



2025:DHC:6857



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

% *Date of Decision: 24.07.2025*

+ **MAC.APP. 328/2024, CM APPL. 37791/2024, CM APPL. 70761/2024**

UNITED INDIA INSURANCE CO LTDAppellant
Through: Mr. Subodh Kumar Jha, Advocate

versus

MS NEELAM AND ORSRespondents
Through: Mr. Anshuman Bal, Advocate for R-1
& 2

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

MAC.APP. 328/2024:

1. The Registry is directed to register the cross objections as a separate Appeal.
2. The present Appeal has been filed on behalf of the Appellant under Section 173 of the Motor Vehicle Act, 1988 impugning the judgment dated 10.04.2024 [hereinafter referred to as "Impugned Award"] passed by the learned Presiding Officer, MACT, East, Karkardooma Courts, Delhi. By the Impugned Order, compensation in the sum of Rs. 19,71,000/- has been awarded to the Respondent Nos. 1 and 2/Claimants along with interest at the rate of 7.5% per annum.
3. Learned Counsel appearing on behalf of the Appellant submits that he has only one ground of challenge in the present Appeal. He submits that the



deceased was unmarried and survived by her mother and one minor younger brother and thus, the deduction of personal and living expenses should have been one half, however, the learned Tribunal has wrongly taken the deduction as one-third.

3.1 Learned Counsel appearing on behalf of the Appellant further submits that the learned Tribunal although discussed the judgment of the Supreme Court in *Reshma Kumari & Ors. v. Madan Mohan & Anr.*,¹ the deduction was wrongly applied the same since the family of the deceased was not a large family.

4. Briefly, the facts in the present Appeal are that the deceased was travelling in car which met with an accident and the deceased succumbed to her injuries. A Claim Petition was filed by the Respondent Nos. 1 and 2 who are the mother and the younger brother of the deceased before the Tribunal as stated above. The learned Tribunal awarded a sum of compensation of Rs. 19,71,000/- to the Respondent Nos. 1 and 2 along with interest at the rate of 7.5% per annum and had directed that the Insurance Company to make payment of the compensation awarded. The calculation of the compensation that was taken by the learned Tribunal is set out below:

S.No	Head	Amount awarded
1.	<i>Monthly income of deceased (A)</i>	Rs.9118/-
2.	<i>Add future prospect (B) @</i>	40% of 9118 = 3647.2/-
3.	<i>Less 1/3 towards personal and living expenses of the deceased (C)</i>	Rs. 4255.06/- = 1/3 rd of 18,765.2(9118 + 3647.2)

¹ (2013) 9 SCC 65



4.	Monthly loss of dependency (A+B)- C=D	Rs.8510.14/-
5.	[Annual loss of dependency (Dx12)	Rs. 1,02,121.68/-
6.	Multiplier (E)	18
7.	Total loss of dependency (Dx12xE=F)	Rs.18,38,190.24
8.	Medical expenses (G)	Nil
9.	Compensation for loss of consortium (I) (48,000x2)	Rs.96,000 /-
10	Compensation for loss of estate (J)	Rs. 18,000/-
11.	Compensation for funeral expenses (K)	Rs.18,000/-
12.	Total compensation	Rs. 19,70,190.24/ rounded off to Rs.19,71,000/-

4.1 Paragraph 23 of the Impugned Award shows that one third personal and living expenses were deducted in the following manner:

*“23. Since mother and one younger brother of the deceased are the claimants, which means that the number of dependents were two. The father of the deceased namely Pramod Singh Chauhan is stated to have predeceased her. **Therefore, 1/3rd of the income of the deceased has to be deducted towards her personal and living expenses.**”*

[Emphasis supplied]

5. It is not disputed between the parties that the deceased was survived only by her widowed mother and younger brother and she was unmarried. The learned Tribunal has after setting out the judgment in the ***Reshma Kumari*** case has set out the number of Claimants were two but however, has deducted one third expenses on an interpretation that there were large number “*of younger non earning sisters and brothers*”. The relevant extract of the Impugned Award is below:

“22. After choosing the age, multiplier and income of the deceased,



necessary deductions have to be made out of the income of the deceased towards her personal expenses. Hon'ble Supreme Court in case titled as *Reshma Kumari & Ors. v. Madan Mohan & Anr.*, (2013) 9 SCC 65, in para 30, laid down the necessary deductions towards personal living and expenses of deceased as under:

<i>Deductions out of earning of the deceased</i>	<i>Number of dependents</i>
<i>Married Persons</i>	
<i>Where dependent is 1</i>	<i>Half</i>
<i>Where the number of dependent family members is 2 to 3</i>	<i>1/3rd</i>
<i>Where the number of dependent family members is 4 to 6</i>	<i>1/4th</i>
<i>Where the number of dependent family members exceeds 6 (six)</i>	<i>1/5th</i>

<i>Deductions out of earning of the deceased</i>	<i>Number of dependents</i>
<i>Bachelor</i>	
<i><u>In case family is not large</u></i>	<i><u>Half</u></i>
<i><u>In case dependents are the widowed mother and large number of younger non-earning sisters and brothers</u></i>	<i><u>1/3rd</u></i>

23. Since mother and one younger brother of deceased are the claimants, which means that the number of dependents were two. **The father of the deceased namely Pramod Singh Chauhan is stated to have predeceased her. Therefore, 1/3rd of the income of deceased has to be deducted towards her personal and living expenses.**

[Emphasis supplied]

6. The Supreme Court in the judgment of *National Insurance Co. Ltd.*



v. *Pranay Sethi*² which extracts *Sarla Verma & Ors. v. DTC & Anr*³ has held that the deductions of a bachelor/unmarried person are done on a different principal where a family of a bachelor is large and dependent on his or her income with large number of non-earning sisters or brothers, the personal and living expenses may be restricted to one third and with the family being taken as two third. The Court has further held that the percentage of deduction may vary with reference to the number of dependent members in the family and the personal living expenses of the deceased need not exactly correspond to the number of dependants. The relevant extract of *Pranay Sethi* case is below:

37. Before we proceed to analyse the principle for addition of future prospects, we think it seemly to clear the maze which is vividly reflectible from Sarla Verma, Reshma Kumari, Rajesh and Munna Lal Jain. Three aspects need to be clarified. The first one pertains to deduction towards personal and living expenses. In paragraphs 30, 31 and 32, Sarla Verma lays down:-

“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

***31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself.** Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the*

² (2017) 16 SCC 680

³ (2009) 6 SCC 121



parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and **the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependant, because they will either be independent and earning, or married, or be dependant on the father.**

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as **the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.**

38. In Reshma Kumari, the three-Judge Bench agreed with the multiplier determined in Sarla Verma and eventually held that the advantage of the Table prepared in Sarla Verma is that uniformity and consistency in selection of multiplier can be achieved. It has observed:-

“35. ... The assessment of extent of dependency depends on examination of the unique situation of the individual case. Valuing the dependency or the multiplicand is to some extent an arithmetical exercise. The multiplicand is normally based on the net annual value of the dependency on the date of the deceased’s death. Once the net annual loss (multiplicand) is assessed, taking into account the age of the deceased, such amount is to be multiplied by a “multiplier” to arrive at the loss of dependency.”

39. In Reshma Kumari, the three-Judge Bench, reproduced paragraphs 30, 31 and 32 of Sarla Verma and approved the same by stating thus:-

“41. The above does provide guidance for the appropriate deduction for personal and living expenses. One must bear in mind that the proportion of a man’s net earnings that he saves or spends exclusively for the maintenance of others does not form part of his living expenses but what he spends exclusively on himself does. **The percentage of deduction on account of personal and living expenses may vary with reference to the number of dependent members in the family and the personal living expenses of the deceased need not exactly correspond to the number of dependants.**

42. In our view, the standards fixed by this Court in Sarla Verma on the aspect of deduction for personal living expenses in paras 30, 31



and 32 must ordinarily be followed unless a case for departure in the circumstances noted in the preceding paragraph is made out.”

[Emphasis supplied]

6.1 The Supreme Court in ***Pranay Sethi*** case has summed up the calculation in the Reshma Kumar case as below:

“40. The conclusions that have been summed up in Reshma Kumari are as follows:-

“43.1. In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above, the Claims Tribunals shall select the multiplier as indicated in Column (4) of the Table prepared in Sarla Verma read with para 42 of that judgment.

43.2. In cases where the age of the deceased is up to 15 years, irrespective of Section 166 or Section 163-A under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the Table in Sarla Verma should be followed.

43.3. As a result of the above, while considering the claim applications made under Section 166 in death cases where the age of the deceased is above 15 years, there is no necessity for the Claims Tribunals to seek guidance or for placing reliance on the Second Schedule in the 1988 Act.

43.4. The Claims Tribunals shall follow the steps and guidelines stated in para 19 of Sarla Verma for determination of compensation in cases of death.

43.5. While making addition to income for future prospects, the Tribunals shall follow para 24 of the judgment in Sarla Verma.

43.6. Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paras 30, 31 and 32 of the judgment in Sarla Verma subject to the observations made by us in para 41 above.”

[Emphasis supplied]

7. Given the fact that the number of dependants is only two with only one as sibling, by no stretch of imagination can the family of the deceased



be considered as having large number of dependents.

8. In terms of the judgment cited above, only one half or 50% would be liable to be deducted as the personal and living expenses of the deceased.

9. Accordingly, the award granted in MAC.APP 328/2024 is modified to the extent that the deduction in the present case would be one half or 50% for personal and living expenses.

MAC.APP. [to be numbered CM APPL. 70761/2024]

10. The challenge by the Respondents/Claimants in their Appeal is on one ground as well.

11. It is the case of the Respondents/Claimants/Cross Objectors that the deceased was 23 year old as on the date of the accident and had passed a Stenography and Secretarial Course in English from Government of NCT of Delhi and also had done computer training and was qualified as a BSc from Chhatrapati Shahu Ji Maharaj University, Kanpur.

11.1 Learned Counsel appearing on behalf of the Respondents/Cross Objectors further submits that the deceased was living in Delhi on rent and doing a private job and earning a salary of Rs. 25,000/- per month. He submits that, however, the learned Trial Court has wrongly taken the minimum wages of a skilled worker applicable in the state of Uttar Pradesh as the amount awarded.

11.2 Learned Counsel seeks to rely upon the Ex.PW1/3 (colly) which are all education certificates and the certificates of professional training that had been obtained by the deceased. Learned Counsel submits that given the



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uncontroverted evidence that was placed on record, the finding for awarding minimum wages of a skilled worker and that to of Uttar Pradesh cannot be sustained.

12. Learned Counsel appearing on behalf of the Appellant, on the other hand, submits that since no salary slip was filed, the learned Trial Court awarded the minimum wages of a skilled worker in Uttar Pradesh.

13. Learned Counsel appearing on behalf of the Respondents/Cross Objectors requests that he may be given an opportunity before the learned Trial Court, to place on record the documents in support of the fact that the deceased was living and working in Delhi.

14. Learned Counsel appearing on behalf of the Appellant submits that he has no objection to the same provided the Appellant be also permitted to lead evidence, if available, in that behalf.

15. Accordingly, list before the Trial Court for further proceedings on 25.08.2025.

16. The Appeal and the Cross Objections are disposed of in the foregoing terms.

17. Both parties will place on record any documents that they deem fit or before the date fixed before the Trial Court. It is made clear that no further opportunity will be granted to the parties in view of the fact that the accident took place in the year 2017.

18. The amounts deposited before this Court shall be subject to the outcome of the Impugned Award which is passed by the learned Trial Court



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in pursuance of the judgment passed herein.

19. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 24, 2025

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