



2026:DHC:4675



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 21st May 2026**+ **MAC.APP. 576/2014 & CM APPL. 10573/2014**

NEW INDIA ASSURANCE COMPANY LTDAppellant

Through: Mr. Abhishek Kumar Gola, Adv. Mr. Anshul Mehral, Adv and Mr. Yoshit Sahni, Adv.

versus

PAVITRA DUGANA & ORSRespondents

Through: Ms. Farheen, Advocate for Mr. Rakesh Nautiyal, Advocate (*through VC*)**CORAM:**
HON'BLE MR. JUSTICE ANISH DAYAL
JUDGMENT**ANISH DAYAL, J :(ORAL)**

1. This appeal has been filed by the Insurance Company, assailing impugned award dated 29th April 2014, passed by the Motor Accidents Claims Tribunal (*'MACT/Tribunal'*) awarding compensation of Rs. 9,31,672/- along with interest at the rate of 7.5% to the claimants.

2. The accident occurred on 31st March 2000, when the deceased, along with his companion labour was loading coolers in a truck. In the meantime, a Truck bearing No. DL-1GA-5706 (hereinafter, *'offending vehicle'*) driven by respondent no. 5/driver in a rash and negligent manner hit the deceased. Due to the impact, he fell down and received grievous injuries and as a result, passed away. Claim petition was filed by his wife and 3



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children, who are the respondents/claimants herein.

3. *Mr. Abhishek Kumar Gola*, counsel for appellant/Insurance Company, challenges the impugned award on two grounds. **First**, *future prospects* were granted at 100%, which is not permissible as per the principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680; and **second**, non-pecuniary damages, granted on account of *loss of consortium, loss of care and guidance of minor child* have to be realigned as also, *funeral charges* and *loss of estate*.

4. The compensation awarded by the MACT was as under:

S. No.	Heads	Awarded by the Tribunal
1	Loss of dependency	Rs. 6,96,672/-
2	Loss of consortium	Rs. 1,00,000/-
3	Loss of care & guidance of minor child	Rs. 1,00,000/-
4	Funeral charges	Rs. 25,000/-
5	Loss of estate	Rs. 10,000/-
6.	Total Compensation	Rs. 9,31,672/-

5. As regards the issue of loss of dependency, MACT calculated benchmark income by considering minimum wages of an unskilled person given at Rs. 2,419/-. However, as per the testimony of **PW-1**, wife of deceased, he was earning Rs. 5,000/- per month and was working in a factory.

6. While no proof of income has been placed on record to support this contention, **PW-1**'s testimony remained unrebutted in the cross examination conducted by appellant/Insurance Company. Furthermore, this Court in



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Savita & Ors. v. National Insurance Co. Ltd., 2026:DHC:3626 had culled out the principles for assessment of minimum wages. Noting scenarios where there is no documentary proof of income in an informal sector and oral testimony of family members has been provided, minimum wages should be used as a yardstick and the Courts should not be constrained to consider wages from the lowest tier. Relevant paragraphs of the decision are extracted as under:

“Guideposts

30. Principles which may be culled out from these cases cited above, and be used as guidepost for assessment of benchmark income, can be summarised as under:

A. Lack of documentary proof

i. In the informal sector, it may not always be possible to produce documentary proof of employment and payment of wages, which are usually paid in cash.

ii. Where there is lack of documentary proof to support that the victim was working in Delhi, reliance may be placed on facts and circumstances of the case to determine whether, the victim was residing in Delhi on the date of accident, in conjunction with documents such as driver’s license, voter ID card, etc. Minimum wages of place of work will be then considered.

iii. If documentary proof has not been filed, the Court can use the minimum wage benchmark of an appropriate category i.e., unskilled, skilled, matriculate, etc., as a benchmark for assessment, but not be constrained to grant the lowest tier.

B. Oral testimony of family members, employers

i. Assessment of income can also be done on the statement of the immediate legal heir of deceased, i.e., wife, father, or immediate family member, along with a statement of the employer, if any. Testimonies of the above-mentioned persons



should be consistent and there should be an unsuccessful rebuttal by the Insurance Company or the contesting party.

ii. *If the testimonies are not reliable, the Court can use the minimum wage benchmark of an appropriate category i.e., unskilled, skilled, matriculate, etc., as a benchmark for assessment, but not be constrained to grant the lowest tier.*

C. Proof of employment

i. *If documents in support of employment inter alia, Salary/Wage Certificate, Income Tax Returns ('ITRs') have been filed, same shall be considered.*

ii. *In the absence of such proof, assessment done by the Court has to be based on some intelligent guesswork and may not be restricted to the minimum wage parameter after taking into account a holistic analysis of the evidence on record. For example, place of employment, testimony of co-workers, or any other person who testifies in favour of the injured/deceased employee.*

iii. *The entire assessment is ultimately imbued with an element of approximation and guesswork, as part of the inquiry proceedings and not on exactitude....*"

(emphasis added)

7. Therefore, considering that the deceased was working as a labourer and the accident had occurred in 2000, at a time where it would have been difficult to furnish documentary proof of employment, this Court is inclined to consider Rs. 3,500/- as benchmark income of deceased.

8. Another aspect which must be considered is that the age of the deceased was stated as 28 years by **PW1**, wife of deceased. However, since there was no evidence as regards the age of deceased, MACT considered it as 35 years on the basis of the *post-mortem* report dated 5th April 2000.



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Even in cross examination, no questions regarding the age of deceased were put to **PW-1**, wife of deceased. In the absence of evidence to that effect, the Court is inclined to consider the age of the deceased to be as per the statement of **PW-1**, wife of deceased. Accordingly, the Court is inclined to consider the age of deceased at 27 years old and therefore, multiplier would be taken as '17'.

9. Future prospects have been considered at 100% by the MACT. However, as per the principles enunciated in **Pranay Sethi (supra)**, *future prospects* would be taken at 40%. Relevant paragraph is extracted as under:

“59.4. 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. 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. The established income means the income minus the tax component.”

(emphasis added)

10. Non-pecuniary damages shall also have to be aligned as **Pranay Sethi (supra)**. *Funeral charges* would be awarded at Rs. 15,000/-, *loss of estate* would be awarded at Rs. 15,000/-. The component of *loss of care and guidance of a minor child* shall stand deleted. *Loss of consortium* for four dependants would be calculated at Rs. 1,60,000/- (Rs. 40,000/-x 4).

11. Revised computation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court
1.	Income of the deceased (A)	Rs. 2,419/-	Rs. 3,500/-
2.	Add-Future Prospects (B)	Rs. 2,419/-	Rs. 1,400/-
3.	Less-personal expenses of the deceased (C)	Rs. 1,209.5/-	Rs. 1,225/-



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4.	Monthly loss of dependency [(A+B) - C = D]	Rs. 3,628.5/-	Rs. 3,675/-
5.	Annual loss of dependency (Dx12)= (E)	Rs. 43,542/-	Rs. 44,100/-
6.	Multiplier (F)	16	17
7.	Total loss of dependency (E x F) = (G)	Rs. 6,96,672/-	Rs. 7,49,700/-
8.	Compensation for loss of care and guidance of minor child (H)	Rs. 1,00,000/-	Nil
9.	Compensation for loss of consortium (I)	Rs. 1,00,000/-	Rs. 1,40,000/-
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. 9,31,672/-	Rs. 9,19,700/-
13.	Interest Awarded	7.5%	7.5%

Directions

12. Accordingly, the compensation is reduced by Rs. 11,972/-.
13. By order dated 15th July 2014, this Court had directed the appellant/Insurance Company to deposit Rs. 6,00,000/- before the MACT and release as per the proportion indicated in the impugned award was directed.
14. Balance amount, as per the revised compensation, along with accrued interest, shall be deposited before the MACT, within the next four weeks, which shall be released to the claimants as per the directions given in the impugned award.
15. Recovery rights have been granted against the driver and owner, which will stand sustained.
16. Accordingly, the appeal is disposed of. Pending applications (if any) are rendered infructuous.



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17. Statutory deposit, if any, shall be refunded to appellant/Insurance Company only if the order of deposit has been complied with.
18. Copy of this judgment be sent to the concerned MACT.
19. Copy of this judgment be sent to the bank.
20. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

MAY 21, 2026/RK/sp