



2025:DHC:11287



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

Decided on 11.12.2025

+ MAC.APP. 891/2013

ORIENTAL INSURANCE CO LTDAppellant
Through: Mr. Pankaj Seth, Advocate.

versus

SHANTI & ORSRespondents
Through: Mr. S.N. Parashar, Mr. Ritik
Singh, Advocates for claimants.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, (ORAL)

1. The appellant – Oriental Insurance Co. Ltd. [“Insurance Company”] challenges an award dated 30.08.2013, passed by the Motor Accident Claims Tribunal [“the Tribunal”] in MACT No. 1132/2008. By the said award, the Tribunal has granted compensation of Rs.12,30,000/-, alongwith interest at the rate of 7.5% per annum, in favour of respondent Nos. 1 to 3, who were the claimants before the Tribunal.

2. The proceedings before the Tribunal arose from a fatal accident, which took place on 24.05.2008 at 09:40 PM. The deceased, one Ram Pratap Pal, was riding as a pillion rider on a motorcycle [bearing Registration No. UP-64-D-1561]. The motorcycle was hit by a vehicle [bearing Registration No. HR-55-A-7015] [“offending vehicle”], leading the deceased and the driver of the motorcycle to fall and sustain injuries.



They were taken to Kalyani Hospital, Gurgaon, where the deceased eventually succumbed to his injuries.

3. The accident led to an FIR being lodged against the driver of the offending vehicle [respondent No. 4 herein], bearing FIR No. 34/2008 in Police Station Sector 18, Gurgaon, under Sections 279 and 304A of the Indian Penal Code, 1860. A chargesheet has also been filed in the criminal proceedings under Section 173 of the Code of Criminal Procedure, 1973.

4. The deceased was 29 years old at the time of the accident and was unmarried. His parents and brother [respondent Nos. 1 to 3] instituted proceedings before the Tribunal, which resulted in the impugned award, under the following heads:

S.No.	Heads	Award
1.	Loss of dependency	Rs. 11,70,000/-
2.	Funeral charges	Rs. 25,000/-
3.	Loss of estate	Rs. 10,000/-
4.	Loss of love and affection	Rs. 25,000/-
	TOTAL	Rs. 12,30,000/-

5. I have heard Mr. Pankaj Seth, learned counsel for the Insurance Company, and Mr. SN Parashar, learned counsel for the claimants.

6. Mr. Seth, in support of the appeal, submits as follows:

A. That the Tribunal has erred in rejecting the case of the Insurance Company with regard to contributory negligence of the deceased, as the deceased was under the influence of alcohol at the time of the accident.



- B. That the Tribunal has erroneously granted enhancement of the income of the deceased at the rate of 50% for future prospects, whereas the enhancement, in light of the judgment of the Constitution Bench in *National Insurance Company Ltd. v. Pranay Sethi & Ors.*¹, ought to have been 40%.
- C. That some adjustment to the non-pecuniary heads is required in line with *Pranay Sethi*.
- D. That the Tribunal has erred in failing to grant recovery rights to the Insurance Company against the driver and owner of the offending vehicle, as the vehicle was being driven without a permit, by respondent No.4, who did not possess a driver's license.
7. Mr. Parashar, on the other hand, opposes the plea with regard to contributory negligence. He submits that the deceased was riding as a pillion rider, and, in any event the allegation of intoxication has not been established, as Blood Alcohol Content report of neither the driver nor the deceased was produced before the Tribunal. As far as quantum of compensation for loss of dependency is concerned, Mr. Parashar accepts that future prospects at 50% is required to be modified to 40%, but draws my attention to the fact that an erroneous multiplier has been adopted by the Tribunal. The multiplier adopted is based upon the age of the mother of the deceased, rather than the age of the deceased himself. He also submits that the compensation under the non-pecuniary heads is inconsistent with *Pranay Sethi*.
8. Each of the aforesaid issues are dealt with in turn.

¹ (2017) 16 SCC 680 [hereinafter, "*Pranay Sethi*"].



A. CONTRIBUTORY NEGLIGENCE

9. The first question which requires consideration in this appeal is with regard to allegation of contributory negligence against the deceased. It may be noted in this connection that the driver of the motorcycle – Mr. Sachin Kumar Gupta, gave evidence before the Tribunal as PW-2. In his cross-examination, he stated as follows:

*“I am in a possession of D/L or Motorcycle. Copy of the same is Ex. PW2/R3/A. The offending traulla had come from behind. **I was driving my motorcycle on the left side of the road and I had to go straight.** I will not be able to as to which portion of the traulla had hit the motorcycle. The driver of the traulla has absconding after leaving the traulla behind after the accident. **I as well as deceased were wearing helmets at the time of accident.** It is wrong to suggest that no such accident had taken place with the vehicle No. HR-55-A-7015. It is wrong to suggest that that I am deposing falsely to favour the petitioner. I have wrong mentioned in my affidavit that traulla came from the opposite side. It actually came from behind. It is wrong to suggest that I am deposing falsely.”²*

10. Even assuming that a case of contributory negligence in respect of the death of the pillion rider can be made out on the basis of intoxication of the driver of the motorcycle, it is evident from the above that no such allegation was put to the driver of the motorcycle at all. Further, there was also no evidence with regard to the Blood Alcohol Content of the motorcycle driver or the deceased, on the basis of which such an allegation could have been established. It also does not appear from the impugned award that any such plea was taken before the Tribunal either.

11. The contention with respect to contributory negligence is therefore rejected.

²Emphasis supplied.



B. LOSS OF DEPENDENCY

12. Turning now to quantum of compensation, first on account of loss of dependency. The calculation of the Tribunal was based on the following variables:

S.No.	Heads	Awarded by Tribunal
1.	Monthly income of the deceased	Rs. 10,000/-
2.	Future prospects	50%
3.	Deduction for personal expenses	50%
4.	Multiplier	13
	TOTAL	Rs. 11,70,000/-

13. The deceased was working as a Project Manager in Unity Power & Security Technologies Pvt. Ltd., with a salary of Rs.10,000/- per month. This was established before the Tribunal, by the evidence of a representative of the employer – Mr. Suresh Kumar Gupta, Accounts Manager [PW-3]. This aspect is not disputed.

14. As the deceased was a bachelor, his mother was taken as the only dependent, and 50% of his salary was deducted towards personal and living expenses. This aspect is also undisputed, and is in line with the judgment of the Supreme Court in *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*³.

³(2009) 6 SCC 121 [hereinafter, “*Sarla Verma*”], paragraphs 31 and 32.



15. As far as future prospects are concerned, the Constitution Bench judgment in *Pranay Sethi* lays down that, for a person on a fixed salary under the age of 40 years, the addition of future prospects should be at the rate of 40%⁴. This position is accepted by Mr. Parashar. The Tribunal's award for future prospects at 50% is therefore modified to 40%.

16. This brings us to the claimants' submission with respect to the appropriate multiplier. The Tribunal has applied the multiplier of 13, noting that the mother of the deceased was 47 years old, and the father of the deceased was 46 years old, as on 01.01.2007. However, it is clear from the judgment in *Pranay Sethi* that the applicable multiplier is not to be determined on the basis of the dependents, but on the basis of the age of the deceased, at the time of the accident⁵.

17. The deceased was only 29 years old at the time of the accident and the applicable multiplier, in accordance with the judgment in *Sarla Verma*, would therefore be 17⁶. The award is modified on this account also.

18. As a result of the above discussion, the award on account of loss of dependency ought to have been computed as follows:

S.No.	Heads	Amount
1.	Monthly income of the deceased [A]	Rs. 10,000/-
2.	ADD: future prospects [B]	40%
3.	Monthly Income of the deceased (including future prospects)	Rs. 14,000/-

⁴Paragraph 59.4.

⁵Paragraph 59.7.

⁶Paragraph 42.



	[A+B = C]	
4.	MINUS: personal expenses [D]	50%
5.	Monthly loss of dependency [C – D = E]	Rs. 7,000/-
6.	Annual loss of dependency [E x 12 = F]	Rs. 84,000/-
7.	Multiplier [G]	17
Total loss of dependency [F x G]		Rs. 14,28,000/-

19. The award on loss of dependency would therefore require enhancement from Rs.11,70,000/- to Rs. 14,28,000/-.

C. NON-PECUNIARY DAMAGES

20. The next question of quantum relates to non-pecuniary damages. The Tribunal has awarded the following sums in this regard:

S.No.	Heads	Awarded by the Tribunal
1	Funeral expenses	Rs.25,000/-
2	Loss of estate	Rs.10,000/-
3.	Loss of love and affection	Rs.25,000/-
TOTAL		Rs. 60,000/-

21. In *Pranay Sethi*, the Supreme Court has recognised three grounds of non-pecuniary damages in such cases – loss of consortium, funeral expenses and loss of estate. The quantum has also been laid down at Rs.40,000/-, Rs.15,000/- and Rs.15,000/- respectively⁷. In view thereof, the compensation under funeral expenses and loss of estate is revised, and

⁷Paragraph 59.8.



fixed at Rs. 15,000/- each, in place of the earlier amounts of Rs. 25,000/- for funeral expenses and Rs. 10,000/- for loss of estate.

22. As far as loss of consortium is concerned, the judgments in *Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram and Ors.*⁸ and *United India Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur & Ors.*⁹ lay down three categories of entitled claimants being the spouse, parents and children of a deceased victim. The judgment of the Supreme Court in *National India Assurance Company Limited v. Somwati*¹⁰ clearly indicates that each entitled claimant is to be granted loss of consortium of Rs.40,000/-. In the present case, only the parents of the deceased were entitled to compensation under this head. Compensation is therefore awarded at Rs.80,000/- for loss of consortium.

23. Compensation for loss of love and affection has been awarded by the Tribunal at Rs. 25,000/-. The Supreme Court, in *Satinder Kaur*¹¹, has however made it clear, that no amount is to be awarded on this head separately, as this head is subsumed under loss of consortium. The award under this head is, therefore, deleted.

24. Consequently, non-pecuniary damages are re-assessed as follows:

S.No.	Heads	Awarded by this Court
1.	Loss of consortium	Rs.80,000/-
2.	Loss to estate	Rs.15,000/-
3.	Funeral expenses	Rs.15,000/-

⁸ (2018) 18 SCC 130.

⁹ (2021) 11 SCC 780 [hereinafter, "*Satinder Kaur*"].

¹⁰ (2020) 9 SCC 644.

¹¹ Paragraphs 34 and 35.



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4.	Loss of love and affection	Deleted
TOTAL		Rs. 1,10,000/-

25. The total non-pecuniary damages therefor requires enhancement from Rs.60,000/- to Rs.1,10,000/-.

D. MODIFICATION OF AWARD

26. As a result of the above discussion, the award of the Tribunal therefore requires modification to the following extent:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court	Difference
1.	Loss of dependency	Rs. 11,70,000/-	Rs. 14,28,000/-	(+) Rs. 2,58,000/-
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	NIL	Rs. 80,000/-	(+)Rs. 80,000/-
5.	Loss of love and affection	Rs. 25,000/-	DELETED	(-)Rs. 25,000/-
	TOTAL	Rs. 12,30,000/-	Rs. 15,38,000/-	(+) Rs. 3,08,000/-

E. GRANT OF ENHANCEMENT WHERE NO CROSS-APPEAL HAS BEEN FILED BY THE CLAIMANTS

27. The aforesaid re-computation gives rise to a further issue, which is, whether the award passed by the Tribunal can be enhanced on an appeal by the insurance company, when the claimants have not filed any cross-



objection or cross appeal.

28. This question came up for consideration before a two Judge Bench of the Supreme Court in *Ranjana Prakash & Ors. v. Divisional Manager & Anr.*¹² wherein the Court held as follows:

*“8. Where an appeal is filed challenging the quantum of compensation, irrespective of who files the appeal, the appropriate course for the High Court is to examine the facts and by applying the relevant principles, determine the just compensation. **If the compensation determined by it is higher than the compensation awarded by the Tribunal, the High Court will allow the appeal, if it is by the claimants and dismiss the appeal, if it is by the owner/insurer.** Similarly, if the compensation determined by the High Court is lesser than the compensation awarded by the Tribunal, the High Court will dismiss any appeal by the claimants for enhancement, but allow any appeal by the owner/insurer for reduction. **The High Court cannot obviously increase the compensation in an appeal by the owner/insurer for reducing the compensation, nor can it reduce the compensation in an appeal by the claimants seeking enhancement of compensation.**”¹³*

29. However, a later order of a three-Judge Bench of the Supreme Court in *Surekha & Ors. v. Santosh & Ors.*¹⁴, reads as follows:

*“1. Leave granted. This appeal takes exception to the judgment and order dated 4-1-2019 [Shriram General Insurance Co. Ltd. v. Surekha, 2019 SCC OnLine Bom 12] passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No. 2564 of 2016, whereby **the High Court, even though agreed with the stand of the appellants that just compensation amount ought to be Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal.***
2. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hypertechnical approach and ensure that just compensation is awarded to the affected person or the claimants.
3. As a result, we modify the order passed by the High Court to the

¹²(2011) 14 SCC 639 [hereinafter, “*Ranjana Prakash*”].

¹³Emphasis supplied.

¹⁴(2021) 16 SCC 467 [hereinafter, “*Surekha*”].



effect that the compensation amount payable to the appellants is determined at Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), with interest thereon as awarded by the High Court.

4. The appeal is allowed in the above terms. Pending applications, if any, stand disposed of.”¹⁵

30. While the aforesaid order does not refer to *Ranjana Prakash*, the appeal therein arose from a judgment of the Bombay High Court in *Shriram General Insurance Company Limited v. Surekha & Ors.*¹⁶. In the said judgment, the Bombay High Court found that the compensation payable to the claimants required enhancement, but declined such relief in the absence of a cross-objection or cross-appeal, relying on *Ranjana Prakash*. It is thus evident that *Ranjana Prakash*, was expressly considered by the Bombay High Court in the judgment, which was under challenge before the Supreme Court in *Surekha*. The three-Judge Bench of the Supreme Court nevertheless reversed the view taken by the High Court, which in turn was based upon *Ranjana Prakash*.

31. In these circumstances, I am of the view that the judgment in *Surekha* now holds the field, and this Court is entitled to award just and reasonable compensation to the claimant, by ordering enhancement of the award, even in the absence of a cross-objection or cross-appeal.

32. This view is further strengthened by the principle that a Court is required to grant just and fair compensation to the victim of road accident, unrestrained by strict rules of pleadings and evidence, established by a judgment of the Supreme Court in *Nagappa v.*

¹⁵ Emphasis supplied.

¹⁶(2019) SCC OnLine Bom 12.



*Gurudayal Singh & Ors.*¹⁷.

33. I am fortified in this view by several judgments which rely upon the Supreme Court's order in *Surekha*, including by this Court in *The New India Assurance Co. Ltd. v. Ali Sher Khan & Ors.*¹⁸, by Rajasthan High Court in *United India Insurance Co. Ltd. v. Moti Lal*¹⁹, by the Bombay High Court in *United India Insurance Co. Ltd. v. Rukmini Deepak*²⁰, and by the Andhra Pradesh High Court in *National Insurance Co. Ltd. v. Nakkala Sessaiah*²¹.

34. I, therefore, modify the impugned award by enhancing the total compensation payable by the Insurance Company to the claimants from Rs. 12,30,000/- to Rs. 15,38,000/-. The Tribunal's award, therefore, stands enhanced by Rs. 3,08,000/-.

F. RECOVERY RIGHTS

35. The only remaining contention is with regard to the Tribunal not granting any recovery rights to the Insurance Company. As far as this aspect is concerned, it may be noted that the driver and owner of the offending vehicle are impleaded in this appeal as respondent Nos. 4 and 5 respectively, and were duly served, as recorded in the order of the Registrar dated 11.09.2014. Learned counsel had even entered appearance on their behalf on the said date, but has not appeared since.

36. The question of whether the vehicle had the requisite permit and whether the driver had the requisite license was specifically addressed in the joint written statement filed by them before the Tribunal, as follows:

¹⁷(2003) 2 SCC 274.

¹⁸2023 SCC OnLine Del 916, paragraph 23.

¹⁹ 2025 SCC OnLine Raj 364, paragraph 10.

²⁰2025 SCC OnLine Bom 2589, paragraph 15.4.

²¹2025 SCC OnLine AP 3782, paragraph 11.



“7. That the Respondent no. 2 is under no obligation to pay compensation to the applicants as the respondent no. 1 was having a valid driving license at the time of alleged incidence. The Driving license of the respondent no.1 bears no. 30599/TV/Z/2008 issued by Government of Nagaland on 23.01.2008 and was valid at the time of accident which was renewed from time to time. The copy of the driving license of the respondent no.1 is annexed herewith as Annexure - R1.

8. The alleged offending vehicle has valid the national permit from 06.09.2007 to 03.09.2012, fitness certificate upto 06 September 2008 and valid Insurance policy is insured with The Oriental Insurance Company Limited under Policy no. 271900/31/2008/2301 and the same was valid from 08.09.2007 to midnight of 07.09.2008. In case it is held that the said accident was caused by the said vehicle no. HR 55 A 7015, the respondent no. 3 i.e. Insurer of the said trolley is responsible for the compensation, if any. The copy of national permit is appended herewith as Annexure - R2, fitness certificate as Annexure - R3 and Insurance Policy as Annexure - R4 respectively.”²²

37. The Tribunal found that the Insurance Company did not attempt any verification of these documents, and could therefore not maintain a plea with regard to absence of a permit and a driver's license. I, therefore, find no reason to interfere with this reasoning in appeal.

G. APPORTIONMENT AND DISBURSEMENT

38. By order dated 04.10.2013, the Insurance Company was directed to deposit the amount awarded by the Tribunal, along with up-to-date interest, before this Court, as a condition for stay of execution of the award, and 70% was to be released to the claimants in terms of the impugned award.

39. The enhanced amount, in terms of paragraph 34 above, now be deposited by the Insurance Company, along with interest at the rate awarded by the Tribunal, i.e. 7.5% per annum, from the date of the claim

²²Emphasis supplied.



petition, with the Registrar General, within a period of eight weeks from today.

40. As far as disbursement of the amount is concerned, the Tribunal granted a fix sum of Rs.25,000/- to the brother of the deceased, who was also a claimant, Rs.4,00,000/- to the father, and the balance to the mother. As far as the parents are concerned, certain amounts were to be released forthwith and the balance were to be kept in fixed deposits for the period of two years for the father, and five years for the mother. These periods have also now lapsed. There is therefore no impediment to release the balance amount lying in this Court, and also the amount to be deposited by the Insurance Company in accordance with this judgment, to the parents. The ratio of apportionment between the parents, as directed by the Tribunal, was approximately $1/3^{\text{rd}}$ to the father, and $2/3^{\text{rd}}$ to the mother. Mr. Parashar submits that the same ratio may be maintained by this Court.

H. CONCLUSION

41. In view of the above, the appeal is disposed of with the following directions:

- A. The amount by which the award is enhanced in this judgment i.e. Rs.3,08,000/-, alongwith interest at the rate of 7.5% per annum from the date of filing of the petition before the Tribunal, be deposited by the Insurance Company with the Registrar General of this Court, within a period of eight weeks from today.
- B. The remaining amount already deposited in this Court and the amount to be deposited in view of these directions, be released to respondent Nos. 1 and 2 herein, alongwith accrued interest, in the



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proportion of $2/3^{\text{rd}}$ to respondent No. 1 and $1/3^{\text{rd}}$ to respondent No. 2.

42. The statutory deposit may be released to the appellant upon compliance with paragraph 41A as mentioned above.

PRATEEK JALAN, J

DECEMBER 11, 2025

'Bhupi'/AD/