



2026:DHC:2475



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 24<sup>th</sup> March 2026***+ **MAC.APP. 1041/2014**

ORIENTAL INSURANCE CO LTD .....Appellant

Through: Mr. Pradeep Gaur, Mr. Amit Gaur  
and Ms. Sweta Sinha, Advocates.

versus

RAJESH PANWAR &amp; ORS .....Respondents

Through: Mr. S.N. Parashar, Mr. Ritik Singh,  
Advocates.**CORAM:  
HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by Insurance Company seeking modification of final award dated 30<sup>th</sup> August 2014, passed by the Motor Accident Claims Tribunal, Shahdara District, Karkardooma Courts, Delhi [*MACT*] in *MACP No.92/2013*, whereby compensation of Rs.23,55,580/- along with interest @ 9% per annum was awarded.

2. Accident occurred on 12<sup>th</sup> May 2013, where Naresh Pal Panwar [*deceased*] alongwith one *Ved Prakash* was travelling to his native village *Paldai, Baghpat* from his house at *Sahibabad*. When deceased reached near *Ladhwadi More, Baghpat*, a truck bearing no. HR-55G- 6159 [“offending vehicle”] being driven by respondent no. 1 at a high speed in a rash and



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negligent manner came from *Baraut* side and hit the car. Due to the said impact deceased suffered fatal injuries and died on the spot. *FIR No. 215/2013* under Sections 279/337/338/304A/427 Indian Penal Code 1860 [*IPC*] was registered against respondent no. 1 [*driver*] at *Police Station Kot Baghpat*. Deceased was 59 years old at the time of accident and was an ex-service man (Air Force) and was getting pension of *Rs. 16,000 p.m.* and besides that the deceased was also doing the work of property dealer from which he was earning *Rs. 15,000/- to Rs. 20,000/- p.m.*

### **Compensation awarded**

3. MACT vide the impugned award held the death of *Naresh Pal Panwar* occurred due to rash and negligent driving of the offending vehicle and, taking the monthly income of deceased as *Rs. 22,765/-* (including pension and minimum wages), adding 15% towards *future prospects*, applying multiplier of '9', and deducting *1/4th* towards *personal expenses*, assessed *loss of dependency* at *Rs. 21,20,580/-*; further awarding *Rs. 1,00,000/-* towards *loss of consortium*, *Rs. 1,00,000/-* towards *loss of love and affection*, *Rs. 10,000/-* towards *loss of estate*, and *Rs. 25,000/-* towards *funeral expenses*, the MACT granted a total compensation of *Rs. 23,55,580/-* with interest @ 9% p.a. from the date of filing of the petition till realization, payable by the insurer.

### **Analysis**

4. Challenge raised by *Mr. Pradeep Gaur*, counsel for Insurance Company, is on the following grounds:
- i. That for calculation of *loss of dependency*, the pension being received by deceased who was 59 years of age on the date of



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the accident, was considered along with the minimum wages of 'skilled' worker, since he was doing additional work as a property broker. It is stated by *Mr. Gaur* that this would be duplicated with the family pension which the family was receiving post the death of the deceased.

- ii. That *future prospects* were granted at 15% by the MACT, which ought to have been granted at 10%, considering he was 59 years of age, as per the principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680.
- iii. That the deduction for expenditure on self, towards *personal and living expenses* should have been taken at 1/3<sup>rd</sup>, since at best there were two dependents i.e. the widow and one of the daughters, who was also widowed and was living with them. The other two children i.e. a *daughter* and a *son*, were major in age and there was no evidence placed on record by claimants that they were continuing studies.
- iv. That *non-pecuniary damages* which have been granted, have to be aligned with principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi* (*supra*).

5. *Mr. S.N. Parashar*, counsel for claimants, however, contents that, as regards the issue of deduction of pension, the matters stands settled, *inter alia*, by the decision of the Supreme Court in *Pramod Kumar Tiwari v. Premal Gautam & Ors.* in SLP (Civil) No. 26620/2023, *vide* order on 8<sup>th</sup> April 2025, where the Supreme Court has held as under:

“3) *In the facts of the case, the short question that arises for our reconsideration is whether on death of an employee during subsistence of employment due to vehicular*



*accident, the amount of family pension can be deducted from his/her salary while calculating compensation under Motor Vehicles Act, 1988?*

.....  
5) *The issue whether deduction of pension amount from the salary can be made has been settled by the judgment of this Court in the case of ‘**Helen C. Rebello (Mrs.) and Others Vs. Maharashtra State Road Transport Corporation and Another, (1999) 1 SCC 90**’, wherein, this Court drawing an analogy in para 35 observed as under –*

*“35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event, viz., accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No correlation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary*



*advantage receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as “pecuniary advantage” liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any correlation. The insured (deceased) contributes his own money for which he receives the amount which has no correlation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual.”*

6) Later, in a recent judgment in the case of '**Sebastiani Lakra and others Vs. National Insurance Company Limited and Another, (2019) 17 SCC 465**', this Court observed that deductions cannot not be allowed from amount of compensation either on account of insurance or pensionary benefits or gratuity or grant of employment to kith and kin of the deceased. The Court in para 12 noted as thus –

*“12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these*



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*amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to “just compensation” under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his lifetime cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death.*

*7) In view of the settled proposition of law, the question posed above is answered in negative. Hence, order impugned passed by High Court affirming the findings recorded by the MACT is hereby set-aside.”*

*(emphasis added)*

6. On this issue, the decision of this Court in ***Cholamandalam MS General Insurance Co. Ltd v. Usha Gupta & Ors.*** 2025:DHC:332, is also relied upon, where the Court has considered a case where *loss of dependency* was calculated taking into account the pension in sum of Rs.41,737/-, despite family pension in the sum of Rs.20,000/- per month being received by the wife. Yet again relying upon the decisions in ***Mrs. Helen C. Rebello & Ors. v. Maharashtra State Road Transport Corpn. & Anr.*** AIR, 1998 SC 3191, ***United India Insurance Co. Ltd. etc. v. Patrica Jean Mahajan & Ors.*** 2002 (6) SCC 281, ***Lal Dei & Ors. v. Himachal Road Transport*** (2007) 8 SCC 319, ***Vimal Kanwar & Ors. v. Kishore Dan & Ors.*** AIR 2013 SC 3830 and ***Sebastiani Lakra v. National Insurance Company Ltd.*** AIR 2018 SC 5034,



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the Court held that the Tribunal had rightly not deducted the family pension while calculating the compensation.

7. In this view of the matter, the Court is not inclined to allow the plea of the Insurance Company on the ground, on the issue of deduction of pension.

8. On the *second issue* of future prospects, to be aligned with the principles in *Pranay Sethi (supra)*, considering deceased was 59 years of age, 10% would have to be allowed.

9. On the *third issue* of deduction of expenses, reliance has been placed on the testimony of the wife of deceased, *Rajesh Panwar [PW-1]*, who stated that she is a widow and 53 years of age, with children named *Pinki Panwar* (aged 27 years), *Rinki Panwar* (aged 27 years) and son, *Arjun Panwar* (aged 20 years) being dependents of the deceased and were relying on the income of the deceased. There is no proof placed whether the daughter (*Rinki Panwar*) and the son (*Arjun Panwar*) were studying at that point of time, even though they were major in age, all were dependent on the income of the deceased. Accordingly, deduction towards *personal income* should have been taken in the category of two-three dependents and as 1/3<sup>rd</sup> of the income, in terms of the principles in *Pranay Sethi (supra)*.

10. For non-pecuniary damages, since there were four family members, the *loss of consortium* stands enhanced to *Rs.1,60,000/- [Rs.40,000 × 4 family members]* as per the principles enunciated *Pranay Sethi (supra)* and *Magma General Insurance Co. Ltd. v. Nanu Ram* (2018) 18 SCC 130.

11. *Loss of estate* and *funeral expense* shall be granted at *Rs.15,000/-* each as per the principles in *Pranay Sethi (supra)*.

12. Despite there being no cross-appeal, considering the decision passed by the Supreme Court in *Ningamma v. United India Insurance Co. Ltd.*



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(2009) 13 SCC 710 and a decision of this Court *Oriental Insurance co Ltd. v. Mamta Kumari & Ors.* 2012:DHC:5522, it is open for the Court to enhance the compensation on certain components which are considered as just and reasonable.

13. Accordingly, the component of income which was attributed to the work of deceased as a property dealer, also requires to be considered. *Rajesh Panwar [PW-1]* stated that deceased was earning approximately *Rs.15,000/-* to *Rs.20,000/-* per month from such vocation, which testimony remained unrebutted by the Insurance Company. MACT, however adopted minimum wages of an 'unskilled' worker for this component of income. Considering the deceased was an ex-serviceman from the India Air Force, and was engaged in property dealings post-retirement, adoption of minimum wages of a 'skilled' worker would be more appropriate and realistic for the relevant period. Accordingly, minimum wages of a 'skilled' worker in the State of Uttar Pradesh prevailing in the year 2013 are taken as *Rs.7,265.1/-* per month (*Rs.242.17* per day) for computation of *loss of dependency*.

14. Accordingly, compensation is recomputed as under:

S. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
1	Income of deceased (A) (less Income Tax)	Rs. 22,765/- [Rs.16,847+Rs.5918]	Rs.24,112.1/- [Rs.16,847+Rs.7265.1/]
2	Add Future Prospects (B)	15%	10%
3	Less Personal expenses of the deceased (C)	1/4 <sup>th</sup>	1/3 <sup>rd</sup>
4	Monthly loss of dependency [(A +B)-C = D]	Rs. 26,180/-	Rs. 17,684/-



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5	Annual loss of dependency (Dx12)	Rs. 2,35,620/-	Rs. 2,12,208/-
6	Multiplier (E)	9	9
7	Total loss of dependency (Dx12xE = F)	Rs. 21,20,580/-	Rs.19,09,872/-
8	Medical expenses (G)	Nil	Nil
9	Compensation for loss of consortium (H) (40,000 x 4)	Rs.1,00,000/-	Rs.1,60,000/-
10	Compensation for loss of love and affection (I)	Rs.1,00,000/-	Nil
11	Compensation for loss of estate (J)	Rs. 10,000/-	Rs. 15,000/-
12	Compensation towards funeral expenses (K)	Rs. 25,000/-	Rs. 15,000/-
<b>Total compensation (F+G+H+J+K = L)</b>		<b>Rs. 23,55,580/-</b>	<b>Rs.20,99,872/-</b>
<b>Interest</b>		<b>9%</b>	<b>9%</b>

15. In view of the above recomputation, total compensation payable to the claimants stands reduced to Rs.20,99,872/- along with interest @ 9% per annum as awarded by MACT.

16. Since 50% of the awarded amount had already been directed to be deposited before the Registry of this Court *vide* order dated 17th November 2014, the deposited amount shall be adjusted against the recomputed compensation. In case any excess amount has been deposited by the appellant, same shall be refunded to the appellant along with accrued interest thereon. The balance amount, if any remaining payable, shall be deposited by the appellant within four weeks from today. The claimants shall be entitled to release of the amount in terms of the directions contained in the impugned award.

17. Accordingly, the appeal stands disposed of in above terms.



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18. Statutory deposit, if any, be refunded to the appellant.
19. Judgment be uploaded on the website of this Court.

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

**MARCH 24, 2026/ak/tk**