



\$~56

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

%

Decided on: 09.12.2025

+ MAC.APP. 811/2018

THE NEW INDIA ASSURANCE CO LTDAppellant

Through: Mr. Pankaj Seth, Advocate (VC)

versus

VIDHYAWATI & ORSRespondents

Through: Mr. Dilawar Singh, Advocate for R-1
to R-5.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)****CM APPL. 77763/2025 (for release of amount)**

1. This application has been filed by respondent No.2, who was one of the claimants before the Motor Accident Claims Tribunal [“Tribunal”], seeking release of the amount deposited by the appellant – New India Assurance Co. Ltd. [“Insurance Company”] pursuant to the order dated 10.09.2018 passed in the present appeal.

2. Mr. Pankaj Seth, learned counsel for the Insurance Company, submits that the appeal raises only a short issue for adjudication, and therefore, the appeal itself may be taken up for hearing.

3. Mr. Dilawar Singh, learned counsel appearing for the claimants [respondent Nos. 1 to 5 herein], does not oppose this submission.

4. Accordingly, the captioned appeal is taken up for hearing.

**MAC.APP. 811/2018**

5. The present appeal has been preferred by the Insurance Company against an award dated 20.07.2018 passed by the Tribunal in Suit No. 76015/16, whereby compensation was awarded in favour of claimant Nos.1 and 2.

6. The proceedings before the Tribunal arose from a motor accident that occurred on 30.07.2016 at about 9:00 PM, in which Jashvir Singh @ Jasveer Singh @ Rohit lost his life. At the time of the accident, the deceased was riding a motorcycle bearing registration No. UP-83-Y-4011, when he was struck by a mini-bus bearing registration No. UP-85-AT-3593 [“insured vehicle”], driven by respondent No.6 herein, and owned by respondent No.7 herein. The said vehicle was insured with the appellant – Insurance Company.

7. The claim petition was instituted by six claimants – Ms. Vidhyawati (the mother of the deceased), Ms. Santoshi (his sister), and four other siblings. Upon appreciation of the evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the insured vehicle. The Tribunal accordingly awarded compensation in the sum of Rs. 15,99,500/-, alongwith interest at the rate of 9% per annum, under the following heads:

Sr.No.	Heads	Amount
1.	Loss of dependency	Rs. 15,69,500/-
2.	Funeral expenses	Rs. 15,000/-
3.	Loss of estate	Rs. 15,000/-
Total		Rs. 15,99,500/-



8. The original respondent No.1 before this Court was Ms. Vidhyawati, the mother of the deceased. However, by order dated 05.03.2020, this Court recorded the demise of Ms. Vidhyawati, and as her legal representatives were already on record, her name was deleted from the array of parties. Pursuant thereto, in the amended memo of parties filed before this Court, respondent No.1 is Ms. Santoshi, one of the sisters of the deceased.

9. Although respondent Nos.6 and 7, the driver and owner of the insured vehicle, have been impleaded in the appeal, notice was not issued to them in view of the fact that no relief has been claimed against them.

10. The sole ground of challenge urged by Mr. Seth is that the Tribunal erred in treating both Ms. Vidhyawati and Ms. Santoshi as dependants of the deceased, and consequently applying a deduction of one-third towards the deceased's personal and living expenses. According to him, a deduction of one-half ought to have been applied, as only the mother of the deceased could have been considered as his dependant.

11. In the judgment of the Supreme Court in *Sarla Verma v. DTC*¹, the Court laid down the general principles governing deduction towards personal and living expenses of a deceased in motor accident claims. The Court observed that:

“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra [(1996) 4 SCC 362], the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family

¹ (2009) 6 SCC 121 [hereinafter “*Sarla Verma*”].



members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

12. The principles laid down in *Sarla Verma* were considered, and further elaborated by a three-judge Bench in *Reshma Kumari v. Madan Mohan*², which clarified that the percentage of deduction may vary depending on the number of dependent members, and the personal living expenses of the deceased:

“41. The above does provide guidance for the appropriate deduction for personal and living expenses. One must bear in mind that the proportion of a man's net earnings that he saves or spends exclusively for the maintenance of others does not form part of his living expenses but what he spends exclusively on himself does. The percentage of deduction on account of personal and living expenses may vary with reference to the number of dependent members in the family and the personal living expenses of the deceased need not exactly correspond to the number of dependants.

² (2013) 9 SCC 65 [hereinafter “*Reshma Kumari*”].



42. *In our view, the standards fixed by this Court in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] on the aspect of deduction for personal living expenses in paras 30, 31 and 32 must ordinarily be followed unless a case for departure in the circumstances noted in the preceding paragraph is made out.”*

The conclusions on this aspect were summarised by the Court as follows:

“43.6. *Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paras 30, 31 and 32 of the judgment in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] subject to the observations made by us in para 41 above.”*

13. The Constitution Bench of the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi*³, examined the decisions in *Sarla Verma* and *Reshma Kumari*, and concurred with the views expressed therein.
14. In the case of an unmarried victim, the general principle, emerging from paragraphs 31 and 32 of the judgment in *Sarla Verma*, is that the mother alone is ordinarily treated as a defendant for the purpose of determining the deduction towards personal expenses. However, the decisions in *Reshma Kumari* and *Pranay Sethi* clarify that this principle is not an inflexible or universally applicable rule. Rather, it is a general guideline that may be varied where the factual evidence establishes dependency of additional family members.
15. In the present case, it is the accepted position that the deceased and Ms. Santoshi were both unmarried and were residing in the same household.
16. Ms. Santoshi appeared as PW-1 before the Tribunal, and stated in her



affidavit of evidence as follows:

“2. That deponent state that I am residing in Delhi for study and competition exams from last 9 years since my deceased brother completed Certificate course in Certified Technician of Mobile Phone Technology from Hi-Tech Institute of Mobile Technologies (P) Ltd., 2922/44, Beadon Pura (Opp. Gaffar Market), Karol Bagh, New Delhi 110005. We are unmarried brother and sister from the wedlock of our parents namely Smt. Vidhyawati & Late Sh. Badan Singh and deceased Late Sh. Jashvir Singh @ Rohit was my brother and would be a resort for his family members i.e. Mother & sister but due to the sudden fateful accident, the vision of his family spoiled.”⁴

PW-1 was thereafter cross-examined by learned counsel for the Insurance Company, during the course of which she deposed as follows:

“I have not placed on record any document to show that the deceased brother was earning Rs. 1,000/- to Rs. 1,500/- per day from sales and repairing of mobiles. I am still residing in Delhi and giving tuitions to the children upto primary class. I used to earn around Rs. 6000/- per month from tuitions. I am paying rent of Rs. 3000/- per month. I used to take some amount from my sister who is residing in Delhi to meet my deficient amount for staying in Delhi. I am also doing preparation of competitive exams for Banking.

Earlier from the date of the accident, my deceased brother used to give money to me to meet my daily expenses to reside in Delhi. I do not have any proof regarding money given by my brother to me. (Vol. He used to come regularly to buy some articles for his shop from Delhi).

It is wrong to suggest that I was not financially dependent upon my deceased brother at the time of accident, as I was earning Rs. 6000/- per month by giving tuitions to the children.”⁵

17. On the basis of the evidence recorded above, I am of the view that the Tribunal was justified in treating the deceased as having two dependants. Although Ms. Santoshi was an adult, and stated to be earning approximately

³ (2017) 16 SCC 680 [hereinafter “Pranay Sethi”].

⁴ Emphasis supplied.

⁵ Emphasis supplied.



Rs. 6,000/- per month from tuition classes, this does not lead to the conclusion that she was not partially dependent upon her brother. Her evidence on this aspect has been categorically established.

18. By way of analogy, reference may be made to the judgment of the Supreme Court in *National Insurance Co. Ltd. v. Birender*⁶, wherein it was held that the mere fact of a child having attained majority and earning an independent income does not, by itself, negate a claim of dependency. This principle has been further clarified in the recent decision of the Supreme Court in *Seema Rani and Ors. vs. The Oriental Insurance Co. Ltd. and Ors.*⁷, as follows:

“9. We have heard the learned counsel for the Appellants. We are unable to agree with the view taken by the Tribunal on the dependents of the deceased. This Court in National Insurance Company Limited v. Birender & Ors.1 , had expounded that major married and earning sons of the deceased, being legal representatives, have a right to apply for compensation, and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent on the deceased or not. The Court went on to conclude that since the sons, in that case, were earning merely Rs.1,50,000/- per annum, they were largely dependent on the earnings of the deceased and were staying with her.

10. Adverting to the facts at hand, on a perusal of the statement of Shashi Kumar, the son of the deceased (Appellant No.2 herein), annexed as Annexure P6, was working at a petrol pump, while the other son was involved in temporary employment opportunities only. Both of them were residing with the deceased. In such circumstances, it cannot be said that they were self-sufficient or independent of the deceased. Similarly, applying the exposition in Birender (Supra), there is no reason to exclude a married daughter from compensation. Therefore, in view of this, the High Court erred in excluding these defendants”

19. On the evidence adduced before the Tribunal, I am satisfied that Ms.

⁶ (2020) 11 SCC 356.

⁷ 2025 SCC OnLine SC 283.



Santoshi was correctly treated as a dependant of the deceased, in addition to the mother of the deceased. Her evidence was that she has been living with the deceased for the last nine years, while preparing for competitive exams. Her testimony, that she was being supported, at least partially, by her deceased brother, is not negated, only because she was earning a relatively modest sum of Rs.6,000/- per month from tuitions.

20. Accordingly, the deduction of one-third towards the personal expenses of the deceased was appropriately applied, in accordance with paragraph 30 of *Sarla Verma*.

21. In view of the above, the appeal, alongwith the pending application, stands dismissed.

22. As regards the apportionment of the compensation awarded by the Tribunal, a sum of Rs. 11,99,500/- was directed to be paid to late Ms. Vidhyawati, the mother of the deceased, while Rs. 4,00,000/- was awarded to Ms. Santoshi. The amount of Rs. 4,00,000/- awarded to Ms. Santoshi was directed to be invested in four fixed deposits of Rs. 1,00,000/-, the last of which was to mature after six years. This period has already lapsed. Accordingly, the sum of Rs. 4,00,000/-, alongwith the interest accrued thereon, shall be released in favour of Ms. Santoshi.

23. The amount of Rs. 11,99,500/- was originally awarded to late Ms. Vidhyawati, of which Rs. 1,99,500/- was directed to be released immediately, and Rs. 10,00,000/- was to be kept in fixed deposits with staggered maturities, ranging from one to ten years. Mr. Singh, submits that the share originally awarded to the mother may be divided equally among her five children. In view of the demise of Ms. Vidhyawati, there is no purpose of maintaining the compensation in further FDRs. The entire sum



2025:DHC:11171



shall be released in favour of her legal heirs, being respondent Nos.1 to 5 in the amended memo of parties, namely: Ms. Santoshi, Ms. Reshma, Mr. Yashveer Singh, Ms. Mithilesh, and Ms. Poonam. The Registry is accordingly directed to release the balance amount deposited, alongwith the interest accrued thereon, in equal shares in favour of the said respondents.

24. The statutory deposit be refunded to the Insurance Company.

PRATEEK JALAN, J

DECEMBER 9, 2025
dy/SD/