



2025:DHC:10941



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

*Decided on: 03.12.2025*

+ MAC.APP. 173/2014

**SHRIRAM GENERAL INSURANCE CO LTD** .....Appellant

Through: Mr. Sameer Nandwani, Mr.  
Jyaditya Dogra, Ms. Pooja Tandon,  
Advocates.

versus

**SURILA & ORS** .....Respondents

Through: Mr. Amish Ram Dabas, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J. (ORAL)**

1. The appellant – Shriram General Insurance Company Limited [“Insurance Company”] assails an award of the Motor Accident Claims Tribunal [“Tribunal”] dated 30.10.2013 in MACT No. 127/2012, arising from a fatal accident which took place on the intervening night of 09/10.10.2011. The accident resulted in the death of Mr. Mahavir Singh, who was working as a Constable in Delhi Police.
2. The respondent Nos. 1 to 5, being the wife, three children and father of the deceased, were the claimants before the Tribunal. Apart from the Insurance Company, the driver and the owner of the vehicle [respondent Nos. 6 and 7 herein] were also arrayed as respondents before the Tribunal.
3. The facts relating to the accident are largely undisputed. The



deceased was on patrolling duty on National Highway No. 54 with Head Constable Bindeshwari Prasad. At about 05:00 a.m. on 10.10.2011, he was riding a government motorcycle bearing registration No. DL-1SS-3402. A dumper/truck bearing registration No. HR-42-D-0438 [“offending vehicle”] struck the deceased while he was standing behind the parked motorcycle. The injured, including the deceased were taken to Dr. Baba Saheb Ambedkar Hospital, Rohini, where the deceased was declared brought dead.

4. Criminal proceedings were also instituted against respondent No. 6 – the driver of the offending vehicle [FIR No. 386/2011 under Sections 279 and 304A of the Indian Penal Code, 1860, at P.S. Samai Pur Badli].

5. The Tribunal returned a finding of rash and negligent driving against respondent No. 6 and assessed compensation payable to the claimants at Rs.46,43,554/-, alongwith interest at 9% per annum, under the following heads:

<b><i>Pecuniary Damages:</i></b>		
1.	Loss of dependency	Rs. 43,58,554/-
2.	Funeral charges	Rs. 25,000/-
3.	Loss of estate	Rs. 10,000/-
4.	Loss of consortium	Rs. 1,00,000/-
<b><i>Non- Pecuniary Damages:</i></b>		
5.	Loss of love, company and affection etc.	Rs. 1,00,000/-
6.	Loss of gratuitous services	Rs. 50,000/-
<b>TOTAL</b>		<b>Rs. 46,43,554/-</b>

6. The appeal relates only to the question of quantum of



compensation. I have heard Mr. Sameer Nandwani, learned counsel for the Insurance Company, and Mr. Amish Ram Dabas, learned counsel for respondent Nos. 1 to 5 – claimants.

7. In support of the appeal, Mr. Nandwani submits as follows:

- a. That the Tribunal has erroneously computed the loss of dependency on the basis of total gross salary of the deceased [Rs.26,609/- per month], without making any deductions for income tax, or for washing and conveyance allowances, which were not contributors to the dependency of the family, and were paid to the deceased directly in relation to the performance of his duties.
- b. That the Tribunal has erroneously granted compensation for funeral charges at 25,000/-, instead of Rs.15,000/-, as laid down by the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi*<sup>1</sup>.
- c. That the Tribunal has also erred in granting compensation for “*loss of love, company and affection*” at Rs.1,00,000/-.

8. Mr. Dabas submits, on the question of allowances, that the witnesses, who gave evidence before the Tribunal, including respondent No. 1 – the wife of the deceased, were not cross-examined. He relies upon the judgment of the Supreme Court in *Kavita Devi & Ors. v. Sunil Kumar & Anr.*<sup>2</sup> to submit that any deduction of allowances requires a factual analysis as to whether such allowances were used for supporting the family, which was factually asserted by the claimants, and not subjected to cross-examination. While he does not dispute that income

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<sup>1</sup> (2017) 16 SCC 680 [hereinafter, “*Pranay Sethi*”].

<sup>2</sup> (2025) SCC OnLine SC 1639 [hereinafter, “*Kavita Devi*”].



tax was required to be deducted for the purposes of computation of loss of dependency, he submits that the Tribunal has erroneously awarded inadequate sums under the heads of loss of estate [Rs.10,000/-] and loss of consortium [Rs.1,00,000/-]. In accordance with the judgment of the Supreme Court in *Pranay Sethi*, he submits that these figures are required to be revised to Rs.15,000/- and Rs.2,00,000/-, respectively.

9. Each of the aforesaid grounds is dealt with below.

**A. Loss of Dependency:**

10. The salary of the deceased was proved by way of a salary slip<sup>3</sup>, which showed that his total dues were computed at Rs.26,609/- per month, comprising the following components:

<b>Heads</b>	<b>Dues (in Rs.)</b>
Basic	9860
Dearness Pay	2400
D.A.	6253
H.R.A.	3678
Tran. Allow.	2416
Wash. Allow.	75
Comp. H.R.A.	310
Mtro. P. Allow	150
Ration Money	1392
Conv. Allow	75
<b>TOTAL</b>	<b>Rs. 26,609/-</b>

11. The salary slip was exhibited by respondent No. 1, who gave

<sup>3</sup> Page 205 of the electronic record of the Tribunal, on the record of this appeal.



evidence as PW-2. The salary record was also produced by a summoned witness, ASI Satpal [PW-3], who proved it in his examination-in-chief. The record reveals that neither of these witnesses was cross-examined.

12. The judgment in *Kavita Devi* deals with the question of allowances payable to the deceased. Following its earlier judgments in *National Insurance Company Limited v. Indira Srivastava & Ors.*<sup>4</sup> and *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*<sup>5</sup>, the Supreme Court held as follows:

*“17. This Court has consistently held in case of the allowances which are included in the component of salary of the deceased, Tribunal has to take into consideration these allowances as they were used for supporting the family. The claimants have to show that these allowances were regularly received and used for the family's benefit. **Further, while determining whether the allowances form a part of the salary or not, the Tribunal by looking into the facts of each case and by considering the extent of dependency of the claimants on the salary of the deceased including the allowances, have to determine whether these allowances should be excluded from determination of the income of the deceased.** If the answer of the Tribunal is in affirmative, then the allowances may be excluded for determination of loss of dependency. If the Tribunal answers the above point in negative, then the Tribunal has to include the allowances for computation of income of the deceased, thus determining the loss of dependency.*

*18. Applying the above principle to the case on hand, **it can be seen that it is the consistent plea of the claimant that the deceased was earning Rs. 6,500/- and the same is evidenced by producing Ex. P6. No contrary evidence is produced by the Respondents to dispute the fact that the allowances which is about 50% of the salary of the deceased should be excluded from determination of the actual income.** Further, it can be seen that after the accident, the entire burden of taking care of two minor children and herself fell on Appellant No. 1. Therefore in view of the changing economic situation of the family after the death of the deceased, we are of the opinion that income which the deceased was earning at the time of the accident was*

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<sup>4</sup> (2008) 2 SCC 763.

<sup>5</sup> (2009) 6 SCC 121 [hereinafter, “*Sarla Verma*”].



*Rs. 6,500/- p.m and same ought to have been taken into consideration.”<sup>6</sup>*

13. As far as Mr. Nandwani’s argument on deduction of allowances is concerned, the present case, in my view, aligns with the aforesaid factual analysis in *Kavita Devi*. Here also, the salary slip was duly proved, and no contrary evidence was produced by the respondents to justify the exclusion of any of the allowances from consideration. On the facts, therefore, I am of the view, that no deduction on this account was warranted.

14. However, Mr. Nandwani has also submitted that the Tribunal has erred in taking into account the gross salary of the deceased, rather than the salary net of taxes. This principle having been laid down in *Vimal Kanwar & Ors. v. Kishore Dan & Ors.*<sup>7</sup>, the computation of loss of dependency in the impugned award requires some adjustment.

15. While the matter would ordinarily have to be remanded to the Tribunal for evidence to be led on this aspect, learned counsel for the parties request that this Court may proceed on the basis that, at the relevant time, income up to Rs.1,60,000/- was exempt from taxation and that the deceased fell within the 10% tax bracket, i.e. he was liable to pay income tax at the rate of 10% on income exceeding Rs.1,60,000/-. Having regard to the fact that accident occurred more than 14 years ago and the long pendency of the appeal before this Court, I have acceded to this joint request.

16. Taking the other undisputed factors from the impugned judgment, the computation of loss of dependency is modified as follows:

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<sup>6</sup> Emphasis supplied.



Sr. No.	Particulars	Awarded by the Tribunal	Awarded by this Court
1.	Monthly gross salary of the deceased ["A"]	Rs.26,609/-	Rs.26,609/-
2.	Annual income of the deceased on account of salary [A x 12 = "B"]	Rs.3,19,308/-	Rs.3,19,308/-
3.	Deduction of income tax [B - Income Tax = "C"]	Rs.3,19,308/- - Nil = Rs.3,19,308/-	Amount of income tax (10% of the annual income above Rs.1,60,000/-, i.e. 10% of 1,59,308/-) = 15,930.8 B - 15,930.8 = Rs.3,03,377.2/-
4.	Income after addition of future prospects [30% of C = "D"]	30% of C = 95,792.4 C + 95,792.4 = Rs.4,15,100.4/-	30% of C = 91,013.16 C + 91,013.16 = Rs.3,94,390.36/-
5.	Deduction on account of personal expenses [1/4 of D] therefore, balance income = 75% of D ["E"]	75% of 4,15,100.4 = Rs.3,11,325.3/-	75% of 3,94,390.36 = Rs.2,95,792.77/-
6.	Applicable multiplier [14]	14	14
7.	Loss of dependency [14 x E]	Rs. 43,58,554.2/- (Rounded off to Rs.43,58,554/-)	Rs.41,41,098.78/- (Rounded off to Rs.41,41,099/-)

17. As a result, the award on the ground of loss of dependency is reduced from Rs. 43,58,554/-, to Rs. 41,41,099/-.

**B. Funeral charges and Loss of estate:**

<sup>7</sup> (2013) 7 SCC 476.



18. The judgment in *Pranay Sethi*<sup>8</sup> stipulates compensation for funeral charges and loss of estate of Rs.15,000/- each. The award is accordingly modified, and the compensation for funeral charges and loss of estate are awarded at Rs.15,000/- each, instead of Rs.25,000/- and Rs. 10,000/-, respectively.

**C. Loss of consortium:**

19. The judgment in *Pranay Sethi* provides for loss of consortium of Rs.40,000/-. Furthermore, it is clear from the judgments in *Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram and Ors.*<sup>9</sup> and *United India Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur & Ors.*<sup>10</sup>, that loss of consortium is payable under three distinct heads: loss of spousal consortium, loss of parental consortium, and loss of filial consortium, to the spouse, children, and parents of the deceased, respectively. The judgment of the Supreme Court in *National India Assurance Company Limited v. Somwati*<sup>11</sup> is authority for the proposition that loss of consortium is to be separately awarded to each entitled claimant.

20. In the present case, there were five claimants, who all fall within these categories being the wife, three children, and father of the deceased. The award on this account is, therefore, enhanced to Rs.2,00,000/-.

**D. Loss of love and affection:**

21. Compensation for loss of love and affection has been awarded by

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<sup>8</sup> Paragraph 52.

<sup>9</sup> (2018) 18 SCC 130.

<sup>10</sup> (2021) 11 SCC 780 [hereinafter, “*Satinder Kaur*”].

<sup>11</sup> (2020) 9 SCC 644.



the Tribunal at Rs.1,00,000/-. The Supreme Court, in *Satinder Kaur*<sup>12</sup>, has made it clear that no amount is to be awarded on this account separately. The award on this account is, therefore, deleted.

**E. Conclusion:**

22. As a result of the above discussion, the award of the Tribunal is modified to the following extent:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court	Difference
1.	Loss of dependency	Rs.43,58,554/-	Rs.41,41,099/-	(-)Rs.2,17,455/-
2.	Funeral Charges	Rs.25,000/-	Rs.15,000/-	(-)Rs.10,000/-
3.	Loss of Estate	Rs.10,000/-	Rs.15,000/-	(+)Rs.5,000/-
4.	Loss of consortium	Rs.1,00,000/-	Rs.2,00,000/-	(+)Rs.1,00,000/-
5.	Loss of love and affection	Rs.1,00,000/-	Deleted	(-)Rs.1,00,000/-
6.	Loss of gratuitous services	Rs.50,000/-	Rs.50,000/-	Nil
	<b>TOTAL</b>	Rs. 46,43,554/-	Rs. 44,21,099/-	(-) Rs.2,22,455/-

23. The Tribunal's award therefore stands reduced by Rs.2,22,455/-.

<sup>12</sup> Paragraphs 34 and 35.



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24. The amount awarded by the Tribunal was deposited in this Court by order dated 19.02.2014. The Court had also directed release of 70% of the amount in favour of the claimants, with the balance remaining deposited in this Court. The directions of the Tribunal with regard to apportionment and disbursement of the awarded amount provided for FDRs in the name of all the claimants, the maximum period of which was five years or until the children attain majority. The said periods have now lapsed. There is, therefore, no impediment to release of the remaining amount lying in this Court to the claimants. As far as apportionment is concerned, the Tribunal awarded fixed sums to the children and father of the deceased, and the residuary amount to the wife. The modified amount will be apportioned in the same manner.

25. As a result, the balance amount will be disbursed by the Registry in the following manner:

A. Rs.2,22,455/- will be released to the Insurance Company, alongwith proportionate interest thereon.

B. The balance amount will be distributed in terms of paragraphs 22 to 25 of the impugned award, subject to adjustment of the amounts already released to each of the claimants.

26. The appeal is disposed of with these directions.

27. The statutory deposit, if any, be refunded to the Insurance Company.

28. The next date of hearing, i.e. 09.01.2026, stands cancelled.

**PRATEEK JALAN, J**

**DECEMBER 3, 2025/‘Bhupi/KA’/**