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

% ***Date of decision: 23rd July 2026***

(3)

\+ **MAC.APP. 602/2014**

KAMLESH & ORS .....Appellants

Through: Mr. Navneet Goyal, Advocate.

versus

RAJENDRA SINGH & ORS .....Respondents

Through: Mr. Pradeep Gaur, Mr. Amit Gaur, Mr. Kaarrtikey Parashar, Advocates for Respondent no.3/Insurance Company.

(4)

\+ **MAC.APP. 890/2014**

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Mr. Pradeep Gaur, Mr. Amit Gaur, Mr. Kaarrtikey Parashar, Advocates.

versus

KAMLESH & ORS .....Respondents

Through: Mr. Navneet Goyal, Advocate.

**CORAM:**
**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT**

**ANISH DAYAL, J (ORAL)**

1. These cross appeals have been filed assailing the impugned award dated 28th April 2014 passed by the Motor Accident Claims Tribunal, Rohini Courts, Delhi ('***MACT/Tribunal***') in *MACT No.454/2011*, which awarded

compensation of Rs.58,12,600/- along with 7.5% interest. While ***MAC.APP.602/2014*** has been filed by claimants for enhancement of compensation, ***MAC.APP. 890/2014*** has been filed by the Insurance Company challenging the impugned award on account of contributory negligence and quantum of compensation.

2. The accident in question occurred on 11th October 2011 at about 04:00 a.m., when the deceased was travelling in a tempo bearing registration no.UAO-8E-9408. When it reached the bridge near *VIP Ghat* in *Haridwar*, *Uttarakhand* a truck bearing registration no. UP-07-FA-8641 (*hereinafter*, '***offending vehicle'***), driven by *Rajendra Singh* ('***driver***') allegedly in a rash and negligent manner, hit against the tempo. Due to the accident, the deceased sustained severe injuries and subsequently lost his life.

3. The claim petition was filed by his legal heirs, *i.e.*, his widow, two minor children and two parents. The deceased was 34 years of age on the date of accident and was working as an Assistant Manager with *M/s Satyam Auto Components* on a monthly salary of Rs.35,006/-.

4. *Mr. Pradeep Gaur*, counsel for Insurance Company, has raised three points in support of his appeal; ***first***, that income tax has not been deducted on the notional income assessed by the MACT; ***second,*** that future prospects ought to have been granted at 40%, instead of 50%, considering the deceased was not in a permanent job and, in fact, was on probation; and ***third***, that composite negligence must be deducted at 50% on account of the head-on collision which had occurred.

5. On the other hand, *Mr. Navneet Goyal*, counsel for claimants, seeks enhancement of notional income which has been assessed at Rs. 29,050/,

while the deceased was drawing salary at Rs. 35,006/-. As regards future prospects, he states that the deceased was extremely well qualified, notwithstanding, that he had just started working at *M/s Satyam Auto Components*, he would been in a consistent series of jobs which would show that it was akin to a permanent job.

6. In response for composite negligence arising out of head-on collision, *Mr. Goyal* states that no evidence was put on record by the Insurance Company, by either producing the driver of tempo in which the deceased was travelling or the driver of truck/offending vehicle with which the collision had occurred, therefore, no issue of composite negligence can be raised at this stage. Moreover, composite negligence, if at all, would only provide a right of recovery from the driver of truck/offending vehicle and not affect the compensation awarded to the claimant.

7. He also states that deduction towards personal expenses should have been one fourth instead of one third, considering there were 4-5 dependants.

8. On the issue of benchmark income, MACT assessed the same on the basis of evidence of *Mr. Satish Kumar Saluja, Assistant Manager, M/s Satyam Auto Components* ('***PW2***') where the deceased was working. He had produced the employment/service record of deceased and stated that he was drawing a salary of Rs.35,006/- per month. Relying upon the wage sheet, exhibited as ***Ex.PW2/5*** and the cross examination of ***PW2***, MACT noted that salary for the month of September 2011 was Rs. 29,050/- from which an amount of Rs. 1,848/- had been deducted towards provident fund ('***PF***') and Rs. 440/- had been deducted towards food coupon. Accordingly, an amount of Rs. 26,762/- had been credited in the account of deceased. Further

amounts towards magazine reimbursement, medical reimbursement, leave travel allowance ('***LTA***') reimbursement were given, on the basis of submission of actual bills by the deceased, along with the bonus which was payable on an annual basis. It was admitted that, the appointment letter did not find any mention that he was entitled to increment in his salary. Accordingly, benchmark income was taken at Rs.29,050/- per month by the MACT.

9. The salary slip of deceased dated 1st November 2011, for the period of 1st September 2011 till 10th October 2011 has been exhibited as ***Ex.PW2/3*** and the bifurcation is given as under:

| **Description** | **Amount (Rs.)** |
|---|---|
| Basic Salary | 15,400.00/- |
| House Rent Allowance | 7,700.00/- |
| Children Education Allowance | 600.00/- |
| Washing Allowance | 800.00/- |
| Conveyance Allowance | 800.00/- |
| Membership Allowance | 150.00/- |
| Performance Bonus | 3,600.00/- |
| Magazine Reimbursement | 275.00/- |
| Phone Reimbursement | 600.00/- |
| Medical Reimbursement | 1,250.00/- |
| LTA Reimbursement | 1,283.00/- |
| PF | 1,848.00/- |
| Bonus | 700.00/- |
| **TOTAL** | **35,006.00/-** |

10. The issue of allowances has been considered by this Court in ***E. Neeta Devi & Ors. v. Ashwani Kumar & Ors.*** 2026:DHC:5184 where the Court

traversed through a line of judgments, *inter alia*, ***National Insurance Co. Ltd. v. Indira Srivastava & Ors.*** (2008) 2 SCC 763, ***Meenakshi v. Oriental Insurance Co. Ltd.*** 2024 SCC OnLine SC 1872 ***Manorma Sinha v. Divisional Manager Oriental Insurance Ltd.*** 2025 SCC OnLine SC 2241 holding that deductions which accrue to the benefit of the family, have to be taken into account for the purposes of income. Principles culled out by the Court in ***E. Neeta Devi*** (*supra*) are extracted as under:

> *"36. Principles which can be culled out from the above decisions are enunciated as under:*
>
> *(i) Income is not limited to the pay packet carried home by an employee, but also allowances which are beneficial to the members of the entire family shall be considered as part of the pay packet.*
>
> *(ii) Allowances such as transport allowance/conveyance allowance, house rent allowance, provident fund contribution and special allowances which are fixed pro-rata with reference to the basic salary will be included before assessment of future prospects.*
>
> *...*
>
> *(vi) Salary may be bifurcated by employer into diverse heads, however, while calculating compensation arising out of the death of the employee, various entitlements received by the employee have to be considered."*
>
> (emphasis added)

11. Accordingly, on the basis of the salary slip, this Court is inclined to include allowances towards house rent allowance ('***HRA***'), children's education, washing allowance, conveyance allowance, magazine reimbursement, phone reimbursement and PF to the basic salary. Additional bonus which has been given at Rs.700/- will not be taken into account, considering it is possibly an additional amount given separately.

Accordingly, the salary of deceased will be taken at Rs. 28,023/- per month and Rs. 3,36,276/- annually.

12. As regards deduction towards income tax, the tax slab which was prevalent during financial year ('***FY***') 2011-2012 was 'Nil: Upto Rs. 1,80,000/-' and '10%: Rs. 1,80,000/- to 5,00,000/-' accordingly, tax will be deducted at Rs. 15,627.6/-. Therefore, annual income of deceased will be assessed at Rs. 3,20,649/-

13. Personal and living expenses have been wrongly deducted by the MACT at $1/3^{rd}$ considering that there were five legal heirs. Even if the father of deceased is not taken as a dependent, even then the deduction ought to have been $1/4^{th}$ considering the mother of deceased to be a dependent.

14. As regards future prospects, the Court is in agreement with the plea raised by Insurance Company that 40% should have been awarded, particularly taking into account the testimony of ***PW2***, who stated that deceased was appointed on probation for a period of six months and was under probation, at the time of his death.

15. To this extent, reliance may be placed upon the decision of Madhya Pradesh High Court in ***Anjum Ansari v. R. Rajesh Rao***, 2024 SCC OnLine MP 9613 where the Court held that, in view of the principles laid down in ***National Insurance Co. Ltd v. Pranay Sethi*** (2017) 16 SCC 680, it is not correct to state that only a government servant would be treated as having a permanent job. The Madhya Pradesh High Court noted that the deceased was working as an Assistant Professor at Corporate Institute of Science & Technology, Bhopal, and that the salary drawn by the deceased was subject to periodic revisions/hikes, therefore, he was considered to be in permanent

job. The relevant paragraphs are extracted hereinbelow.

> "*8. In this court's opinion, above issue stands settled by Five Judges Bench of Hon'ble Apex Court in National Insurance Company Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : AIR 2017 SC 5157 as under:—*
>
> > *55. "Presently, we come to the issue of addition of future prospects to determine the multiplicand.*
> >
> > *56. In Santosh Devi ((2012) 6 SCC 421 : AIR 2012 SC 2185) the Court has not accepted as a principle that a self-employed person remains on a fixed salary throughout his life. It has taken note of the rise in the cost of living which affects everyone without making any distinction between the rich and the poor. Emphasis has been laid on the extra efforts made by this category of persons to generate additional income. That apart, judicial notice has been taken of the fact that the salaries of those who are employed in private sectors also with the passage of time increase manifold. In Rajesh s case, the Court had added 15% in the case where the victim is between the age group of 15 to 60 years so as to make the compensation just, equitable, fair and reasonable. This addition has been made in respect of self-employed or engaged on fixed wages.*
> >
> > *57………. In such an adjudication, the duty of the tribunal and the courts is difficult and hence, an endeavour has been made by this Court for standardisation which in its ambit includes addition of future prospects on the proven income at present As far as future prospects are concerned, them has been standardisation keeping in view the principle of certainty, stability and consistency. We approve the principle of "standardisation" so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age.*
> >
> > *59. Having bestowed our anxious consideration, we are disposed to think when we accept the*

*principle of standardisation, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust The determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Act In case of a deceased who had held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to slate that the legal representatives of a deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be inapposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and staticness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a perception is fallacious. It is because the price rise does affect a self-employed person; and that apart there is always an incessant effort to enhance one's income for sustenance. The purchasing capacity of a salaried person on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to gamer his resources and raise his charges/fees so that he can live with same facilities. To have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human* *attitude which always intends to live with dynamism and move and change with the time. Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in the case of a person having a permanent job yet the said perception does not really deserve acceptance. <u>We are inclined to think that there can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary</u>. But not to apply the principle of standardisation on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground reality………*

*61. In view of the aforesaid analysis, we proceed to record our conclusions:*

*(i) XXX XXX XXX XXX*

*(ii) XXX XXX XXX XXX*

*(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) <u>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</u>. 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……………."*

> ***9.*** *Thus, from observations as well as principle of law laid down by Hon'ble Apex Court in Pranay Sethi (Supra), it is clearly evident that if a person is in such a job wherein his salary is increased periodically/receives annual increment etc., then, such person would be treated as being in "permanent job". Hence, in view of principle of law laid down in Pranay Sethi (Supra), it is not correct that only government servant would be treated as being in "permanent job*"
>
> (emphasis added)

16. However, in the case at hand, there was no documentary proof to show that deceased could claim any increment in his salary. Consistent jobs in various companies on the basis of a professional degree, in the opinion of this Court, cannot be treated as a permanent job. Therefore, the plea raised by Insurance Company is accepted to that extent.

17. As regards the issue of negligence, it would have been up to the Insurance Company to prove that there was composite negligence. No site plan has been placed on record. The Mechanical Inspection Report ('***MIR***') noted damage on the driver's side of the truck/offending vehicle and apart from that, nothing much can be ascertained in terms of whose negligence was it on the basis of MIR. Every head on collision, in the opinion of this Court, cannot automatically lead to a 50% composite negligence, but has to be proved on the basis of evidence. Driver of the tempo is not a part of the proceedings, either before the MACT or in the appeal, therefore, no evidence has been brought on record for the Court's assessment.

18. Driver of the truck/offending vehicle has been impleaded in the proceedings as respondent no.1 in ***MAC.APP. 602/2014*** and respondent no.6. in ***MAC.APP. 890/2014***, however, he has not joined the proceedings. Even

before the MACT, a written statement was filed but no testimony was given. Steps have not been taken by the Insurance Company before the MACT or even in this appeal, therefore, the claim for composite negligence cannot be raised at this stage.

19. Moreover, it has been pointed out by *Mr. Navneet Goyal*, counsel for claimants, that charge-sheet has been filed against the driver of truck/offending truck and the driver of tempo has not been *challaned*. Even the testimony of ***PW3***, who was an eye-witness to the accident, does not elicit anything in favour of *Mr. Gaur*'s submissions.

20. Quite to the contrary, ***PW3's*** testimony seems to suggest that the tempo was being driven on the left side of the road and the truck/offending vehicle came from the opposite direction. The accident took place on a bridge where there was no divider, width of the road was 22 meters and there was no other vehicle nearby. The truck/offending vehicle had been seized on the spot and ***PW3*** had remained on the spot and had even accompanied the deceased to the hospital. Therefore, the testimony was credible. Nothing further was elicited in the cross-examination to suggest that the driver of tempo was also driving in a rash and negligent manner. Therefore, this plea is rejected.

21. Further alignments with respect to loss of consortium, loss of estate, funeral expenses and loss of love and affection shall be made in respect of decisions of the Supreme Court in ***Pranay Sethi*** (*supra*) and ***United India Insurance Co. Ltd. v. Satinder Kaur***, (2021) 11 SCC 780. These heads shall be assessed at:

"Loss of consortium = Rs. 2,00,000/- (Rs. 40,000 x 5)

Loss of love and affection= Nil

Funeral expenses= Rs. 15,000/-

Loss of estate= Rs. 15,000/-"

22. Accordingly, revised computation is as under:

| S. No. | Heads | Awarded by the Tribunal | Awarded by this Court |
|---|---|---|---|
| 1 | Income of deceased (A) | Rs. 29,050/- | Rs. 26,721/- (Rs. 3,20,649/-÷12) |
| 2 | Add: Future Prospects (B) | Rs. 14,525/- | Rs. 10,688/- |
| 3 | Less: Personal expenses of deceased (C) | Rs. 14,525/- | Rs. 9,353/- |
| 4 | Loss of dependency (A+B)-C=D | Rs. 29,050/- | Rs. 28,056/- |
| 5 | Annual loss of dependency (D x 12)= (E) | Rs. 3,48,600/- | Rs. 3,36,672/- |
| 6 | Multiplier (F) | 16 | 16 |
| 7 | Total loss of dependency (E x F)= (G) | Rs. 55,77,600/- | Rs. 53,86,752/- |
| 8 | Compensation for loss of consortium (H) | Rs. 1,00,000/- | Rs. 2,00,000/- |
| 9 | Loss of love and affection (I) | Rs. 1,00,000/- | Nil |
| 10 | Compensation for loss of estate (J) | Rs. 10,000/- | Rs. 15,000/- |
| 11 | Compensation towards funeral expenses (K) | Rs. 25,000/- | Rs. 15,000/- |
| 12 | Total compensation (G+H+I+J=K)= L | Rs. 58,12,600/- | Rs. 56,16,752/- |
| 13 | Rate of Interest Awarded | 7.5% | 7.5% |

***Directions***

23. Accordingly, the compensation has been reduced by *Rs. 1,95,848/-* ***['reduced compensation']***

24. By order dated 29th September 2014, this Court had directed the Insurance Company to deposit the entire compensation along with accrued interest before the Registrar General of this Court and release of 60% amount in favour of claimants, in accordance with the directions of the MACT in the impugned award.

25. Considering that compensation has been reduced, it is directed that the excess compensation (*original compensation – reduced compensation*), along with accrued interest, be refunded to Insurance Company. Balance amount, along with accrued interest, shall be released to claimants as a lumpsum considering that the appeal is of 2014, and much time has been passed.

26. Appeals are disposed of in the above terms.

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

28. Copy of this judgment be sent to the concerned Bank for information and compliance.

29. Statutory deposit, if any, shall be refunded to Insurance Company, only if the order of deposit has been complied with.

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

**(ANISH DAYAL)**
**JUDGE**

**JULY 23, 2026**/ak/*sp*