



2026:DHC:2689



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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 25<sup>th</sup> March 2026+ MAC.APP. 1097/2018, CM APPL. 51336/2018, CM APPL. 51268/2022, CM APPL. 9343/2026

THE ORIENTAL INSURANCE CO LTD .....Appellant

Through: Mr. A.K. Soni, Advocate.

versus

SNEHA LATA &amp; ORS .....Respondents

Through: Mr. S. Waseem A Qadri, Sr. Adv.  
with Mr. Diwas Kumar and Mr.  
Umashankar Shanna, Advs. for R-2  
to 4.**CORAM:**  
**HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the insurance company, assailing the award dated 21<sup>st</sup> August 2018, passed by the Motor Accident Claims Tribunal, Tis Hazari Courts, Delhi [*MACT*] in Claim Petition No.729/2011, whereby a compensation of Rs.64,51,000/- with interest @ 9% per annum was awarded.

2. The accident occurred on 4<sup>th</sup> May 2007 at about 2:30 p.m. near Police Station Ghabhan, Aligarh, when the deceased, travelling from Aligarh to Delhi in Maruti Wagon R collided with a Uttar Pradesh Roadways bus driven by respondent no.6 and operated by respondent no.5 [Uttar Pradesh State Road Transport Corporation (*UPSRTC*)] and insured



by appellant/Insurance Company. It was a head-on collision which occurred in the middle of the road where there was no divider.

3. As regards the *first issue*, MACT concluded that the bus driver was negligent in driving on the right side of the carriageway, while, being a heavy vehicle, it ought to have been driving on the left side.

4. The MACT also noted, testimony of the driver [R4W1] basis Court questions to him, that he was in the middle of the road, while the *Wagon R* car was overtaking a truck which was driving on the left side of the other carriageway.

5. On this basis, the MACT concluded that it was the sole negligence of the bus driver.

6. The Court has perused the site plan which has been filed, as also the testimony of PW-4 [*alleged eyewitness*] and R4W1 [*driver of the offending vehicle*].

7. As regards testimony of PW-4, there is nothing much to be gleaned from the same, considering that PW-4 was running a hotel/*dhaba* and was sitting outside when the accident took place. In his cross-examination, he stated that he only saw the accident and then moved towards the site of the accident, but did not see the manner in which the accident took place.

8. As regards the testimony of R4W1, which has been heavily relied upon by *Mr. Qadri*, Senior Advocate appearing on behalf of claimants/respondents, the Court questions become relevant. Same are extracted as under:

*"Court Question:- Was there any road divider on the road?"*

*A:-No.*

*Court Question:- In which lane you were driving the bus?"*



A:-I was driving the bus in the middle lane of the road.

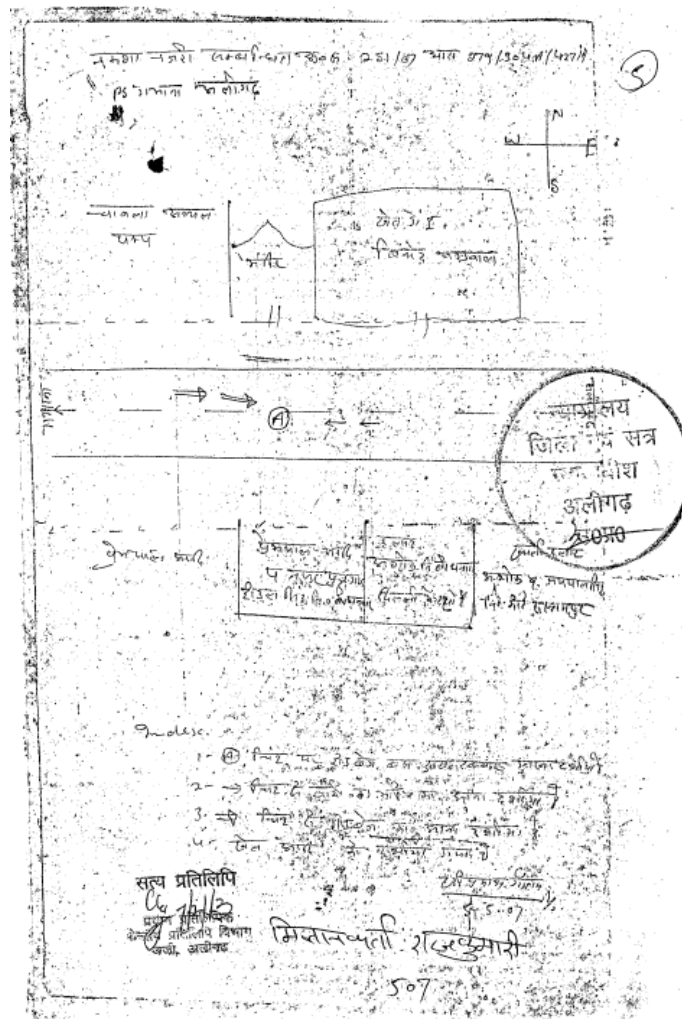
Court Question:- In which lane truck was being driven?

A:-In its left lane.

Court Question:- In which lane car was being driven.

A:- Car was being driven in the middle of the road."

9. As per the site plan, which is also extracted hereunder, it does appear that the bus was moving towards the middle of the road where there was no divider, whereas it ought to have been driving on the left side.



10. Even otherwise, there was no reason why it was veering towards the middle of the road, where it was prone to collide with vehicles approaching



from the opposite direction, in this case the unfortunate *Wagon R*.

11. Considering that the proceedings before the MACT are based on preponderance of probability, the Court does not see anything amiss in the findings of the MACT in this regard.

12. Further, it is also noted that the FIR was registered against the driver of the offending bus and chargesheet has also been filed.

13. Considering the principles enunciated by the Supreme Court in *Ranjeet v Abdul Kayam Neb* 2025 SCC OnLine 497, the issue would stand fortified in favour of the claimants.

14. On the *second issue*, as far as quantum of the income is concerned, based on the ITR, *Mr. Soni*, Counsel for appellant/Insurance Company states that variable pay ought not to have been considered.

15. The Court has perused the salary record, which has been produced by the employer of the deceased. The deceased was employed as “*Assistant Manager*” with *Bharti Airtel Ltd*. *Mr. Mahesh Kumar [PW-2]*, officer from the Company, gave his testimony and the details of the last drawn salary was produced as **Exhibit PW2/2**, as well as the *Form 16* for the Financial Year 2006-2007 as **Exhibit PW2/3**. The annual cost-to-company details of the deceased were exhibited as **Exhibit PW2/4**.

16. On this basis, the MACT rightly concluded that the pro-rata salary would be considered, subject to deduction of tax, which the MACT has calculated.

17. As regards variable pay, the Supreme Court has held in *Manorma Sinha & Anr. v. The Divisional Manager, Oriental Insurance Company Ltd & Anr*, 2025 INSC 1237, *Kavita Devi & Ors. v. Sunil Kumar & Anr.*, 2025 INSC 938 and *Meenakshi v. Oriental Insurance Co. Ltd.*, 2024 SCC Onlne SC 1872 that incentives will also have to be taken into account.



18. Accordingly, this aspect of the matter does not sustain in favour of the insurance company.

19. On the **third issue**, as far as *future prospects* are concerned, *Mr. A.K. Soni*, counsel appearing for the Insurance Company, submits that the same ought to have been taken at 25% instead of 30%, since the deceased was in private employment.

20. In pursuance of the previous order dated 16<sup>th</sup> March 2026, *Mr. S. Waseem A. Qadri*, Senior Advocate appearing for respondents/claimants, submits that the deceased, aged 44 years, was in permanent employment with *Bharti Airtel Ltd.*, Gurgaon, as an Assistant Manager, and therefore *future prospects* were correctly granted at 30% by the MACT. This fact that deceased was employed with *Bharti Airtel Ltd.* has been duly proved by **PW-2**, *Mr. Mahesh Kumar*, an officer of the said company. The salary details, exhibited as **Ex. PW-2/2**, are extracted below:

Employee Name: Raviinder Kumar  
 Manager: Pradeep Verma  
 Organization: Mobility  
 Assignment Category: Fulltime-Regular  
 Employee Number: 5789  
 Assignment Number: 5789  
 Job: CSD.SMG.Collections  
 FTE: FTE  
 Effective Date: 01-May-2007

**Current Salary**

From	01-Jun-2005	To	
Salary	558,761.00 INR Annually	Status	Approved
Change Amount	85,234.00 INR Annually	Reason for Change	Annual Performance Review
Change %	17.999818	Next Salary Review	
Annualized Salary	558,761.00 INR	Ranking	
Full Time Annualized Salary	558,761.00 INR	Performance Review	
FTE Factor	1	Performance Rating	
Annual Salary in All. Currency		SIPAmount	
Last Period Processed		SPPPercent	
TFPAmount	488915.88	Replacement	
TFPPercent	87.50		
TVPAmount	69845.12		
TVPPercent	12.50		

**Grade Salary Limits**

Grade	61-Assistant Manager
Grade Details as of	04-May-2007
Step	
Grade Ladder	
Currency	INR
Salary Range	
Midpoint	
Compariso	
Quartile	
Range Position	

**Salary Basis Details**

Salary Basis	Annual Salary Basis
Pay Basis	Annual Salary
Currency	INR
Steps/Year	1
Element Name	Total Cost to Company
Input Value	Annual Amount

**Salary History**

Details	From	To	Change	%	Salary	Annualized	Currency	Salary Basis	Status
Show	01-Jun-2006		85,234.00	17.999818	558,761.00	558,761.00	INR	Annual Salary Basis	Approved
Show	01-Oct-2005	31-May-2006	113,527.00	31.535278	473,527.00	473,527.00	INR	Annual Salary Basis	Approved
Show	01-Jun-2004	30-Sep-2005	360,000.00		360,000.00	360,000.00	INR	Annual Salary Basis	Approved

Handwritten notes: Ex. PW2/2, Judge, MACT-1(cc), Delhi 11/02/16 (02 sheets)

21. The salary slips show that there were regular revisions in income.



From 1<sup>st</sup> June 2004 to 30<sup>th</sup> September 2005, the salary was Rs. 3,60,000/-; from 1<sup>st</sup> October 2005 to 31<sup>st</sup> May 2006, the salary was Rs. 4,73,527/-; and from 1<sup>st</sup> June 2006, the salary was Rs. 5,58,761/-. This clearly demonstrates that the deceased continued in employment and was treated as a permanent employee.

22. The extract of the salary slip also indicates that the deceased was categorized as a “*full-time regular*” employee. Moreover, a letter dated 1<sup>st</sup> April 2002, issued by *Bharti Airtel Ltd.*, has been handed up, showing that Employee Stock Options (*ESOPs*) were granted to the deceased, with an option to exercise the same until 1<sup>st</sup> April 2008 and tradable options available from 14<sup>th</sup> February 2003 onwards. Although these documents were not previously placed on record, the Court has perused the same.

23. *Mr. S. Waseem A Qadri*, Senior Advocate, relies upon the observation of the Supreme Court on the issue of *future prospects* in *National Insurance Co. Ltd. v. Pranay Sethi & Ors.*, (2017) 16 SCC 680, the relevant paragraph is extracted as under:

*“59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.”*

24. *Mr. A.K. Soni*, counsel for Insurance Company, and *Mr. S. Waseem A Qadri*, Senior Advocate for claimant, submit that there is no other decision which differentiates or throws light on what constitutes a permanent job and what constitutes employment on a fixed salary.



25. However, some guidance has been provided by the High Court of Madhya Pradesh at Jabalpur in *Anjum Ansari v. R. Rajesh Rao*, 2024 SCC OnLine MP 9613, wherein the Court held that, in view of the principles laid down in *Pranay Sethi* (*supra*), it is not correct to state that only a government servant would be treated as having a permanent job. In the facts of that case, the Court noted that the deceased was working as an Assistant Professor at Corporate Institute of Science & Technology, Bhopal, and that the salary drawn by the deceased was subject to periodic revisions/hikes, therefore, he was considered to be in permanent job. The relevant paragraphs are extracted hereinbelow.

*“8. In this court's opinion, above issue stands settled by Five Judges Bench of Hon'ble Apex Court in National Insurance Company Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : AIR 2017 SC 5157 as under:—*

*55. “Presently, we come to the issue of addition of future prospects to determine the multiplicand.*

*56. In Santosh Devi ((2012) 6 SCC 421 : AIR 2012 SC 2185) the Court has not accepted as a principle that a self-employed person remains on a fixed salary throughout his life. It has taken note of the rise in the cost of living which affects everyone without making any distinction between the rich and the poor. Emphasis has been laid on the extra efforts made by this category of persons to generate additional income. That apart, judicial notice has been taken of the fact that the salaries of those who are employed in private sectors also with the passage of time increase manifold. In Rajesh s case, the Court had added 15% in the case where the victim is between the age group of 15 to 60 years so as to make the compensation just, equitable, fair and reasonable. This addition has been made in respect of self-employed or engaged on fixed wages.*



57..... *In such an adjudication, the duty of the tribunal and the courts is difficult and hence, an endeavour has been made by this Court for standardisation which in its ambit includes addition of future prospects on the proven income at present As far as future prospects are concerned, there has been standardisation keeping in view the principle of certainty, stability and consistency. We approve the principle of “standardisation” so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age.*

59. *Having bestowed our anxious consideration, we are disposed to think when we accept the principle of standardisation, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust. The determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Act In case of a deceased who had held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to state that the legal representatives of a deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be inapposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and stitiveness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a perception is fallacious. It is because the price rise does affect a self-employed person; and that apart there is always an*



*incessant effort to enhance one's income for sustenance. The purchasing capacity of a salaried person on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to gamer his resources and raise his charges/fees so that he can live with same facilities. To have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in the case of a person having a permanent job yet the said perception does not really deserve acceptance. We are inclined to think that there can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary. But not to apply the principle of standardisation on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground reality.....*

*61. In view of the aforesaid analysis, we proceed to record our conclusions:*

*(i) XXX XXX XXX XXX*

*(ii) XXX XXX XXX XXX*

*(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be*



30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

(iv) 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.....”

9. Thus, from observations as well as principle of law laid down by Hon'ble Apex Court in *Pranay Sethi (Supra)*, it is clearly evident that if a person is in such a job wherein his salary is increased periodically/receives annual increment etc., then, such person would be treated as being in “permanent job”. Hence, in view of principle of law laid down in *Pranay Sethi (Supra)*, it is not correct that only government servant would be treated as being in “permanent job”.”

26. Accordingly, this Court is of the view that, in the facts and circumstances of the present case, the deceased would be considered to have held a permanent job, following the cue from the Coordinate Bench of the High Court of Madhya Pradesh and the principles enunciated in *Pranay Sethi (supra)*. Therefore, the grant of *future prospects* at 30% by the MACT warrants no interference and is upheld.

### **Directions**

27. By order dated 10<sup>th</sup> December 2018, when notice was issued, the complete amount was deposited with the Registry of this Court, and the operation of the impugned award was stayed. *Vide* order dated 11<sup>th</sup> April



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2023, the application for release was allowed and the Tribunal was directed to release 50% of the awarded amount, in terms of the scheme of disbursal.

28. It is therefore directed that the balance amount along with accrued interest as deposited with the Registrar General of this Court be released to claimants as per the scheme of the impugned award.

**CM APPL. 18706/2026**

29. This application has been filed by respondents with prayer for taking on record death of respondent no. 1/*Smt. Sneh Lata*, who expired on 17<sup>th</sup> May 2021. The Death Certificate has been filed. The surviving member certificate issue by the District Magistrate, Dwarka, South West District, shows that respondents nos. 2-4 are legal heirs of the deceased. Therefore, *Mr. S. Waseem A Qadri*, Senior Advocate, prays that the amount which was apportioned to respondent no. 1 be released in equal parts *i.e.* 1/3<sup>rd</sup> each to respondents nos. 2-4. It is directed accordingly. The awarded amount to respondent no.1 be apportioned in equal parts to respondent nos. 2-4.

30. Accordingly, the appeal stands dismissed. Pending applications, if any, are rendered infructuous.

31. Statutory deposit, if any, be refunded to the appellant.

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

**ANISH DAYAL, J**

**MARCH 25, 2026/da/zb**