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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 19th February 2026*+ **MAC.APP. 624/2015**

NEERU DEVI & ORS

.....Appellants

Through: Mr. Pankaj Gupta & Mr. Vikas
Kumar, Advs.

versus

NARENDER YADAV & ORS (NATIONAL INSURANCE CO
LTD)

.....Respondents

Through: Ms. Archana Gaur, Adv. for
Insurance Co.**CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed seeking enhancement of the impugned award dated 9th April 2015 passed by the Motor Accident Claims Tribunal, Karkadooma Courts, East District, Delhi ["Tribunal"] in *MACP No. 249/2012*, whereby compensation of *Rs. 14,18,100/-* was awarded along with the interest of 9% per annum to the representative of the deceased, *Ms. Payal Srivastava* [*appellant nos. 1 to 3 herein*]

Incident

2. Accident occurred on 19th September 2012, at about 10 p.m. near red light signal of *Ashok Niketan, Anand Vihar*, when *Ms. Payal Srivastava* and *Mr. Dushyant Kumar* [deceased] were travelling on a scooter. An HGV container, make *Ashok Leyland*, bearing registration no. *HR- 38J-6095*



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[offending vehicle] driven by respondent no.1 [driver] at a high speed in a zigzag manner, hit the scooter. Both sustained injuries and were taken to *Dr. Hedgewar Hospital*, where they were declared “*brought dead*”. **FIR No. 259/2012** was registered under Sections 279/304A of the Indian Penal Code 1806, at *Police Station Anand Vihar*. A claim petition was filed, and the Tribunal found that the accident had occurred due to rash and negligent driving of respondent no.1 of vehicle which was owned by respondent no.2 and insured by respondent no. 3.

Impugned Award

3. The Tribunal, while adjudicating the claim petitions, returned a finding of negligence against respondent no.1/driver of the offending vehicle on the basis of the eye-witness testimony, criminal case record including FIR and chargesheet, site plan, and mechanical inspection report.

4. The Tribunal held that these materials sufficiently established rash and negligent driving on the touchstone of preponderance of probabilities. Consequently, the respondent no.1/driver, respondent no.2/owner and respondent no.3/insurer of the offending vehicle were held jointly and severally liable to satisfy the award.

5. For the purpose of computing compensation in the claim concerning the deceased *Ms. Payal Srivastava*, the Tribunal relied upon documentary evidence proved through the employer’s witness, including the appointment letter, salary record and attendance register, to assess her income. The Tribunal considered the gross salary but, after deductions, treated the monthly income as *Rs. 16,450/-*. Since the deceased was unmarried, 50% of the income was deducted towards personal and living expenses. The



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multiplier was applied with reference to the age of the mother, treating her as the dependent, and no addition towards future prospects was granted, following the precedents considered applicable at the time.

Compensation Granted

6. On the basis of above assessment, the Tribunal computed loss of dependency and awarded compensation under conventional heads. A total sum of Rs. 14,18,100/- was awarded, comprising Rs. 12,83,100/- towards loss of dependency, Rs. 1,00,000/- towards loss of love and affection, Rs. 25,000/- towards funeral expenses, and Rs. 10,000/- towards loss of estate, together with interest @ 9% per annum from the date of filing of the claim petition till realization. The compensation awarded by the Tribunal is summarised as under:

| S.NO. | HEADS | AMOUNT AWARDED |
|-----------------|----------------------------|-----------------------|
| 1. | Loss of dependency | Rs.12,83,100/- |
| 2. | Loss of love and affection | Rs. 1,00,000/- |
| 3. | Funeral Expenses | Rs.25,000/- |
| 4. | Loss of Estate | Rs.10,000/- |
| TOTAL | | Rs.14,18,100/- |
| INTEREST | | 9% |

Analysis

7. Mr. Pankaj Gutpa, counsel for appellants, seeks enhancement on the following grounds:

- i) **Firstly**, the benchmark income/salary of the deceased was not considered correctly, inasmuch as while the salary slip showed that she working as a “Customer Relationship Manager” with M/s Shiv Auto



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Cars Pvt. Ltd. and was earning Rs 18,500/- per month, the Tribunal deducted the allowances and took the salary as Rs.16,450/- per month. The discussion in this regard is contained in *paragraph 23* of the impugned order, which extracted as under:

“23.The PW3/ Sh. Harit Sandal, HR Executive, from Shiva Auto Car (India) Pvt. Ltd., has proved the Appointment Letter, Salary Breakup, Salary Record, Wages Register, and Attendance Sheet of deceased as Ex. PW3/B, which shows the deceased was getting salary of Rs. 18,500/- p.m. In view of the judgments in Manasvi Jain V/s. DTC II (2014) ACC 420 (SC) and another judgement of Hon'ble Apex Court in Shyamwati Sharma Ors. V/s. Karam Singh &Ors. F(2010) SLT 328, after necessary deductions it comes to Rs. 16,450/- p.m. As per the Appointment Letter Ex PW1/1, Deceased was working as a Customer Relationship Manager, having appointed on 06.03.2012 in Shiva Auto Car Ltd. She was still in her probation period.”

ii) *Sh. Harit Sandal [PW-3]*, HR (Executive), proved the appointment letter, appraisal data, salary breakup, salary record, wages register and attendance sheet. The salary breakup shows that the gross salary was Rs 18,500/- per month, which included the basic pay of Rs.11,100/-, HRA of Rs.5,350/- and conveyance allowance of Rs.800/-. The Tribunal deducted Rs. 2,000/- from the gross salary on an unexplained basis and considered the benchmark income has Rs. 16,450/- per month.

iii) *Mr. Pankaj Gupta*, counsel for appellant on this aspect has relied upon the following Supreme Court judgments:



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a. ***Kavita Devi & Ors. v. Sunil Kumar & Anr.*** 2025 INSC 938, the Supreme Court enhanced compensation by re-examining the income of the deceased and drawing guidance from ***National Insurance Co. Ltd. v. Indira Srivastava*** (2008) 2 SCC 763 on the meaning of “*just compensation*” and “*income*”. The Supreme Court emphasized that income is not limited to the pay packet carried home by an employee but may include allowances forming part of the salary structure. The Court held that allowances regularly received and used for the benefit of the family must be considered while determining dependency, subject to proof and the facts of each case. Relevant paragraph is extracted as under:

“17. This Court has consistently held in case of the allowances which are included in the component of salary of the deceased, Tribunal has to take into consideration these allowances as they were used for supporting the family. The claimants have to show that these allowances were regularly received and used for the family’s benefit. Further, while determining whether the allowances form a part of the salary or not, the Tribunal by looking into the facts of each case and by considering the extent of dependency of the claimants on the salary of the deceased including the allowances, have to determine whether these allowances should be excluded from determination of the income of the deceased. If the answer of the Tribunal is in affirmative, then the allowances may be excluded for determination of loss of dependency. If the Tribunal answers the above point in negative, then the Tribunal has to include the allowances for computation of income of the deceased, thus determining the loss of dependency.”

(emphasis added)



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b. ***Manorma Sinha & Anr. v. The Divisional Manager, Oriental Insurance Company Ltd & Anr*** 2025 INSC 1237, wherein the Supreme Court held income includes monetary and non-monetary benefits beneficial to the family, irrespective of their taxable status, and that exclusion of allowances would be erroneous. Relevant paragraph is extracted as under:

*“12. Now, the next question is whether allowances are to be added to the salary for determining the multiplicand. In **National Insurance Co. Ltd. v. Indira Srivastava & Ors.** (2008) 2 SCC 763, it was held that “the term income has different connotations for different purposes. A court of law, having regard to the change in societal conditions consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family”. In **Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation** [2018 SCC OnLine SC 193 paragraph 11] a three-Judge Bench of this court noticing earlier decisions on the point observed that “the income should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may not be taxable due to exemption conferred thereupon under the statute.” Following the decision in **Vijay Kumar Rastogi** (supra) in **National Insurance Company Ltd. v. Nalini & Ors.** [2024 SCC OnLine SC 2252], it was held by this Court that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, ought to be included irrespective of whether they are taxable or not. Thus, in our view, the High Court erred in*



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excluding the allowances from the computation to arrive at the multiplicand. Hence, the total monthly income was rightly computed by the Tribunal at Rs.53,367.”

(emphasis added)

iv) In light of the above and in view of the decisions of the Supreme Court, there can be no dispute that the salary has to be taken as Rs.18,500/-, including allowances.

v) **Secondly**, as regards future prospects, it is pointed out that the deceased was 28 years of age at the time of accident, and, therefore, 40% future prospects ought to have been added, in alignment with the principles enunciated in *National Insurance Company Limited v. Pranay Sethi & Ors.* (2017) 16 SCC 680.

vi) **Thirdly**, the multiplier of ‘13’ was applied by the Tribunal based on the age of the mother, which practice now stands disapproved by the Supreme Court as per paragraph 59.7 of *National Insurance Company Limited v. Pranay Sethi & Ors.* (*supra*), and the multiplier has to be considered as per the age of deceased, which would be ‘17’.

Relevant paragraph is extracted as under:

“59. In view of the aforesaid analysis, we proceed to record our conclusion.

.....
59.7. The age of the deceased should be the basis for applying the multiplier.”

vii) **Fourthly**, no amount towards loss of consortium was granted, which ought to be Rs.80,000/- on account of two parents. [Rs 40,000/- X 2], loss of estate should be Rs.15,000/-; funeral expenses should be Rs.15,000/- as per principles stated in *National Insurance Company*



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Limited v. Pranay Sethi & Ors. (supra)

8. Ms. Archana Gaur, counsel for insurance company/respondent no.3 has argued on the issue the salary and the allowances. However, considering the recent decision of Supreme Court, this Court is not in a position to accept the plea.

9. Accordingly, the appeal is allowed.

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

| S. No. | Heads | Awarded by the Tribunal | Awarded by this Court |
|--------|--|-------------------------|-----------------------|
| 1 | Income of deceased (A) (less Income Tax) | Rs.16,450 /- | Rs. 18,500/- |
| 2 | Add Future Prospects (B) | Nil | 40% |
| 3 | Less Personal expenses of the deceased (C) | 50% | 50% |
| 4 | Monthly loss of dependency [(A +B)-C = D] | Rs. 8,225/- | Rs. 12,950/- |
| 5 | Annual loss of dependency (D x12) | Rs.98,700 /- | Rs.1,55,400 /- |
| 6 | Multiplier (E) | 13 | 18 |
| 7 | Total loss of dependency (D x E = F) | Rs. 12,83,100/- | Rs.27,97,200 /- |
| 8 | Medical expenses (G) | Nil | Nil |
| 9 | Compensation for loss of consortium (H) (40,000 x 2) | Nil | Rs. 80,000/- |
| 10 | Compensation for loss of love and affection (I) | Rs.1,00,000 /- | Nil |
| 11 | Compensation for loss of | Rs.10,000 /- | Rs.15,000 /- |



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| | | | |
|----|--|------------------------|------------------------|
| | estate (J) | | |
| 12 | Compensation towards funeral expenses (K) | Rs. 25,000/- | Rs.15,000 /- |
| | TOTAL COMPENSATION (F+G+H+I+J+K = L) | Rs. 14,18,100/- | Rs.29,07,200 /- |
| | RATE OF INTEREST AWARDED | 9% | 9% |

Conclusion

11. For the aforesaid reasons, the impugned award is modified. The compensation is enhanced by a sum of Rs. 14,89,100/-, as computed hereinabove.

12. Enhanced amount of compensation along with interest at the rate of 9% from the date of filing of petition shall be deposited by respondent no.3/Insurance Company before the Tribunal within 4 weeks.

13. Enhanced compensation shall be kept in Fixed Deposit Receipts (FDRs) of Rs. 25,000/- each for periods of 1 month, 2 months, 3 months and so on, in succession as may be calculated. Interest accrued on the FDRs shall be credited to the designated Savings Bank Accounts of the LR's. Upon maturity of the FDRs, the principal amount shall also be transferred to their respective Savings Bank Accounts.

14. Copy of this judgment be sent to the concerned Tribunal.

15. Appeal stands allowed and disposed of.

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

17. Statutory deposit (if any) shall be refunded to appellant.

18. Judgement be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 19, 2026/sm/tk