deceased) and one

Bijender Kumar (occupants of the offending vehicle) received fatal injuries, whereas other occupants of the bus received grievous/ simple injuries. Postmortem of the deceased Ramchail was conducted at District Hospital, Kannauj vide postmortem report no.43/2022, dated 29.01.2022.

3. In connection with the accident, the FIR no.34/2022, under sections 279/337/338/304-A IPC was registered at PS Talgram, Kannauj, U.P. on 04.02.2022 on the statement of Devender, younger son of the deceased. During investigation, it was found out that, at the time of the accident, the offending vehicle was being driven by respondent no.1, owned by respondent no.2 and insured with respondent no.3. After completion of the investigation, charge-sheet was filed against the respondent no.1 before the concerned court. With the above facts, the claimants by filing the present claim petition prayed for compensation of Rs.45 lakh along with interest @ 18% per annum.

4. On notice of the claim petition, all the respondents appeared and filed their written-statements.

5. In the joint written-statement filed on behalf of respondents no.1 and 2, it is stated that the claimed amount is highly exorbitant and exaggerated and the same is not awardable, as the alleged accident has not taken place due to the negligence of the answering respondent no.1. Further, it is stated that, on the alleged date of the accident, i.e. 29.01.2022, the respondent was having a valid driving license bearing no. UP1929160012791 and the vehicle was duly insured with the respondent no.2 and insured with respondent no.3

vide certificate-cum-policy no.320305/31/2101/00000623 for the period from 28.12.2021 to 27.12.2021 and the respondent no.3 is liable to pay the compensation, if any.

6. In the written-statement filed on behalf of the respondent no.3/ insurance company, it is stated that the alleged accident has taken place because of sole negligence on the part of alleged deceased and therefore, answering respondent is not liable to pay any compensation. Rest, general defences have been taken with the contention that the liability of the insurance company is subject to compliance of the terms and conditions of the insurance policy.

7. On the basis of the pleadings, vide order dated 21.02.2023, following issues were framed:

   1). Whether deceased Ramchail met with the motor vehicular accident occurred on 29.01.2022 at about 03:10 a.m. at Agra Lucknow Expressway, Lucknow, U.P. within the jurisdiction of PS Talgram, District Kannauj, due to rash and negligent driving of offending vehicle i.e. Tourist bus bearing registration number UP17AT-9292 driven by respondent no.1 Sh. Shiva Punia (driver) ? OPP

   2). Whether petitioners are entitled for compensation on account of said accident and if yes, to what extent and from whom? OPP

   3). Relief.

8. No other issue arose or pressed for and the case was adjourned for petitioner's evidence to be recorded through learned Court Commissioner (refer: **Gohar Mohammed v. U.P. SRTC, (2023) 4 SCC 381)** appointed vide aforesaid order dated 21.02.2023.

9. Ld. Court Commissioner submitted the report containing the depositions, recorded by him, as under:

i). PW1 Munesh Devi, wife of the deceased deposed on the strength of her affidavit Ex.PW1/A regarding the age, income, occupation of deceased and about the losses suffered as a result of the death of the deceased and relied upon the following documents:

a) Copy of Aadhaar Card of the petitioner no.1 as Ex.PW1/1, however, same was de-exhibited for want of original and was marked as Mark-H.

b) Copy of Aadhaar Card of the deceased as Ex.PW1/2.

c) Copy of bank passbook as Ex.PW1/3.

d) Certified copy of FIR as Ex.PW1/4 (colly.-3 sheets).

e) Attested copy of postmortem report of deceased as Ex.PW1/5 (colly).

f) Photographs of deceased as Ex.PW1/6 (2 photographs) (objected to by learned counsel for the insurer as to the mode of proof).

g) Photographs of the offending vehicle as Ex.PW1/7 (2 photographs) (objected to by learned counsel for the insurer as registration number of the vehicle is not appearing).

h) Copy of cremation receipt of deceased Ram Chail as Ex.PW1/8, however, same was de-exhibited for want of original and is marked as Mark-I.

i) Copy of PAN Card of the petitioner no.1 Munesh Devi as Ex.PW1/9, however, same was de-exhibited for want of original and was marked as Mark-J.

j) Copy of Aadhaar Card of Ravi Verma, the deceased son of deceased Ram Chail as Ex.PW1/10 (OSR).

k) Copy of PAN Card of petitioner no.2 Ravi Verma, deceased son of the deceased as Ex.PW1/11 (OSR).

l) Copy of Aadhaar Card of petitioner no.2(i) Payal Verma as Ex.PW1/12 (OSR).

m) Copy of Aadhaar Card of petitioner no.2(ii) Aarushi as Ex.PW1/13 (OSR).

n) Copy of PAN Card of Smt. Geeta, mother of petitioner no. 2(a) and 2(b), as Ex.PW1/14 (OSR).

o) Copy of Aahdaar Card of petitioner no.3 Devender is Ex.PW1/15, however, same was de-exhibited for want of original and was marked as Mark-K.

p) Copy of PAN Card of petitioner no.3 Devender is Ex.PW1/16, however, same was de-exhibited for want of original and was marked as Mark-L.

q) Certified copy of charge-sheet is Ex.PW1/17 (2 sheets).

r) Certified copy of site plan is Ex.PW1/18.

s) Copy of Driving License of R1/ driver is Mark-A.

t) Copy of covid report of R1/ driver is Mark-B (2 pages).

u) Copy of Pollution Control Certificate of offending vehicle Mark-C.

v) Copy of Certificate of Registration of offending vehicle is Mark-D.

w) Copy of Policy Schedule cum Certificate of Insurance of offending vehicle is Mark-E.

x) Copy of Aadhaar Card of R2/ owner Ankit is Mark F.

y) Copy of Authorization for Tourist Vehicle Permit of offending vehicle is Mark G.

ii). PW2 Devender, son of the deceased has been examined as eye-witness of the accident. He deposed by way of his affidavit Ex.PW2/A and produced his Aadhaar Card Ex.PW2/1 (OSR).

10. On the other hand, on behalf of the respondents, following witnesses

have been examined:

i). R3W1 Sh. Dilip Kumar (Senior Assistant, Office of ARTO, Baghpat, near Collectorate, Baghpat, U.P.) produced the attested copy of Registered Vehicle Details of the vehicle no. UP17AT-9292 as Ex.R3W1/1, issued in the name of Sh. Ankit S/o Sh. Rama, printout of which has been taken from Vahan Portal, U.P. Government with respect to fitness of the vehicle, which was not valid on the date of accident on 29.01.2022. The fitness was last issued on 14.01.2019 and valid upto 20.01.2021 and again issued on 19.04.2022 and valid upto 18.04.2024. R3W1 also produced the attested copy of the Permit as Ex.R3W1/2 as well as attested copy of authorization of the said vehicle as Ex.R3W1/3. He also proved the copy of the relevant circular, dated 30.09.2021, issued by Ministry of Road Transport & Highways, Govt. of India as Ex.R3W1/4 (colly.-3 pages).

ii). R3W3 Sh. Pintu Kumar Shaw (Assistant Manager of insurer) proved the office copy of the notice sent to driver and owner as Ex.R3W3/1 and their postal receipts as Ex.R3W3/2 and Ex.R3W3/3, respectively. He also proved the computer generated attested copy of the insurance policy as Ex.R3W3/4.

11. I heard the final arguments advanced by learned counsel for the parties and perused the entire evidence and other materials placed on record. My findings on the issues are as under:-

ISSUE NO.1

Whether deceased Ramchail met with the motor vehicular accident occurred on 29.01.2022 at about 03:10 a.m. at Agra Lucknow Expressway, Lucknow, U.P. within the jurisdiction of PS Talgram, District Kannauj, due to rash and negligent driving of offending vehicle i.e. Tourist bus bearing registration number UP17AT-9292 driven by respondent no.1 Sh. Shiva Punia (driver) ? OPP

12. It is the settled proposition of law that in an action founded on the principle of fault liability, 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 the preponderance of probabilities. A holistic view is to be taken while dealing with the Claim Petition based upon negligence. Strict rules of evidence are not applicable in an inquiry conducted by the Claims Tribunal. Reference may be made to the judgments titled as **New India Assurance Co. Ltd. v. Sakshi Bhutani & Others.,** MAC APP. No. 550/2011 decided on 02.07.2012, **Bimla Devi & Others v. Himachal Road Transport Corporation & Others** (2009) 13 SC 530, **Parmeshwari v. Amirchand & Others** 2011 (1) SCR 1096 **& Mangla Ram v. Oriental Insurance Company Ltd. & Others** 2018, Law Suit (SC) 303.

13. For deciding the issue in hand, the deposition of PW2 Devender is relevant. PW2 in the affidavit of his examination-in-chief Ex.PW2/A has deposed regarding the mode or manner of accident. It is deposed to by PW2 that on 28.01.2022, he along with his family members, was going to Ayodhya, Uttar Pradesh in the offending vehicle (bus) which was being driven by respondent no.1 in rash and negligent manner, in over speed and the witness and his other family members

requested the respondent no.1 to drive it at a normal speed with safety and when the offending bus reached at 174/800 KM, Agra-Lucknow Expressway, Police Station Talgram, District Kannauj, U.P., at about 03:10 a.m., the respondent no.1 hit the offending vehicle from the conductor's side while overtaking the truck.

14. In the cross-examination of PW2 conducted by learned counsel for respondent no.3/ insurance company, neither any fact supporting any of the defences as taken by the respondent no.3 in its written statement could be elicited nor the facts as stated by PW2 in his examination-in-chief Ex.PW2/A could be impeached.

15. In the cross-examination of PW2 conducted by learned counsel for the respondents no.1 and 2, to his query as to what PW2 meant by the offending vehicle being driven rashly and negligently, PW2 clarified that with rashness and negligence, he had meant that the driver was driving the bus at a fast speed and even over the potholes/ speed breakers, the driver was not slowing down the bus. It may be noted that, in the entire cross-examination of PW2 done by learned counsel for respondents no.1 and 2, the manner of the accident, as stated by PW2 in his examination-in-chief that the accident occurred while the respondent no.1 was trying to overtake a truck that was ahead of the offending bus and while overtaking, the respondent no.1 hit the truck from its conductor side, has not been disputed to. Neither the learned counsel for respondents no.1 and 2 has given any suggestion indicating that the accident in question occurred in any other manner indicating the absence of rashness and negligence in

causing the accident by the respondent no.1.

16. PW2 was queried by the Tribunal as to the speed of the bus immediately before the accident and PW2 deposed that it was around 100 kilometers per hour and that the witness was able to tell the speed, as the witness had seen the speed of the bus on the speed meter installed at the highway. Even if it is assumed that PW2 or his other family members did not request the respondent no.1 to drive the bus slowly or carefully, that does not lessen the responsibility of the respondent no.1 to drive the offending bus carefully. As the mode or manner of accident suggests that the accident was caused because the respondent no.1 could not assess the exact space that was needed by the offending bus to overtake the truck because of which the conductor side of the offending bus hit the rear side of the truck and the said fact speaks for itself regarding the rashness and/ or negligence of the respondent no.1 in driving the offending bus/ vehicle. Had the offending bus was being driven at a speed of less than 100 kilometers per hour, an accident would have happened exactly in the same manner as had happened in the present case, in such situation also it could have been presumed that the respondent no.1 was rash and negligent in driving the offending vehicle.

17. The FIR in this case was lodged on the statement of Devender, son of the deceased on 04.02.2022 i.e. after six days of the accident, which occurred on 29.01.2022. It is obvious that the complainant, who lost his father, brother and one of the relatives in the accident and his other relatives also received grievous/ simple injuries, the

complainant must have been under serious mental trauma and occupied as well in performing last rituals of his father and brother who both died in the accident and therefore, in such circumstances, delay of six days in giving statement to police for lodging the FIR is quite natural and this delay in lodging the FIR cannot be said to have caused any dent to the case of the petitioners. It may also be noted that it is not the defense of the respondent no.1 and 2 that the offending vehicle bus/vehicle has been planted and that no accident was caused by the respondent no.1 involving the offending vehicle.

18. Further, the registration number of the offending vehicle is clearly mentioned in the FIR and after detailed investigation, charge-sheet was filed against the respondent no.1 and in case of motor vehicular accident claims, contents of charge-sheet are relevant in assessing the rashness and negligence of the driver of the offending vehicle.

19. The postmortem of the deceased was conducted at District Hospital, Kannauj vide postmortem report no.43/22, dated 29.01.2022, which reveals that the deceased was observed to have sustained multiple antemortem crush injuries and his death was caused due to shock and hemorrhage as a result of antemortem injuries.

20. Thus, in the light of the above discussion and the evidence brought on record, it is held that the petitioners have been able to prove on the basis of the preponderance of probabilities that the accident had occurred due to rash and negligent driving of the offending vehicle by respondent no.1 and that resulted into fatal injuries to deceased Ramchail. Issue no.1 is, accordingly, decided in favour of petitioners.

ISSUE NO. 2

21. In view of the finding on issue no.1, petitioners herein are held entitled to get compensation, however, the quantum of compensation still needs to be adjudicated. Section 168 of M.V. Act, 1988 enjoins upon the claim Tribunal to hold an inquiry into the claim 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 a windfall or a bonanza nor it should be pittances. A man is not compensated for the physical injury, he is compensated for the loss which he suffers as a result of that injury.

COMPUTATION OF COMPENSATION

22. Section 168 of the Act enjoins the Claims Tribunal to hold an inquiry into the claim to make an award determining the amount of compensation that appears to be just and reasonable. It has to be borne in mind that the compensation is not expected to be a windfall or a bonanza nor it should be a pittance.

23. In **Sarla Verma and Others v. Delhi Transport Corporation & Anr. (2009) 6 SCC 121,** the relevant guidelines for compensation were laid down in death cases, which have been reiterated by the Constitution Bench of Hon'ble Supreme Court in a case titled as **National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.** (AIR 2017 SC 5157), laying down the general principles for computation of compensation in death cases. In view of the aforesaid judgments, the compensation in the present case has to be ascertained as under:

PECUNIARY DAMAGES:

Age of deceased & Application of Multiplier

24. As per Aadhaar Card of the deceased, a copy of which has been proved on record as Ex.PW1/2, his date of birth was 01.01.1961, which would mean that on the date of accident on 29.01.2022, the deceased was 61 years of age. Accordingly, the multiplier of 7 shall be applicable, as the deceased belonged to the age group 61-65 years (refer: **Sarla Verma v. DTC (2009) 6 SCC 121).**

Assessment of Income of deceased

25. PW1, wife of the deceased did not depose anything regarding vocation, income and education of the deceased. In her cross-examination, PW1 has stated that she did not have any document to indicate the profession of her deceased husband. The Aadhaar Card (Ex.PW1/2) of the deceased reflects that he was resident of Delhi. In the absence of any documentary proof with respect to vocation, income and education of the deceased, his income has to be assessed at par with minimum wages applicable to the unskilled workers of Delhi on the date of accident (29.01.2022), which were Rs.16,506/- per month and same is assessed as income of the deceased.

Future Prospects

26. Since the deceased was more than 60 years of age, no future prospects can be added to income of the deceased [refer: **Pranay Sethi** (Supra)].

Deduction towards Personal Living Expenses

27. The petitioner no.1 is the wife of the deceased. Petitioner no.2(a) and 2(b) are the grand-children of the deceased and petitioner no.3 is the

major son of the deceased. At the time of the accident of the deceased, the grand-children were dependent upon their father, Ravi Verma, the elder son of the deceased, who also received fatal injury in the accident and therefore, the grand-children i.e. petitioner no.2(a) and 2(b) cannot be considered to be dependent upon their grandfather, i.e., the deceased. Further, the petitioner no.3 Devender, as per his Aadhaar Card and PAN Card, copies of which have been placed on record, was aged 28 years on the date of accident of his father/ deceased. PW1, wife of the deceased in her cross-examination has stated that during the time of the accident, Devender was plying e-rickshaw and, at present, he is unemployed. Considering that on the date of accident, the petitioner no.3 Devender was major, aged 28 years and admittedly, he was earning at that time by plying e-rickshaw, he cannot be considered to be dependent upon the deceased. Thus, considering the wife of the deceased to be the only dependent upon the deceased, half of the income of the deceased shall be deducted towards his personal living expenses [(refer: as **Reshma Kumari & Ors. v. Madan Mohan & Anr., (2013) 9 SCC 65**].

<u>**Loss of Dependency:**</u>

28. In view of the settled guidelines, as laid down in the various judgments herein above, applying the multiplier of 7 and making deduction of half of the income, the loss of dependency is computed as **Rs.6,93,252/-** (16,506x1/2x7x12).

<u>***NON-PECUNIARY DAMAGES***</u>

29. In the light of the decision of Hon'ble Supreme Court, dated

31.10.2017, in case of **National Insurance Company Ltd. Vs. Pranay Sethi and Ors**. (**AIR 2017 SC 5157)**, 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.

30. The accident in this case occurred on 29.01.2022, and therefore, a compensation of Rs.44,000/-, Rs.16,500/- and Rs.16,500/- respectively on account of loss of consortium, loss of estate and funeral expenses is required to be granted. Further, in view of the 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, claimants are required to be granted spousal consortium, parental consortium and filial consortium. Accordingly, petitioner no.1 being wife of the deceased is entitled to spousal consortium, whereas, the petitioner no.3 being son of the deceased shall be entitled to parental consortium. Thus, the following amounts are awarded under the conventional heads:

S. No.	**Conventional Head**	**Amount (in Rs.)**
1.	Spousal Consortium Parental Consortium	Rs.44,000/- Rs.44,000/-
2.	Loss of Estate	Rs.16,500/-
3.	Funeral Expenses	Rs.16,500/-
	Total =	Rs.1,21,000/-

Accordingly, the total compensation comes to **Rs.8,14,252/-** (6,93,252+1,21,000).

INTEREST ON AWARD

31. Petitioners shall also be entitled to interest @ 6% per annum on the award amount from the date of filing of the claim petition till realization of the award amount.

LIABILITY

32. Admittedly, the insurance company has contractual and statutory liability to indemnify the insured in case any of the terms or conditions of the insurance policy is not violated. However, in this case, learned counsel for insurance company argued that, on the date of the accident, the offending vehicle was being plied on the road without a fitness certificate.

33. Ld. Counsel for the insurance company has relied upon the evidence of R3W3 (Assistant Manager of the insurance company) who proved the office copy of the notice under Order 12 Rule 8 CPC sent to the driver and owner as Ex.R3W3/1 to produce the documents of the offending vehicle. R3W1 also proved the postal receipts as Ex.R3W3/2 and Ex.R3W3/3, respectively, with respect to dispatch of notice to the driver and owner. He also proved the computer generated attested copy of the insurance policy as Ex.R3W3/4. It is evident on record that the driver and owner of the offending vehicle did not file the fitness certificate of the offending vehicle which was valid on the date of the accident during the entire inquiry proceedings.

34. Learned counsel for the insurance company also relied upon the evidence of R3W1 (Senior Assistant, Office of ARTO, Baghpat) who produced the attested copy of Registered Vehicle Details (Ex.R3W1/1) of the offending vehicle bearing number UP17AT-9292 and deposed that fitness was last issued on 14.01.2019 and valid upto 20.01.2021 and again issued on 19.04.2022 and valid upto 18.04.2024. R3W1 also produced the attested copy of the Permit as Ex.R3W1/2 as well as attested copy of authorization of the said vehicle as Ex.R3W1/3. Perusal of Registered Vehicle Details (Ex.R3W1/1) confirms the deposition of R3W1 that the fitness of the offending vehicle was not valid on the date of the accident on 29.01.2022.

35. In cross-examination conducted by learned counsel for respondent no.1 and 2, R3W1 stated that because of covid-19, relaxation was granted by Govt. of India vide circular bearing no. RT-11036/35/2020-MVL, dated 30.09.2021 Ex.R3W1/4 (colly.-3 pages). Perusal of said circular makes it clear that validity of fitness, permit, driving license, registration or any other documents whose extension of validity could not be granted due to lockdown, the same may be treated to be valid till 31.10.2021. However, said circular is of no help to the learned counsel for respondents no.1 and 2 as the date of the accident in this case is 29.01.2022, which was beyond the ambit of this circular and therefore, it further establishes on record that the offending vehicle did not have a valid fitness certificate on the date of the accident on 29.01.2022.

36. Per contra, the learned counsel for respondents no.1 and 2 has argued that the liability to pay the award amount cannot be fastened upon respondents no.1 and 2 merely because of the reason that at the time of the accident the offending vehicle did not have a fitness certificate, as the requirement of having a fitness certificate is not one of the conditions of the insurance policy and also it is not the defense available to the insurance company under section 149(2)(a) of the Motor Vehicles Act. The learned counsel for the respondents no.1 and 2 has also argued that the offending vehicle had a valid Registration Certificate and Permit as well and the Permit of the offending vehicle was not in view of section 86(1) of Motor Vehicles Act could not be deemed to have been cancelled on the ground that the offending vehicle did not have a valid fitness certificate without opportunity of being heard given to the holder of the Permit. The learned counsel for the respondents no.1 and 2 has relied upon the judgments of Hon'ble High Court of Karnataka, titled as **Smt. Nithya Venkatesh @ Nithya Kalayani & Ors. vs National Insurance Co Ltd. & Anr.,** delivered on 22.12.2020 and **Smt. Suma & Anr. vs Syed Aheer Jain & Anr.,** delivered on the 05.07.2017.

37. It is well settled that the ratio of the judgments of the other High Courts has only persuasive value. On the same issue, i.e., if the offending vehicle did not have a fitness certificate at the time of the accident whose liability it would be to satisfy the award, our own High Court has delivered a Catena of judgments that have the binding force upon this Tribunal. The Hon'ble Delhi High Court in the judgment **New India Assurance Co. Ltd. v. Dharam Pal, 2024**

SCC OnLine Del 1636 had one of the issues to decide that if there were no fitness certificate with respect to the offending vehicle, whether the insurance company could avoid payment of the award granted by the MACT. The Hon'ble Delhi High Court in the said judgment in paragraph 15 has observed:

> 15. The long and short of the aforesaid discussion is that since on the date of accident, i.e. 19.06.2017, the offending vehicle was not having a fitness certificate and thus, not having a valid permit, there was a violation of the terms of the insurance policy. However, the appellant/Insurance Company cannot avoid its liability to pay compensation to the claimants. At the same time, they would be entitled to seek recovery rights as against the respondent No. 4/driver and respondent no.5/ registered owner of the offending vehicle.

38. A similar observation has been made by Hon'ble Delhi High Court in the judgment titled as **Kaushalpati Pandey v. New India Ass. Co. Ltd., 2020 SCC OnLine Del 2660**, wherein the same issue i.e. non-possession of a fitness certificate is not a ground of defense under section 149(2) of the Motor Vehicles Act was decided against the driver and owner of the vehicle involved in the accident.

39. Hence, this Tribunal is of the view that in the facts and circumstances of this case, respondent no.3/ insurance company should be directed to pay compensation and thereafter, it should recover the same from the owner and driver. Accordingly, it is held that respondent no.3/ insurance company shall deposit the awarded amount with this Tribunal and thereafter, it shall be entitled to get the paid amount recovered from the respondent no.1 and 2, jointly or severally in

accordance with law.

RELIEF

40. In the light of the decision on substantive issues framed the present claim petition is allowed and the following award is being passed:

AWARD

41. This Tribunal awards a compensation of **Rs.8,14,252/-** (Rs. Eight Lakhs Fourteen Thousand Two Hundred Fifty Two Only) to the petitioners along with interest @ 6% from the date of filing of the claim petition till realization to be paid by the insurance company, which shall have the right to recover the paid amount from respondent no.1 and 2, jointly and severally in accordance with law.

42. Respondent no.3/ insurance company is directed to deposit the award amount in A/c no.20780110171912 (IFSC Code UCBA0002078), UCO Bank, Karkardooma, Delhi, of PO MACT, Shahdara, through RTGS/ NEFT, within 30 days from today.

Entitlement, Apportionment and Disbursement

43. The deceased was survived by his wife (petitioner no.1 Munesh Devi) and one son (petitioner no.3 Devender), who shall be entitled to the award amount of Rs.8,14,252/- along with the interest in the following manner:

S. No	**Name of the Petitioner**	**Age** (Present Age)	**Relation with Deceased**	**Share in the Award Amount**
1	Munesh Devi	58 years	Wife	Rs.7,64,252/- along with corresponding interest.
2	Devender	32 years	Son	Rs.50,000/- along with

				corresponding interest.

44. Manager, UCO Bank, Karkardooma, Delhi is directed that after deposit of the award amount, a sum of Rs.1,64,252/- along with the corresponding interest shall be released forthwith to the petitioner no.1 Munesh Devi by way of transferring the said amount into her MACT Saving Bank Account and rest of her share amounting to Rs.6 lakh along with the interest thereon shall be kept secured with UCO Bank, Karkardooma Courts, Delhi in MACAD (Motor Accident Claims Annuity Deposit) in the form of 60 monthly FDRs of equal amount to be prepared in her name, payable to her for a period of 1 to 60 months in succession, as per the scheme formulated by Hon'ble Delhi High Court vide order dated 07.12.2018 in FAO No. 8433/2003, titled as **Rajesh Tyagi & Others v. Jaibir Singh & Others**. The amount of aforesaid FDRs on maturity would be released in MACT saving bank account of the petitioner no.1 without any further order to that effect. The amount of aforementioned FDRs on maturity shall be directly released to the petitioner no.1 by way of transferring the said amount into her MACT Saving Bank A/c without any further order.

45. Manager, UCO Bank, Karkardooma is directed that entire share of petitioner no.3 Devender, amounting to Rs.50,000/- shall be forthwith released to him by way of transferring the said amount into his MACT Saving Bank Account.

<u>Direction to Petitioner(s) & their Bank(s)</u>

46. The petitioner(s) and their banks are directed to comply the

following directions:

(a) The petitioners shall get opened their Saving Bank Account in any nationalized bank near the place of their residence, if already not opened. The concerned Bank Manager(s) of the Bank(s) where the petitioner(s) already has/have bank account or a new bank account is opened, is/are directed as follows:

   (i) No Cheque Book and ATM/ Debit Card be issued to the petitioner(s) without permission of the Court/MACT Tribunal. However, in case the ATM/Debit Card and/or Cheque Book have already been issued, bank shall cancel the same before the disbursement of the amount.

   (ii) The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the petitioner(s). However, money may be released by means of a withdrawal slip.

   (iii) The Bank Manager of petitioners' bank is also directed to make endorsement regarding compliance of aforesaid directions on the passbook.

(b) After the Bank Manager makes the endorsement regarding compliance of the aforesaid directions on the bank passbook of the petitioner(s), the petitioner(s) shall produce the original passbook having the said endorsements as well as their Aadhaar Card and PAN Card before the Tribunal on the next date of hearing or in any case before hearing the final arguments.

(c) If the petitioner(s) fail to comply with the said direction, the disbursement of the award amount (if the award is passed) shall be made subject to the following conditions:

   (i) The petitioner(s) shall have to open a MACT compliant Bank account in the UCO Bank, Karkardooma, subject to aforesaid terms and conditions and the petitioner(s) shall also furnish details of the branch of UCO bank near the place of petitioner's residence to which the bank account of the petitioner in the UCO bank, Karkardooma branch may be transferred subject to all hereinabove conditions.

47. As per 'The Central Motor Vehicles Rules, 1989 (Annexure-XIII),

the relevant Form to be incorporated in the award is as follows:

FORM - XV

SUMMARY OF COMPUTATION OF AWARD AMOUNT IN DEATH CASES TO BE INCORPORATED IN THE AWARD

1. Date of accident : 29.01.2022
2. Name of the deceased : Ramchail
3. Age of the deceased : 61 years
4. Occupation of the deceased : Self employed
5. Income of the deceased : Rs.16,506/- per month.
6. Name, age and relationship of legal representatives of deceased:

S. No	**Name of the Petitioner**	**Age** (Present Age)	**Relation with Deceased**
1	Munesh Devi	58 years	Wife
2(a)	Payal Verma	15 years	LR of the deceased son Ravi Verma
2(b)	Aarushi	11 years	LR of the deceased son Ravi Verma
3	Devender	32 years	Son

Computation of Compensation

S. No.	**Heads**	**Award by Claims Tribunal**
7.	Income of the deceased **(A)**	Rs.16,506/- per month
8.	Add-Future Prospects **(B)**	Nil
9.	Less- Personal expenses of the deceased **(C)** @ 50%	Rs.8,253/-
10.	Monthly loss of dependency **[(A+B)-C = D]**	Rs.8,253/-
11.	Annual loss of dependency **(Dx12)**	Rs.99,036/-
12.	Multiplier **(E)**	07
13.	Total loss of dependency **(Dx12xE = F)**	Rs.6,93,252/-
14.	Medical Expenses **(G)**	Nil
15.	Compensation for loss of consortium **(H)**	Rs.88,000/-

	(44,000x2)	
16.	Compensation for loss & affection **(I)**	--
17.	Compensation for loss of estate **(J)**	Rs.16,500/-
18.	Compensation towards funeral expenses **(K)**	Rs.16,500/-
19.	**TOTAL COMPENSATION (F+G+H+I+J+K = L)**	Rs.8,14,252/-
20.	**RATE OF INTEREST AWARDED**	6%
21.	Interest amount up to the date of award **(M)** (for 03 years, 10 months & 29 days)	Rs.1,91,485/-
22.	Total amount including interest **(L+M)**	Rs.10,05,736/-
23.	Award amount released	Rs.1,64,252/-
24.	Award amount kept in FDRs	Rs.6,50,000/-
25.	Mode of disbursement of the award amount to the claimants (s).	Bank transfer
26.	Next Date for compliance of the award.	08.06.2026

48. The claim petition/DAR is accordingly disposed of. File be consigned to Record Room.

VIJAY KUMAR JHA

Digitally signed by VIJAY KUMAR JHA
Date: 2026.04.27 15:26:15 +0530

Announced in the open Court on 27.04.2026

(VIJAY KUMAR JHA)
Presiding Officer-MACT (Shahdara)
Karkardooma Courts, Delhi