



2025:DHC:9101



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 06.10.2025

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MAC.APP. 343/2019**SHADAB KHAN & ANR****.....Appellant****Through: Mr. Manish Maini, Ms. Aastha Chauhan, Adv.****versus****SANTOSH & ORS (NEW INDIA ASSURANCE CO LTD)****.....Respondents****Through: Ms. Shuchi Singh, Adv. for R-3.****CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed on behalf of the Appellant under Section 173 of the Motor Vehicle Act, 1988 impugning the judgment dated 29.08.2018 [hereinafter referred to as "Impugned Award"] passed by the Presiding Officer, MACT, Judge, South West District, Dwarka Courts, New Delhi. By the Impugned Award, a compensation in the sum of Rs. 6.54 lakhs have been along with interest at the rate of 9% per annum.
2. None appears for Respondent Nos. 1 and 2 today.
3. The learned Counsel for the Appellant and Respondent No. 3/Insurance Company submit that the issue in the present matter is limited and the matter has been pending for long. Accordingly, the matter is taken up for hearing and final disposal today.
4. It is the contention of the Appellant/Claimant that the awarded



amounts have not been calculated in terms of the settled law in this behalf. The learned Counsel for the Respondent No. 3, on the other hand, contends that the Impugned Award has not been challenged by the Respondent/Insurance Company and the amounts awarded have already been disbursed to the Appellants.

5. Briefly the facts are that on 04.07.2015, the deceased Baby Busra was playing near her house when a water tanker came, being driven at a high speed, and hit the girl, who fell down and died thereafter due to injuries sustained in the accident. The young girl was about 4 years old when she passed away. The Claim Petition was filed by the parents of the deceased seeking an award of Rs. 50 lakhs in their favour. The matter was contested by the Insurance Company as well as the driver and owner of the vehicle. On the basis of the pleadings of the parties, the following issues were framed by the learned Trial Court:-

5. On the basis of the pleadings of the parties, the following issues were framed on 12.07.2016 by the Ld. Predecessor of this court:

ISSUES :

1. Whether Busra sustained fatal injuries in a motor vehicle accident dated 04.07.2015 due to use and involvement of vehicle (water tanker) no. DL1 LG 2813 by R-1 ? ...OPP

2. Whether the petitioners are entitled to claim compensation, if so, what amount and from whom ? ...OPP

3. Relief.

6. The learned Trial Court after examining the parties on the issues of quantum gave a finding in terms of the judgment of “**Chetan Malhotra Vs. Lala Ram**” (MAC APP. No. 554/2010)", that the computation on the multiplier of 10 was carried to award compensation carried and the notional



income after inflation would be Rs. 15,000/- per annum and on this basis, awarded Rs. 3,26,666/- as the loss of estate. The relevant extract of the Impugned Award extract if the Impugned Award is below:

*“13. In the present case, the death of child namely - Baby Busra has occurred in the accident on 04.7.2015. Therefore, the CII for the **financial year 2015-2016 (i.e 1081)** would apply. Further, as the deceased child was about four years and two months old at the time of accident. Thus the computation is to be made on the multiplier of '10'.*

In view of the above, the notional income after inflation comes to as under:

Rs. 15,000/- x 1081/331= Rs.48,987 /-, rounded off to Rs. 49,000/-.

After deducting 1/3rd towards personal and living expenses, the pecuniary loss to the estate is calculated as:

Rs. 49,000 x 2/3 x 10= Rs. 3,26,666/-.

Adding similar amount towards composite non pecuniary damages, the total compensation in this case comes to as under:

Rs. 3,26,666 x 2= Rs. 6,53,332/- rounded off to Rs. 6,54,000/-.

In the instant case, the perusal of the record reveals that an interim award for a sum of Rs. 50,000/- has been passed in favour of the petitioners vide order dated 05.2.2016 of the Ld. Predecessor of this court.

It is being submitted on behalf of the petitioners that above-said amount of interim award was payable by respondent no.1 and respondent no.2, however, the said amount has not yet been paid to the petitioners by respondent nos.1&2.

In these circumstances, since the amount of interim award has not yet been received by the petitioners, the said amount of interim award i.e Rs.50,000/- is not deductible [sic deductible] from the compensation being awarded to the petitioners in the present case.

Accordingly, a sum of Rs. 6,54,000/- (Rupees Six Lacs, Fifty Four Thousand Only) is awarded as compensation to petitioners'(parents/LRs of deceased Baby Busra) in the present case.”

[Emphasis Supplied]

6.1 In addition, it was held that similar amount towards non-pecuniary damages be also awarded, thus, an amount of Rs. 6,54,000/- was also



awarded to the Appellant/Claimant by the Impugned Award.

7. As stated above, learned Counsel for the Appellant has submitted that he has only one ground of challenge in the present Appeal. He submits that the law as is applicable on compensation to be awarded to minor children is no longer *res integra*. The Supreme Court in catena of judgments including ***Kajal v. Jagdish Chand and Ors.*¹**, ***Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr*²** and in a recent judgment in the case of ***Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari & Anr.*³** has held that the compensation be calculated on the basis of minimum wages of a skilled worker.

8. In addition, it is contended that the award on loss of consortium, funeral expenses and loss of estate should be in terms of the judgment of ***National Insurance Company Ltd. vs Pranay Sethi*⁴**. The Appellant has also set out this calculation in a tabular chart, which is reproduced below:-

S.No.	Heads	Awarded by MACT	Claim in Appeal
1.	Loss of Dependency	3,26,666/-	16,62,897/- <i>Skilled @ 10,998/- + 40% inc. X 18 X 12 X ½</i>
2.	Loss of Consortium	3,26,666/-	88,000/-
3.	Funeral Expenses	NIL	16,500/-
4.	Loss of Estate	NIL	16,500/-
	TOTAL COMPENSATION	6,54,000/-	17,83,897/-
	INTEREST AWARDED	9%	9%

9. The Appellant also contends that although the Impugned Award was passed prior to the judgment in ***Kajal*** case in view of the fact that the matter has not attained finality, the law as is applicable today should be applied.

¹ (2020) 4 SCC 413

² 2024 SCC OnLine SC 3692

³ 2025 INSC 1070

⁴ (2017) 16 SCC 680



10. As stated above, the learned Tribunal has found that the Award for minimum wages is to be calculated on the basis of the judgment of the Coordinate Bench of this Court in **Chetan Malhotra** case, wherein it has been set out that except in cases where prospects of employability and earnings of a child are proved in computing pecuniary damages on account of loss of estate, notional income @ Rs. 15,000/- per annum, as specified in the Second Schedule in force from 14.11.1994 is to be taken. In addition, it sets out that for inflation correction, the year 1997-1998 be taken.

11. The Supreme Court in **Master Ayush v. Branch Manger, Reliance General Insurance Company Ltd. & Anr.**⁵ while discussing entitlement of the compensation in the case of a minor child held that minimum wages in the State where the accident occurred of a skilled worker as of the date of the accident and that compensation would be assessed thereon on the assumption that the Appellant would have been able to earn after attaining maturity. The relevant extract is set out below:

“9. In the present appeal, the minimum wages for 2010-11 in the State of Karnataka for employments not covered under any of the scheduled employments can be ascertained from the following extract of notification for minimum wages published in the Gazette on 19-2-2007:

*“24. Employment not covered in any of the Scheduled Employments
Notification No. KAE 79 LMW 2005 dated 17-3-2006
Published in Gazette dated 19-2-2007
Cost of Living Allowance to be paid over and above 2703 points
Cost of Living Index: 3944-2703 = 1241 points
Minimum wages and VDA from 1-4-2010 to 31-3-2011*

SCHEDULE

<i>S. No.</i>	<i>Class of Employment</i>	<i>Minimum rates of wages payable for different zones</i>
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⁵ (2022) 7 SCC 738



		Basic	VDA	Total
1	2	3	4	5
1.	Highly skilled	2691.8 0	1116.90	3808.70
2.	Skilled	2591.8 0	1116.90	3708.70
3.	Semi-skilled	2041.8 0	1116.90	3158.70
4.	Unskilled	1891.8 0	1116.90	3008.70

VDA: All categories of employees: 3 paise per point per day over and above 2703 points.

10. Hence, as per the above extract, the minimum wages payable to a skilled workman in 2010-11 is to the tune of Rs 3708.70. In this view, the minimum wages as on the date of accident is rounded off to Rs 3700. The compensation, therefore, is to be assessed on the basis of the said minimum wages on the assumption that the appellant would have been able to earn after attaining majority.”

[Emphasis Supplied]

11.1 A similar view was taken by the Supreme Court in ***Minor Roopa D/o Basappa v. Divisional Manager, New India Assurance Co. Ltd.***⁶ where the injured was a minor girl who suffered permanent physical impairment. The Court while relying on the ***Master Ayush*** case determined compensation on the basis of minimum wages of a skilled worker in the following terms:

“4. The learned counsel for the appellant has produced the photographs of the appellant which shows the extent of loss of limb and the consequent psychological, emotional and physical pain which the appellant would suffer for rest of her life. In fact, the other leg may not be able to support the appellant, when she grows. This Court in Ayush [Ayush v. Reliance General Insurance Co. Ltd., (2022) 7 SCC 738 : (2022) 4 SCC (Civ) 175 : (2022) 3 SCC (Cri) 269] was considering a case of an accident of 5-year-old child wherein this Court determined compensation on account of loss of future earnings on the basis of minimum wages due to permanent disability for life, loss of future prospects, medical expenses and pain and suffering.

⁶ (2024) 12 SCC 490



5. The minimum wages in the State of Karnataka on the date of accident were Rs 4320 per month as per Notification No. KAE 79 LMW 2005 dated 17-3-2006, published in the Gazette dated 19-2-2007. The wages as per the notification are as under:

“Minimum Wages and VDA from 1-4-2012 to 31-3-2013

SCHEDULE

S. No.	Class of Employment	Minimum rates of wages payable for different zones		
		Basic	VDA	Total
1	2	3	4	5
1.	Highly skilled	2691.80	1728.90	4420.70
2.	Skilled	2591.80	1728.90	4320.70
3.	Semi-skilled	2041.80	1728.90	3770.70
4.	Unskilled	1891.80	1728.90	3620.70

6. The future prospectus **would be 40% in view of National Insurance Co. Ltd. v. Pranay Sethi** [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] . Thus, the compensation works out to be Rs 4320 plus 40%, amounting to Rs 6048 per month. The appellant will not be able to use any artificial limb and would always have to depend for her daily chores and as she grows, she would suffer more physical and emotional distress. She would always require assistance of another person and frequent use of hired means of transport. In view of the said fact, we award compensation as follows:

	Head	Amount
A	Loss of future earnings due to the permanent disability for life $(4320 + 1728 = 6048) \times 12 \times 18$	Rs. 13,06,368
B	Medical expenses including future expenses	Rs. 5,00,000
C	Pain, suffering and loss of amenities	Rs. 5,00,000
D	Loss of marriage prospects	Rs. 10,00,000
E	One attendant charges $(4624 \times 12 \times 18) = 9,98,784$	Rs. 10,00,000
F	Conveyance charges (as she has to move in a hired conveyance)	Rs. 10,00,000
	Total	Rs. 53,06,368
	Rounded off	Rs. 53,07,000



11.2 In ***Hitesh Nagji Bhai Patel*** case, the Supreme Court held in cases involving a minor child who suffers death or permanent disability in a motor vehicle accident, the child cannot be treated as a non-earning individual merely because he or she was not engaged in gainful employment. The computation of compensation under the head of loss of income must be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the concerned State. The relevant extract of the ***Hitesh*** case is set below:-

*“9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in *Kajal v. Jagdish Chand and Ors.*, and *Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.**

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15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matrix of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law.”

[Emphasis supplied]



12. The settled law in this behalf is thus that in case of a death or an injury of a minor child, the minimum wages of a skilled worker are to be awarded. The Impugned Award was, however, passed on 29.08.2018, which is prior to the judgments referred to being in force.

13. The Supreme Court in the case of *Shivaleela & Ors. v. Divisional Manager, United India Insurance Co. Ltd. & Ors.*⁷, while relying on the case of *K. Ramya & Ors. v. National Insurance Co. Ltd. & Anr.*⁸ and *Ningamma & Anr. v. United India Insurance Co. Ltd.*⁹, has held that the Motor Vehicles Act, 1988 is a beneficial and welfare legislation intended to provide compensation based on the contemporaneous position of an individual, adopting a forward-looking approach aimed at ensuring stability and continuity in the lives of victims and their dependents. This Court has taken a view given in a beneficial legislation, if any enhancement is to be given, it is to be made in terms of the law as on that date. The relevant extract of *Shivaleela* case is below:

*“13. Thus, on an overall circumspection of the entire facts and circumstances of the cases and material on record, we opine that it may be reasonably assumed that the deceased was having a monthly income of Rs. 15,000/- (Rupees Fifteen Thousand) per month. The compensation awarded by the High Court under the other heads, being in conformity with the law laid down by this Court in the decisions in *Smt. Sarla Verma v. Delhi Transport Corporation*, (2009) 6 SCC 121 and *National Insurance Company Ltd. v. Pranay Sethi*, (2017) 16 SCC 680, does not require any interference. In *K Ramya v. National Insurance Co. Ltd.*, 2022 SCC OnLine SC 1338, after taking note of, inter alia, *Ningamma v. United India Insurance Co. Ltd.*, (2009) 13 SCC 710, the Court held that the ‘... Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the*

⁷ 2025 SCC OnLine SC 563

⁸ 2022 SCC OnLine SC 1338

⁹ (2009) 13 SCC 710



contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future. ...' The present coram has respectfully restated the said observations in *S Vishnu Ganga v. Oriental Insurance Company Limited*, 2025 SCC OnLine SC 182."

[Emphasis Supplied]

14. The Supreme Court in the case of *New India Assurance Co. Ltd. v. Sonigra Juhi Uttamchand*¹⁰, while relying to the *M.A. Murthy* case, has held that once a principle of law is enunciated by this Court, it has to be taken as the law from inception and is applicable to all pending matters, irrespective of the stage at which they stand. At the same time, it was clarified that such enunciation of law will not have the effect of reopening matters which have already attained finality solely for the purpose of applying the principle so laid down. It was held that awards and judgments passed prior to the pronouncement in *Pranay Sethi* case cannot be faulted for having fixed amounts under the conventional heads in excess of what was prescribed later. The relevant extract of the *Sonigra Juhi Uttamchand* case is set out below:

"12. In tune with the question of law No. 'C', the respondent insurer took a ground in the appeal contending that the High Court had gone wrong in granting amount in excess of Rs 70,000 under the conventional heads. In this context, the learned counsel appearing for the respondent drew our attention to the law laid down by this Court in *National Insurance Co. Ltd. v. Pranay Sethi* [*National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205]. Para 59.8 of the said decision would reveal that this Court held that under the conventional heads, only a total amount of Rs 70,000; the split-up being Rs 15,000 under the head loss of estate, Rs 40,000 under the head loss of

¹⁰ (2025) 3 SCC 23



consortium and Rs 15,000 towards funeral expenses, is grantable.

13. It is to be noted that after having held thus, this Court went on to hold that the amounts thus fixed under the conventional heads should be revisited every three years and the enhancement should be @ 10% in a span of three years. Even while taking into account the said position laid down by this Court in *Pranay Sethi case* [*National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205], **we are of the view that the Tribunal and the High Court cannot be found at fault with fixing the amounts in excess of the aforesaid amounts fixed by this Court as the award and the judgment of the High Courts were passed prior to the pronouncement of the judgment of this Court in Pranay Sethi case** [*National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205].

14. **But at the same time, it is to be noted that in the decision in M.A. Murthy v. State of Karnataka [M.A. Murthy v. State of Karnataka, (2003) 7 SCC 517 : 2003 SCC (L&S) 1076 : (2003) 264 ITR 1 : 2003 INSC 447], this Court held that when in a decision this Court enunciates a principle of law, it is applicable to all cases irrespective of the stage of pendency thereof because it is to be assumed that what is enunciated by this Court is, in fact, the law from inception. We may hasten to add that we shall not be understood to have held that pursuant to enunciation of a principle of law, matters that attained finality shall be reopened solely for the purpose of applying the law thus laid. But at the same time, if the matter is pending, then, irrespective of the stage, the principle cannot be ignored.**

15. Now, we will consider the contention of the respondent insurer regarding the failure of the High Court to deduct one-third of the income while calculating the compensation payable by way of enhancement, in terms of the decision of this Court in *Sarla Verma case* [*Sarla Verma v. DTC*, (2009) 6 SCC 121]. This is because **the decision in Sarla Verma case [Sarla Verma v. DTC, (2009) 6 SCC 121 was very much in force as a precedent since 15-4-2009.** In view of the same, we are of the view that the respondents are justified in contending that the High Court ought to have deducted one-third of the income while calculating the compensation by way of enhancement, in terms of *Sarla Verma case* [*Sarla Verma v. DTC*, (2009) 6 SCC 121”

[Emphasis Supplied]

15. Learned Counsel for the Appellants has contended that minimum



wages of a skilled worker in Delhi as on the date of the accident is Rs.10,998/- and, in terms of the settled law in this behalf, the future prospects be awarded at the rate of 40%. The learned Tribunal had given a finding that a multiplier of 10 and deducted 1/3 amounts towards personal and living expenses. The Appellants have re-calculated the loss of dependency at the rate of Rs.16,62,897/- in the following terms:

Minimum wages of a skilled worker in Delhi¹¹ @ Rs. 10,998/- + 40% future prospects x multiplier of 18 x 12 x 50% deductions at Rs. 16,62,897/-.

16. So far as concerns, loss of consortium, funeral expenses and loss to estate, the amounts awarded shall be in terms of the judgment in the ***Pranay Sethi*** case which sets out Rs. 15,000/- for loss of estate, Rs. 40,000/- for loss of consortium and loss of funeral expenses at Rs. 15,000/- be awarded.

17. Accordingly, this Court directs that the compensation awarded by the Impugned Award is enhanced in the following terms: -

Loss of dependency	Rs. 16,62,897/-
loss of estate	Rs. 15,000/-
loss of consortium	Rs. 40,000/-
loss of funeral expenses	Rs. 15,000/-
Total compensation	Rs. 17,32,897/-

18. The learned Counsel for the Respondent/Insurance Company submits that they will deposit the enhanced awarded amount within a period of 8

¹¹ At the relevant time.



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weeks from today before the learned Tribunal.

19. The Appeal is disposed of in the foregoing terms. All pending applications stand closed.

20. The Parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

OCTOBER 6, 2025

SU/r