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

% ***Date of decision: 08th July 2026***

\+ **MAC.APP. 288/2018**

DIGAMBER KUMAR .....Appellant

Through: Mr. Anshuman Bal, Advocate

versus

NATIONAL INS CO LTD & ORS .....Respondents

Through: Mr. Manu Luv Shahalia, Adv. for Insurance Company.

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\+ **MAC.APP. 289/2018**

SHASHI BEDI .....Appellant

Through: Mr. Anshuman Bal, Advocate

versus

NATIONAL INS CO LTD & ORS .....Respondents

Through: Mr. Manu Luv Shahalia, Adv. for Insurance Company.

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\+ **MAC.APP. 290/2018**

LAJWANTI & ORS .....Appellant

Through: Mr. Anshuman Bal, Advocate

versus

NATIONAL INS CO LTD & ORS .....Respondent

Through: Mr. Manu Luv Shahalia, Adv. for Insurance Company.

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\+ **MAC.APP. 197/2019**

LEKH RAJ .....Appellant

Through: Mr. S N Parashar & Mr. Ritik Singh, Advocates

versus

BABLOO YADAV & ORS (NATIONAL INSURANCE CO LTD 0 .....Respondent

Through: Mr. Manu Luv Shahalia, Adv. for Insurance Company.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. All these four appeals arise out of an accident which occurred on 11th October 2015 at about 04.30 a.m., when injured *Digambar Kumar* (appellant in MAC.APP. 288/2018), injured *Lekh Raj* (appellant in MAC.APP. 197/2019), *Anil Bedi* (deceased in MAC.APP. 289/2018) and *Ramesh Chand* (deceased in MAC.APP. 290/2018) were sleeping on the pavement under the *Madipur Metro Station*. A truck number HR-37B-4372 came from the side of *Punjabi Bagh* at high speed, driven by the driver, respondent no. 2 and owned by respondent no.3, and hit all the said persons who were sleeping there and thereafter hit the metro pillar.

2. The driver of the truck ran away from the spot, leaving behind the truck. The PCR van took all the injured to SGM Hospital, Mangolpuri, where two of the persons died due to fatal injuries received in the accident.

3. Claim petitions were filed by the injured-claimants and the legal representatives of the deceased, which were adjudicated by the MACT *vide* a common award passed on 09th March 2017 in respect of injured *Digambar Kumar* and the two fatal cases of *Anil Bedi* and *Ramesh Chand,* whereas award dated 27th February 2018 was passed in case of injured *Lekh Raj*.

4. Compensation of *Rs. 30,005/-* along with interest at 9% per annum was awarded by MACT in case of injured, *Digambar Kumar*; in case of injured *Lekh Raj* a compensation of *Rs. 9,05,285/-* along with interest at 9% per annum was awarded; as regards the deceased *Anil Bedi*, an amount of *Rs. 2,34,810/-* along with interest at 9% per annum was awarded whereas in case of *Ramesh Chand*, an amount of *Rs. 5,79,452/-* along with interest at 9% per annum was awarded.

5. The two injured persons were 41 years and 34 years of age, respectively, on the date of the accident, and the deceased were 41 years and 48 years of age, respectively. They were either working as labourers or engaged in private employment.

6. *Mr. Anshuman Bal,* counsel, represents appellants in ***MAC.APP. 288/2018***, ***MAC.APP. 289/2018***, and ***MAC.APP. 290/2018,*** whereas *Mr. S N Parashar*, counsel, represents appellant in ***MAC.APP. 197/2019***.

7. *Mr. Parashar*, at the outset, states that appellant-injured, *Lekh Raj*, has since passed away on 22nd April 2019, and his legal representatives will pursue the appeal.

<u>On the issue of contributory negligence</u>

8. All these appeals have been filed challenging the finding of the MACT with respect to assessment of contributory negligence at *50%.*

Issue of contributory negligence was addressed in the respective awards.

9. It is submitted that a plea was raised by the insurance company before MACT, contending that there was contributory negligence on the part of the injured/deceased as they were sleeping on the pavement under the Metro station.

10. The MACT, considering it was an admitted situation that all of them were sleeping on the pavements, observed that "*pavements on the roads are not meant for sleeping and as such, to my mind, the insurance has been able to prove that there was contributory negligence on the part of the deceased person and the injured as well.*" On this account, 50% contributory negligence was attributed to the claimants, and the compensation was accordingly reduced.

11. Counsel for the appellants contends that the said observation and conclusion had no bearing on the assessment of contributory negligence, either on first principles or in law. The driver and the owner never presented themselves for evidence or rebutted evidence presented, which was led by the claimants. Therefore, there was no reason to hold that contributory negligence had been proved in favour of the driver and owner and, therefore, by derivation, the insurance company.

12. The Court is quite surprised to note the observation of the MACT in this regard and the conclusion drawn of 50% contributory negligence. The question which the MACT ought to have asked itself was whether the truck driver had any authority or right to drive his truck over the pavement, which is meant for pedestrians. The answer to that question would have been obvious, and therefore, whatever activity is happening on the pavement, whether people are sleeping, or hawkers are present, or people

are walking, cannot come within the purview of contributory negligence.

13. The issue before us is whether the driver of the offending vehicle could be party absolved of liability only because the deceased were sleeping on the pavement. The follow-up question would be whether driver of a car at all can access the pavement. Aside from simple common sense, the following provisions are instructive, which categorically state that pavements are not meant for access to cars.

14. Section 2(r) of the *Delhi Police Act, 1978*, states that 'street' includes any highway, bridge, way over a causeway, viaduct or arch or any road, lane, footway, square, court, alley or passage accessible to the public, whether or not it is a thoroughfare. Thus, a footway, a bridge etc. would be covered under the expression *'street'* under this statute. A pavement is used as a passage by people on foot. Rule 39(3) of the *Motor Vehicles (Driving) Regulations, 2017*, provides that where a road is provided with a footpath or cycle track, a driver shall not drive on such footpath or track except with the permission of a police officer in uniform. Further, *Rule 15* of the *Rules of The Road Regulations, 1989*, prohibits parking of motor vehicles on a footpath, while *Rule 8* mandates that drivers slow down on approaching pedestrian crossings.

15. The Supreme Court in its judgement in ***Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors***. (1985) 3 SCC 545, has observed that pavements or footpaths are public property and are meant for pedestrians for passage, and they cannot be used for any private purpose. The Court further noted that if the footpaths are used for any purpose other than that it would constitute trespassing. Relevant paragraphs are extracted as under:

"43. In the first place, <u>footpaths or pavements are public properties which are intended to serve the convenience of the general public</u>. <u>They are not laid for private use</u> and indeed, their use for a private purpose frustrates the very object for which they are carved out from portions of public streets. <u>The main reason for laying out pavements is to ensure that the pedestrians are able to go about their daily affairs with a reasonable measure of safety and security….</u>."

(emphasis added)

16. Notably, the Supreme Court recently in the decision of ***Maniyar Iliyaz @ Shaik Riyaz & Anr v. P. Ayyappan & Ors.*** 2026 INSC 647 has expounded extensively on the *rights of pedestrians* and, in fact, elevated the *right to walk* to a legal right. The Supreme Court observed that the right to walk, including the right to safe and demarcated footpaths, is a fundamental right flowing from Articles 19(1)(d) and 21 of the Constitution of India. Relevant paragraphs are extracted from the discussion as under:

"13. Insofar as the right to walk on demarcated footpaths is concerned, though it is integral to Articles 21 and 19(1)(d), there is no legislation. It is compelling to lay down a statutory framework not only for declaring the right, but also to recognise the duty bearers. The Act must protect, enhance, and provide quick remedies for violations, and also establish a full-time regulator to plan, enforce, and implement this precious right. We direct the Registry to send a copy of our judgment to the Ministries of Housing and Urban Affairs, Rural Development, Road Transport and Highways, to reflect on the compelling necessity for initiating the necessary legal framework. A copy may also be sent to the Law Commission for examining the statutory framework

for protecting the right, identifying the duty bearers and provisioning remedies. Constitutional Courts also have a duty to declare with clarity the existence of this fundamental right and ensure that the existing civil and the constitutional remedies are accessible and effective.

14. We have clarified at the very outset that the Motor Vehicles Act, 1988, is not a legislation for protecting the right to walk on the footpath. Its predecessor, the Motor Vehicles Act, 1939, was enacted with the primary concern of the State to standardise commercial transport and to create a revenue-generating system through registration, licensing, and permits. Its successor the present 1988 Act, continues the same tradition of laying down the entire infrastructure for licensing of drivers of motor vehicles, licensing of conductors of stage carriages, registration of motor vehicles, control of transport vehicles, special provisions relating to state transport undertakings, construction, equipment and maintenance of motor vehicles, control of traffic, insurance of motor vehicles, claims tribunals and such other provisions. The Motor Vehicles Act is built upon "vehicle" as the subject of the legislation, while "human" interests are incidental, which a motor vehicle must avoid violating - that's all, and no further. In its discourse, the right of a pedestrian is incidental; the mainstay of this legislation is the Motor Vehicle. In the year 2017, the Ministry of Road, Transport and Highways notified i.e., on 23.06.2017, the Motor Vehicles (Driving) Regulations, 2017, which defines Road User to include a person driving or travelling on the road in a vehicle or otherwise and a pedestrian (Regulation 2(o)). Regulation 3 contemplates a duty of a vehicle towards road users and general public. Regulation 5 imposes a duty on drivers to take special care and precautions to ensure safety of vulnerable road users such as *pedestrians, cyclists, children etc. Regulation 9 speaks about precautions to be taken at intersections where there is inter alia a pedestrian crossing. These regulations are nothing more than guiding principles for a motor vehicle driver, they neither recognise the fundamental right to walk on demarcated footpaths nor prioritise the right to footpath over a motorised road. Unfortunately, as of today, even under the Motor Vehicles Act, 1988, the Parliament has not put in place a full time regulatory body for motor transport. The Transport Authorities contemplated under Chapter V are not regulatory bodies. This Court has long been struggling to squeeze in pedestrian rights in the nooks and crannies of the Motor Vehicles Act and the attempt is still continuing with monitoring the implementation of its directions issued since 2012.*

15. It is important to recognise that if the fundamental right to walk on a demarcated footpath is violated, a citizen is entitled to enforce restitutionary remedy. This remedy is distinct from that of the claim that a person may make under the Motor Vehicles Act. The restitutionary remedy under the Constitution or under Sections 38-40 of the Specific Relief Act, 1963 for the enforcement of public duties can be enforced against the Urban Development Authorities, Municipal Corporations, Municipalities, or the Panchayats.

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20. Returning to the discussion and the articulation of the right, the correlative duty and followed by the constitutional statutory remedies, in conclusion, we declare as under:

a. The right to walk is a fundamental right under Part III of the Constitution. It is integral to the right to movement guaranteed under Article 19(1)(d), read with Article 19(1)(a), Article 19(1)(b), Article 19(1)(c) and Article 21 of the Constitution of India. The fundamental right to walk will take within its

<u>sweep the right to demarcated footpaths. These rights are primary and shall have priority over movement by motorised vehicles</u>.

b. The fundamental right to walk on demarcated footpaths has a correlative duty. <u>If the road exists, there is a duty to ensure that there are demarcated and well-maintained footpaths for walkers.</u> The duty bearers are the urban development authorities, municipal corporations, municipalities and even panchayats, who must endeavour to demarcate, construct, maintain, and safeguard footpaths and other necessary pedestrian infrastructure, as walking is integral to life.

c<u>. The violation of the right to walk on demarcated footpaths will entitle the citizens to invoke constitutional and legal remedies against duty bearers for restitution and compensation</u>. This remedy is independent of the remedies that are available under the Motor Vehicles Act, 1988."

(emphasis added)

17. It is a reality in this country that many persons are homeless, work through the night, or are part of labour deployed at various constructions sites and do not have a place to sleep. For such persons, these pavements also become a relatively safer place to rest, considering that they do not expect vehicles to be driven onto the pavements and mow them down. Even if they had taken a calculated risk sleeping on the pavement, it certainly cannot be translated into contributory negligence.

18. In view of the statutory framework and the judgements of the Supreme Court and High Court discussed above, it is evident that pavements and footpaths are intended exclusively for the use of pedestrians. The law does not permit their use for any other purpose, whether by way of unauthorised encroachments, parking of vehicles, or driving motor vehicles upon them. The very purpose of a pavement is to

provide pedestrians with safe space to walk and be free from the dangers of vehicular traffic.

19. Therefore, a pedestrian who is using a pavement, walking, standing, or resting owing to compelling circumstances, cannot be expected to anticipate that a motor vehicle would be driven onto the footpath. The very purpose of the pavements or footpaths is for pedestrians or for any licensed user, and not for motor vehicles to drive. Therefore, the entire responsibility, in such circumstances, lies upon the driver who drove the vehicle into a space reserved exclusively for pedestrians. Needless to say, a driver ought to be more cautious while driving in an area meant for pedestrians. Even if it is not being used for the purpose it is intended for, still it certainly cannot be used for driving, which is completely prohibited under the law.

20. Contributory negligence, in tort law, contemplates a situation where a person's own negligence has materially contributed to the harm suffered, thereby warranting apportionment of liability to the extent of such negligence. The Supreme Court in ***Municipal Corporation of Greater Bombay v. Laxman Iyer***, 2003 (8) SCC 731**,** explained the term 'negligence', 'composite negligence' and 'contributory negligence'. For ease of reference, the relevant paragraph is extracted as under**:**

> "*6. The plea which was stressed strenuously related to alleged contributory negligence. Though there is no statutory definition, in common parlance "negligence" is categorised as either composite or contributory. It is first necessary to find out what is a negligent act. <u>Negligence is omission of duty caused either by an omission to do something which a reasonable man guided upon those considerations, who ordinarily by reason of conduct of human</u>*

affairs would do or be obligated to, or by doing something which a prudent or reasonable man would not do. Negligence does not always mean absolute carelessness, but want of such a degree of care as is required in particular circumstances. Negligence is failure to observe, for the protection of the interests of another person, the degree of care, precaution and vigilance which the circumstances justly demand, whereby such other person suffers injury. The idea of negligence and duty are strictly correlative. Negligence means either subjectively a careless state of mind, or objectively careless conduct. Negligence is not an absolute term, but is a relative one; it is rather a comparative term. No absolute standard can be fixed and no mathematically exact formula can be laid down by which negligence or lack of it can be infallibly measured in a given case. What constitutes negligence varies under different conditions and in determining whether negligence exists in a particular case, or whether a mere act or course of conduct amounts to negligence, all the attending and surrounding facts and circumstances have to be taken into account. It is absence of care according to circumstances. To determine whether an act would be or would not be negligent, it is relevant to determine if any reasonable man would foresee that the act would cause damage or not. The omission to do what the law obligates or even the failure to do anything in a manner, mode or method envisaged by law would equally and per se constitute negligence on the part of such person. If the answer is in the affirmative, it is a negligent act. Where an accident is due to negligence of both parties, substantially there would be contributory negligence and both would be blamed. In a case of contributory negligence, the crucial question on which liability depends would be whether either party could, by exercise of reasonable care, have avoided the

<u>consequence of the other's negligence. Whichever party could have avoided the consequence of the other's negligence would be liable for the accident. If a person's negligent act or omission was the proximate and immediate cause of death, the fact that the person suffering injury was himself negligent and also contributed to the accident or other circumstances by which the injury was caused would not afford a defence to the other. Contributory negligence is applicable solely to the conduct of a plaintiff. It means that there has been an act or omission on the part of the plaintiff which has materially contributed to the damage, the act or omission being of such a nature that it may properly be described as negligence, although negligence is not given its usual meaning.</u> (See Charlesworth on Negligence, 3rd Edn., para 328.) It is now well settled that in the case of contributory negligence, <u>courts have the power to apportion the loss between the parties as seems just and equitable. Apportionment in that context means that damage is reduced to such an extent as the court thinks just and equitable having regard to the claim shared in the responsibility for the damage.</u> But in a case where there has been no contributory negligence on the part of the victim, the question of apportionment does not arise. Where a person is injured without any negligence on his part but as a result of the combined effect of the negligence of two other persons, it is not a case of contributory negligence in that sense. It is a case of what has been styled by Pollock as injury by composite negligence. (See Pollock on Torts, 15th Edn., p. 361.)"

(emphasis added)

21. Moreover, negligence cannot ordinarily be presumed just because an accident occurred. The circumstances of the accident themselves should clearly indicate negligence, and if the person in control of the vehicle fails

to give a reasonable explanation for how the accident occurred, the court may apply the doctrine of *res ipsa loquitur* and infer negligence.

22. In ***Syad Akbar v. State of Karnataka***, (1980) 1 SCC 30, the Supreme Court has observed that where a vehicle mounts a pavement and injures a person, the very nature of the accident ordinarily speaks of negligence, attracting the doctrine of *res ipsa loquitur*, unless the driver proves otherwise. Relevant paragraph of ***Syad Akbar*** (*supra*) is extracted as under:

> "*19. As a rule, mere proof that an event has happened or an accident has occurred, the cause of which is unknown, is not evidence of negligence. But the peculiar circumstances constituting the event or accident, in a particular case, may themselves proclaim in concordant, clear and unambiguous voices the negligence of somebody as the cause of the event or accident. It is to such cases that the maxim res ipsa loquitur may apply, if the cause of the accident is unknown and no reasonable explanation as to the cause is coming forth from the defendant. To emphasise the point, it may be reiterated that in such cases, the event or accident must be of a kind which does not happen in the ordinary course of things if those who have the management and control use due care. But, according to some decisions, satisfaction of this condition alone is not sufficient for res ipsa to come into play and it has to be further satisfied that the event which caused the accident was within the defendant's control. The reason for this second requirement is that where the defendant has control of the thing which caused the injury, he is in a better position than the plaintiff to explain how the accident occurred. Instances of such special kind of accidents which "tell their own story" of being offsprings of negligence, are furnished by cases, such as where a motor vehicle mounts or projects over a pavement and hurts somebody there or*

> *travelling in the vehicle; one car ramming another from behind, or even a head-on collision on the wrong side of the road. (See per Lord Normand in Barkway v. South Wales Transport Co. [(1950) 1 All ER 392, 399] ; Cream v. Smith [(1961) 8 AER 349] ; Richley v. Faull [(1965) 1 WLR 1454 : (1965) 3 All ER 109])"*
>
> (emphasis added)

23. Contributory negligence arises only where the victim's own negligent act contributes to the accident and the resulting harm. The proximate cause of the accident should be the act of the deceased/injured. In the present case, there is no material to show that the injured/deceased's act had contributed towards the accident.

24. In this regard, the Court holds that the finding attributing 50% contributory negligence to the claimants is unsustainable and is accordingly set aside. Accordingly, the compensation for each of these appeals would be revised as under.

MAC.APP. 288/2018

25. *Mr. Anshuman Bal,* counsel for appellant, raises the issue of inadequate compensation for *pain and suffering* to the injured, *Digambar Kumar*. It is recorded that the injured had sustained fractures in both legs, for which rods were inserted in both legs, besides other multiple injuries. He further stated that his movement in both legs was restricted, and he had remained unemployed since he was not able to do physical labour. In the cross-examination, he denied that he had suffered any loss of income on account of the injury or had incurred any expenditure on treatment, conveyance and special diet.

26. The Court has perused the material on record and is of the opinion

that the compensation awarded under the head of *'pain and suffering'* ought to be enhanced to *Rs.50,000/-*.

27. Accordingly, the revised computation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1.	Expenditure on Medical Bills and medical treatment (A)	Rs.2,475/-	Rs.2,475/-
2.	Expenditure on conveyance, special diet and attendant charges (B)	Rs. 20,000/-	Rs. 20,000/-
3.	Income of injured per month(C)	Rs.9,178/-	Rs.9,178/-
4.	Loss of income (Rs.9178/- X 3) (D)	Rs.27,534/-	Rs.27,534/-
NON-PECUNIARY LOSS			
5.	Pain and suffering (E)	Rs.10,000/-	Rs. 1,00,000/-
6.	Total compensation (A + B + C + D + E) = L	Rs.60,009/-	Rs. 1,00,009/-
7.	Deduction towards contributory negligence	50% of Rs.60,009/- = Rs. 30,005/-	Nil
7.	Interest awarded	9%	9%

28. Accordingly, the original compensation is enhanced by *Rs.90,000/-*. A deduction of 50% was made to the original compensation towards contributory negligence by the MACT. Since the same has been set aside, the total enhanced compensation is *Rs.1,20,005/-*. (*Rs.90,000/-* + *Rs.30,005/-*).

29. Accordingly, it is directed that the enhanced amount along with accrued interest be deposited with the MACT by the Insurance company within a period of 6 weeks.

30. Further, it is directed that the amount so deposited be released in a lump sum along with the accrued interest thereon.

MAC.APP. 289/2018

31. *Mr. Anshuman Bal* submits that adoption of multiplier of '5' instead of '*14'*, on the basis of the age of the mother of the deceased, is untenable.

32. The Supreme Court in the case of ***Reshma Kumari v. Madan Mohan*** (2013) 9 SCC 65, held that the multiplier is to be used with reference to the age of the deceased. The Constitution Bench in ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.*** (2017) 16 SCC 680 affirmed the view taken in ***Smt. Sarla Verma & Ors v. Delhi Transport Corporation & Anr.*** (2009) 5 SCC 121 and ***Reshma Kumari*** (*supra*), and recorded in the conclusions as under:

> "*59.7. The age of the deceased should be the basis for applying the multiplier.*"

33. Accordingly, this determination cannot be sustained. At the time of accident, the deceased was 41 years of age. According to principles enunciated in ***Sarla Verma*** (*supra*) and ***Pranay Sethi*** (*supra*), where the deceased was 41 years of age on the date of the accident, the appropriate multiplier is *'14'*. Therefore, multiplier of '***14'*** shall be considered instead of '*5*'.

34. It is further noted that future prospects were not awarded, as observed in *paragraph 31(b)* of the impugned award. Accordingly, applying the principles in ***Pranay Sethi*** (*supra*), *future prospects* at *25%* are also liable to be awarded.

35. *Mr. Bal* further points out that compensation of *Rs. 1,00,000/-* was awarded towards *loss of love and affection* and *for loss of consortium*.

36. Loss of love and affection awarded at *Rs. 1,00,000/-* ought not to be granted on the basis of the principles enunciated in ***United India Insurance***

Co. Ltd. v. Satinder Kaur @ Satwinder Kaur and Ors. (2021) 11 SCC 780.

37. Considering there was only one original claimant, the deceased's mother, *Shashi Bedi*, an amount of *Rs.40,000/-* is awarded towards *loss of consortium*.

38. It is also informed that the deceased's mother, *Shashi Bedi*, has passed away and is now represented through her legal heir, *Poonam Bhatia*, sister of the deceased.

39. Some other aspects also need to be aligned as per the principles stated in ***Pranay Sethi*** (*supra*):

(i) Funeral expenses ought to be *Rs. 15,000/-,* instead of *Rs. 25,000/-*.

(ii) Loss of estate will be *Rs. 15,000/-,* instead of *Rs. 10,000/-*.

40. Accordingly, the revised computation is as under:

Sr. No.	**Heads**	**Awarded by the Tribunal**	**Awarded by the Court**
1.	Monthly income of the deceased (A)	Rs. 11,154/-	Rs. 11,154/-
2.	Add-Future Prospects (B)	-	25% of Rs. 11,154/- = 2,788.50/-
3.	Less-personal expenses of the deceased (C)	1/2	1/2 of Rs. 13,942.50/- = Rs. 6,971.25
4.	Annual loss of dependency [(A+B) - C] x 12= D]	Rs. 66,924/-	Rs. 83,655
5.	Multiplier (E)	5	14
6.	Total loss of dependency (D x E) = (F)	Rs. 3,34,620/-	Rs. 11,71,170/-
7.	Compensation for loss of love and affection (G)		Nil
8.	Compensation for loss of consortium (H)	Rs. 1,00,000/-	Rs. 40,000/-
09.	Compensation for loss of estate (I)	Rs. 10,000/-	Rs. 15,000/-
10.	Compensation towards funeral		

	expenses (J)	Rs. 25,000	Rs. 15,000/-
11.	Total Compensation (F+G+H+I+J = L)	Rs. 4,69,620/-	Rs. 12,41,170/-
12.	Deduction towards contributory negligence	50% of Rs. 4,69,620/- = Rs. 2,34,810/-	NIL
13.	Interest Awarded	9%	9%
13.	Enhanced Compensation	**Rs. 7,71,550/-**	

41. Accordingly, the original compensation is enhanced by *Rs. 7,71,550/-*. A deduction of *50%* was made to the original compensation towards contributory negligence by the MACT. Since the same has been set aside, the total enhanced compensation is *Rs. 10,06,360/- (Rs. 7,71,550/- + 2,34,810/-).*

42. Accordingly, it is directed that the enhanced amount along with accrued interest be deposited by the Insurance company with the MACT within a period of 6 weeks.

43. Further, it is directed that a lump sum amount of Rs. *2,00,000/-* shall be released to the claimant from the amount so deposited within a period of two weeks thereafter. Remaining amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (FDRs) of *Rs. 20,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession, as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

<u>MAC.APP. 290/2018</u>

44. It is contended by *Mr. Bal* that since the deceased was aged 48 years

at the relevant time, future prospects ought to have been considered at *25%*.

45. In light of principles enunciated in ***Sarla Verma*** (*supra*) and ***Pranay Sethi*** (*supra*), and considering that the deceased was 48 years of age on the date of accident, *future prospects* at *25%* are also liable to be awarded.

46. ***Secondly***, it has been contended that *loss of consortium* ought to be awarded to the five family members of the deceased, namely, his wife, mother and three sons, who are all appellants in this appeal. Accordingly, an amount of *Rs.40,000/-* each shall be awarded on account of loss of consortium to all these five appellants, i.e. *Rs. 2,00,000/-*.

47. Some other aspects also need to be aligned as per the principles stated in ***Pranay Sethi*** (*supra*):

(i) Funeral expenses ought to be *Rs. 15,000/-,* instead of *Rs. 25,000/-*.

(ii) Loss of estate will be *Rs. 15,000/-,* instead of *Rs. 10,000/-*.

48. Accordingly, the revised computation is as under:

Sr. No.	**Heads**	**Awarded by the Tribunal**	**Awarded by the Court**
1.	Monthly income of the deceased (A)	Rs. 9,178/-	Rs. 9,178/-
2.	Add-Future Prospects (B)	-	25% of Rs. 9,178/- = Rs. 2,294.50/-
3.	Less-personal expenses of the deceased (C)	1/4	1/4 of Rs. 11,472.50/- = Rs. 2868.12/-
4.	Annual loss of dependency [(A+B) - C] x 12= D]	Rs. 82,608/-	Rs. 1,03,252.56/-
5.	Multiplier (E)	13	13
6.	Total loss of dependency (D x E) = (F)	Rs.10,73,904/-	Rs. 13,42,283.28/-
7.	Compensation for loss of love and affection (G)	Nil	Nil
8.	Compensation for loss of consortium (H)	Rs. 50,000/-	Rs. 2,00,000/-

09.	Compensation for loss of estate (I)	Rs. 10,000/-	Rs. 15,000/-
10.	Compensation towards funeral expenses (J)	Rs. 25,000/-	Rs. 15,000/-
11.	Total Compensation (F+G+H+I+J = L)	Rs. 11,58,904/-	Rs. 15,72,283.28/- (rounded off to Rs. Rs. 15,72,300/-)
12.	Deduction towards contributory negligence	50% of Rs. 11,58,904/-= Rs. 5,79,452/-	Nil
13.	Interest Awarded	9%	9%
14.	Enhanced Compensation	**Rs. 4,13,396/-**	

49. Accordingly, the original compensation is enhanced by *Rs4,36,930/-.* A deduction of 50% was made to the original compensation towards contributory negligence by the MACT. Since the same has been set aside, the total enhanced compensation is *Rs.9,92,848 (Rs. 4,13,396/- + 5,79,452/-).*

50. Accordingly, it is directed that the enhanced amount along with accrued interest be deposited with the MACT by the Insurance company within a period of 6 weeks.

51. Further, it is directed that a lump sum amount of *Rs. 2,00,000/-* shall be released to the claimant from the amount so deposited within a period of two weeks thereafter. Remaining amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (FDRs) of *Rs. 20,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

MAC.APP. 197/2019

52. There is no component for enhancement pressed for by the appellants' counsel. Liberty is given to *Mr. Parashar,* counsel for claimant*,* to apply for the release of compensation in respect of the legal representatives of the legal heirs of *Lekh Raj*, who has since passed away, as noted hereinabove.

53. An amount of *Rs. 18,10,569/-* was awarded by MACT in favour of the claimant*, Lekh Raj.* However, 50% of the same was deducted towards contributory negligence. *Rs. 9,05,285/-*.

54. Since, the finding of the MACT on contributory negligence has been set aside by this Court, the amount deducted towards contributory negligence, i.e. *Rs. 9,05,285/-* along with accrued interest, by the MACT, be deposited by the Insurance company within a period of 6 weeks.

55. Further, it is directed that a lump sum amount of *Rs. 2,50,000/-* shall be released to the claimant from the amount so deposited within a period of two weeks thereafter. Remaining amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (FDRs) of *Rs. 25,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

Conclusion

56. All these four appeals, i.e. MAC.APP. 288/2018, MAC.APP. 197/2019, MAC.APP. 289/2018, and MAC.APP. 290/2018 stand disposed of in the above terms.

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

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

(ANISH DAYAL)
JUDGE

JULY 08, 2026/sm/bp