



2026:DHC:3706



§~62

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 29<sup>th</sup> April 2026***+ **MAC.APP. 338/2019 & CM APPL. 10717/2019**

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Ms. Mouli Sharma, Adv. for  
Ms. Suman Bagga, Adv.

versus

BHAWNA WALIA &amp; ORS .....Respondents

Through: Mr. Dhananjay Gupta, Adv. for R-1  
& 2**CORAM:  
HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the Insurance Company challenging Award dated 13<sup>th</sup> December 2018 passed by MACT, East District: Karkardooma Courts, Delhi in Suit no. D-11324/16, granting compensation of Rs.32,34,000/- with interest @ 9% per annum.

2. The primary ground for challenge, as per *Ms. Mouli Sharma*, counsel for appellant/Insurance Company, is that the benchmark income was considered at Rs. 20,000/- per month relying on the ITR for A.Y. 2015-16, showing gross income of Rs.2,29,550/-.

3. The dependency was calculated on this basis by adding 40% towards future prospects and deducting 1/3<sup>rd</sup> towards personal and living expenses, thereby awarding a total compensation of Rs.32,34,000/- along with interest @ 9% per annum.




2026:DHC:3706



4. Ms. Mouli Sharma, counsel for Insurance Company, submits that MACT has considered the ITR acknowledgement filed by claimant for Assessment Year ('AY') 2015-16 in relation to accident which occurred on 1<sup>st</sup> November 2015.

5. Two ITRs were placed on record by the claimants, which were exhibited as Ex. PW-1/5 & Ex. PW-1/6 for AY 2014-15 and AY 2015-16. However, she points out to communication dated 13<sup>th</sup> January 2016, which has been placed on record of MACT, issued by Income Tax Officer, Ward 47 (3), Delhi, addressed to East Delhi DCP Office, Delhi Police, stating that in reference to PAN card no. AAYPW3748F for verification, in name of Rakesh Kumar Walia, no return for income in AY 2014-15 was filed, as per record of their office. The said communication is extracted as under:

  
कार्यालय आयकर अधिकारी वार्ड 47(3)  
Office of the Income Tax Officer, Ward 47(3),  
कमरा नं. 204, ड्रम शेप बिल्डिंग, इन्द्र प्रस्थ एस्टेट, नई दिल्ली - 110002  
Room No. 204, Drum Shaped Building, I P Estate, New Delhi - 110002  
Phone No.011-23370354  
F.No. ITO/Ward-47(3)/2015-16/४०४ Dated-13.01.2016


To,  
✓ Sh. M L Meena,  
SI, CMVAI-Cell,  
East Delhi DCP office  
Delhi Police

Sir,

**Sub:- Verification of document as requested by you in the case FIR No. 774/15 dated 01.11.2015 u/s 279/304 AIPC, P.S. Preet Vihar-reg-**

Please refer to your letter dated 08.01.2016 vide which you have sent the copy of PAN card (AAYPW3748F) for verification to be produced in MACT court. From records of this office, it is noticed that the above PAN is in the name of Rakesh Kumar Walia S/o Amar Singh, DOB: 12/01/1977. Further, no return of income for AY 2014-15 has been filed as per record of this office.

Yours faithfully,

  
(RAJ KUMAR)  
Income Tax Officer,  
Ward-47(3), New Delhi  
RAJ KUMAR  
Income Tax Officer  
Ward-47(3), New Delhi

Copy to : The Joint Commissioner of Income-tax, Range-47, New Delhi for kind information.

Income Tax Officer,  
Ward-47(3), New Delhi



2026:DHC:3706



6. She therefore states that ITR acknowledgements, which have been filed by claimant for AY 2014-15 and 2015-16, are forged and fabricated. ITR for AY 2014-15 and 2015-16 are extracted as under:

**ITR V ACKNOWLEDGEMENT AY 2014-15**

Submitted by: **RAKESH WALIA**

AS PER NAME: **Rakesh**

AS PER ADDRESS: **332, Chandni Khana, Chandni Chowk, Delhi**

AY: **2014-15**

Gross Total Income	* B1	220000
Deductions under Chapter VI-A	* B2	22000
Total Income	* B3	198000
Current Loss if any	* B4	
Net Tax Payable	* B5	11980
Interest Payable	* B6	
Total Tax and Interest Payable	* B7	
Total Advance Tax Paid	* B8	
Total Self Assessment Tax Paid	* B9	
Total TDS Deducted	* B10	
Total TCS Collected	* B11	
Total Prepaid Taxes (B8+B9+B10+B11)	* B12	
Tax Payable (B7-B12, if B7 > B12)	* B13	
Refund (B12-B7, if B12 > B7)	* B14	

**ITR V ACKNOWLEDGEMENT AY 2015-16**

Submitted by: **Rakashi Dalia**

AS PER NAME: **Rakashi**

AS PER ADDRESS: **332, Chandni Khana, Chandni Chowk, Delhi**

AY: **2015-16**

Gross Total Income	* B1	229500
Deductions under Chapter VI-A	* B2	22000
Total Income	* B3	207500
Current Loss if any	* B4	
Net Tax Payable	* B5	
Interest Payable	* B6	
Total Tax and Interest Payable	* B7	
Total Advance Tax Paid	* B8	
Total Self Assessment Tax Paid	* B9	
Total TDS Deducted	* B10	
Total TCS Collected	* B11	
Total Prepaid Taxes (B8+B9+B10+B11)	* B12	
Tax Payable (B7-B12, if B7 > B12)	* B13	
Refund (B12-B7, if B12 > B7)	* B14	
Exempt Income	* B15	

7. To this, Mr. Dhananjay Gupta, counsel for respondent nos. 1 and 2 states that Ex. PW1/5 & Ex. PW1/6 were produced by PW1, wife of the deceased, and that she was neither confronted with these documents nor was any rebuttal evidence led by the Insurance Company in this regard.

8. To this, Ms. Mouli Sharma submits that it is for the claimant to present the best evidence and, therefore, once a suggestion was put to PW1 during cross-examination by the Insurance Company that she was deposing falsely, it was incumbent upon the claimants to get the documents proved through the Income Tax Officer. To substantiate her submission, she relies upon the judgment of the Supreme Court in *LIC of India and Anr. v. Ram Pal Singh Bisen*, being Civil Appeal No. 893/2007 dated 16<sup>th</sup> March 2010,



wherein, in *paragraph 27*, the Court has noted that it is the duty of the person producing the document to prove it in accordance with law, and further recorded that the contents of documents so produced should be proved by primary or secondary evidence, and that the admission of a document may amount to admission of its contents, but not their truth.

Relevant paragraphs of the said judgment are extracted as under:

“27.It was the duty of the appellants to have proved documents Exh. A-1 to Exh. A-10 in accordance with law. Filing of the Inquiry Report or the evidence adduced during the domestic enquiry would not partake the character of admissible evidence in a court of law. That documentary evidence was also required to be proved by the appellants in accordance with the provisions of the Evidence Act, which they have failed to do.

\*\*\*

31.Under the Law of Evidence also, it is necessary that contents of documents are required to be proved either by primary or by secondary evidence. At the most, admission of documents may amount to admission of contents but not its truth. Documents having not been produced and marked as required under the Evidence Act cannot be relied upon by the Court. Contents of the document cannot be proved by merely filing in a court.”

(emphasis added)

9. The Court put it to the claimant’s counsel that the Income Tax Officer could be summoned, at their request, to prove the said documents and to testify in relation to said documents; however, *Mr. Dhananjay Gupta*, on instructions, states that they wish to argue the matter on the basis of the material already available on record.



2026:DHC:3706



10. This persuades the Court to accept the submissions of the Insurance Company that these documents are not authentic.

11. Accordingly, *Ms. Mouli Sharma* submits that the minimum wages of a skilled worker ought to be taken for the assessment of benchmark income. Minimum wages applicable in *Delhi* to a skilled worker at the time of accident were *Rs.11,154/-*.

12. To this, *Mr. Dhananjay Gupta* points out to the salary certificate dated 15<sup>th</sup> December 2015, which was verified by the IO on 16<sup>th</sup> February 2016 and formed part of the DAR, and which is extracted hereunder:

Mob:-9811376990

**UMESH FIRE WORKS**  
SHOP NO.:8, DDA-MARKET,  
DEFENCE ENCLAVE, PREET VIHAR, DELHI-110092  
DEALS IN: ALL TYPES OF FIRE WORKS

36

---

REF: Verification of Employment for Mr. Rakesh Walia Date: 15.12.2015

**TO WHOM IT MAY CONCERN**

I, certify that Late Sh. RAKESH WALIA was an employee of M/s. UMESH FIRE WORKS. He was working as Sales Man in the firm since 01.07.2013 to 31.03.2014 the firm paid used to pay salary Rs.12500/- and 01.04.2014 to 31.03.2015 Rs.15000/- and 01.04.2015 to 31.10.2015 Rs.17300/- per month in cash between 5th to 10th of every month.

The salary of the month November, 2015 received by his wife Mrs. Bhawna Wallia.

For  
UMESH FIRE WORKS

For UMESH FIRE WORKS  
*Umesh*  
Proprietor  
UMESH KUMAR MATHURIA  
(PROPRIETOR)

*Verified*  
For UMESH FIRE WORKS  
Prod.  
16/2/16



13. Further, he states that the benchmark income ought to be assessed at Rs. 17,300/- per month, as recorded in the above-extracted salary certificate. In support of his contention, he relied upon the judgment of this Court in *Dimple @ Dimple Verma and Ors. v. Afasar Ali and Ors.* 2026:DHC:642, wherein while relying upon the decision of *Bajaj Alliance General Insurance Co. Ltd. vs Meera Devi & Ors.* 2021:DHC:555, this Court held that contents of DAR were presumed to be correct and read in evidence without formal proof of the same unless proof to the contrary was produced.

14. A perusal of DAR otherwise shows that education of victim is till 8<sup>th</sup> Standard, occupation was recorded as 'private job' and income column had been left blank. Therefore, it is difficult to assess as to whether there was any actual income being received by deceased.

15. There is no doubt that the deceased was working in a private job at the time of the accident, as can be seen from DAR and the testimony of wife of the deceased. However, there is no proof of the salary that he was drawing. The employer of the deceased has not been brought to testify that the deceased was working in his firm.

16. Moreover, there is no income proof, as noted above, the ITR filed by wife of the deceased before the Tribunal seems to doubtful and accordingly, cannot be relied upon.

17. As noted above, the claimants failed to examine or produce the employer of the deceased as a witness to substantiate their contention that the deceased was employed and was drawing a specific salary. The salary certificate placed on record though verified by the IO on 16<sup>th</sup> February 2016, no other proof has been placed on record to prove actual earnings.



18. Further, as noted hereinabove, ITR of AY 2014-15 relied upon by the wife of the deceased before the Tribunal appears to be doubtful.

19. In the absence of proper proof regarding its credibility, the same cannot be relied upon for the purpose of assessing the income of the deceased.

20. Accordingly, alleged income of the deceased remains unsubstantiated with any proof or testimony thereof, and the Tribunal ought to have adopted a more reasonable benchmark for determination of income.

21. It is a settled principle that without any cogent proof of income the Court is required make some intelligent guesswork. In ***Chandra v. Mukesh Kumar Yadav*** (2022) 1 SCC 198, the Supreme Court has stated that in the absence of documentary evidence, some amount of guesswork is required to be done. Relevant paragraph of the said judgment is extracted as under:

*“9...In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs.15000/ per month.”*

(emphasis added)

22. Accordingly, considering that the deceased was working in a private firm, and taking into account the salary certificate appended to the DAR



and the testimony of **PW1**, wife of the deceased, this Court is of the view that a broader view of the matter should be taken, and that the notional income should be taken at Rs. 15,000/- per month.

23. Loss of consortium ought to be Rs 80,000/- as there were two claimants, i.e. wife and daughter, as per the principle laid down in *National Insurance Company Ltd. vs. Pranay Sethi & Ors.* (2017) 16 SCC 680.

24. The revised computation is therefore, as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court
1.	Net annual Income of the deceased (A)	Rs. 2,29,550/-	Rs. 15,000/- x 12 = Rs. 1,80,000/-
2.	Add-Future Prospects (B)	40% of Rs. 2,29,550/- = Rs. 91,820/-	40% of Rs. 1,80,000/- = Rs. 72,000/-
3.	Less-personal expenses of the deceased (C)	1/3 <sup>rd</sup> of Rs. 3,21,370/- = Rs. 1,07,123/-	1/3 <sup>rd</sup> of Rs. 2,52,000/- = Rs. 84,000/-
4.	Annul loss of dependency [(A+B) - C = D]	Rs. 2,14,247/-	Rs. 1,68,000/-
6.	Multiplier (E)	15	15
7.	Total loss of dependency (D x E) = (F)	Rs. 32,13,705/-	Rs. 25,20,000/-
8.	Compensation for loss of love and affection (G)	Nil	Nil
9.	Compensation for loss of consortium (H)	Rs. 40,000/-	Rs. 80,000/-
10.	Compensation for loss of estate (I)	Rs. 15,000/-	Rs. 15,000/-
11.	Compensation towards funeral expenses (J)	Rs. 15,000/-	Rs. 15,000/-
12.	Total Compensation (F+G+H+I+J = L)	Rs. 31,43,705/-	Rs 26,30,000/-
13.	Interest Awarded	9% per annum	9% per annum

25. In view of the above, the compensation is reduced by Rs. 5,13,705/-

26. *Vide* order dated 08<sup>th</sup> March 2019, the Court directed the appellant to deposit the entire awarded amount along with accrued interest with the



2026:DHC:3706



MACT, subject to which stay was granted. Further, on 11<sup>th</sup> January 2021, it was directed that 50% of the deposited amount be released in favour of the claimants as per the terms of the Award.

27. Accordingly, the reduced amount, i.e. *Rs. 5,13,705/-*, along with accrued interest, be refunded to the Insurance Company/appellant.

28. Balance amount be disbursed to the claimants as per the directions of MACT in the impugned Award.

29. Appeal stands disposed of in above terms.

30. Pending applications, if any, are rendered infructuous.

31. Statutory deposit, if any, be refunded to appellant-Corporation.

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

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

**APRIL 29, 2026/sm/bp**