

**CIVIL APPEAL NO.** \_\_\_\_\_ **OF 2025**  
**(Arising out of SLP (C) No. 26253/2025)**

## VERSUS

**SHRIRAM GENERAL INSURANCE  
COMPANY LTD. ... RESPONDENT(S)**

## ORDER

|                                                              |                                                                |                                                            |
|--------------------------------------------------------------|----------------------------------------------------------------|------------------------------------------------------------|
| <b>Time taken for disposal of the claim petition by MACT</b> | <b>Time taken for disposal of the appeal by the High Court</b> | <b>Time taken for disposal of the appeal in this Court</b> |
| 7 years, 1 month, 2 days                                     | 2 years, 1 month, 5 days                                       | 5 months, 23 days                                          |

Leave granted.

**2.** This appeal is directed against the judgment and order dated 3<sup>rd</sup> October 2024, passed in MACA No. 433 of 2022 by the High Court of Orissa at Cuttack, which, in turn, was preferred against the award dated 30<sup>th</sup> October 2021 in MAC Case No.1402/2014 passed by the Additional District Judge-cum-3<sup>rd</sup> Motor Accident Claims Tribunal, Jagatsinghpur.

3. The occurrence of the accident is not in dispute. On 3<sup>rd</sup> September 2014, the deceased, Ajay Kumar Nath, aged 24 years, along with his business partner, Suryakanta Baral, was travelling on a motorcycle bearing registration no.OD-21-1737 when they met with an accident with a truck bearing registration no.OR-09-C-6546 (*Offending Vehicle*). The offending vehicle came at high speed in a negligent manner and dashed into the vehicle of the deceased. The deceased sustained grievous injuries and succumbed to them while undergoing treatment. Regarding this incident, Case No.201/2014 was registered under Sections 279, 337, 338 and 304A of the Indian Penal Code, 1860, against the driver of the offending vehicle at PS Tirtol, Jagatsinghpur.

4. A claim petition was filed before Tribunal seeking compensation under Section 166 of the Motor Vehicles Act, 1988, by the claimant-appellant(s) (*the legal representatives of the deceased*) claiming compensation to the tune of Rs.20,00,000/- asserting that the deceased was earning a sum of Rs.15,000/- per month as he was a wholesale trader of fish, the sole breadwinner of the family. The Tribunal *vide* its order dated 30<sup>th</sup> October 2021, assessed the income of the deceased as Rs.7,000/- per month having regard to the nature of his avocation and market value of commodities and as such, enhanced the compensation by awarding a total compensation

amounting to Rs.17,29,400/-. The Tribunal also awarded other varied amounts under conventional heads as per law.

5. Aggrieved by the aforesaid award, the claimant-appellant(s) preferred an appeal before the High Court, contending that the Tribunal failed to appreciate the income of the deceased at the time of death was to the tune of Rs.15,000/- per month, and that no amount was granted towards future prospects while passing the award. The High Court, *vide* the impugned order, partly allowed the appeal, modified the award to the extent that the claimant-appellants(s) were entitled to a further consolidated compensation of Rs.1,00,000/-.

6. Yet dissatisfied, the claimant-appellant(s) preferred the present appeal. The significant point raised before us is with regard to the income of the deceased that ought to be determined as Rs.15,000/- per month having regard to his occupation as a wholesale fish trader.

7. We have heard the learned counsel for the claimant-appellant(s) and the learned *amicus curiae* Ms. Rishika Agrawal, who has ably assisted this Court.

8. We are inclined to interfere with the findings of the Courts below in assessing the income of the deceased at Rs.7,000/- per month as the same was not assessed correctly on the basis of the evidence on record. This Court in ***Chandra v.***

**Mukesh Kumar Yadav**<sup>1</sup>, has held that “*In the absence of documentary evidence on record, some guesswork is required to be done*”. Also, in the case of **Prabhavathi v. Bangalore Metropolitan Transport Corpn**<sup>2</sup>, this Court has held that:

“13. It is the settled law that under the Motor Vehicle Act, 1988 it is established that in compensation cases, the strict rules of evidence used in criminal trials do not apply. Instead, the standard of proof is based on the preponderance of probability. This Court in *Sunita v. Rajasthan SRTC* observed that:

*“22. It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.”*

The exposition came to be reiterated in *Rajwati alias Rajjo v. United India Insurance Company Ltd.*, wherein it was observed that:

*“20. It is well settled that Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the Tribunal's role would be to award just and fair compensation. As held by this Court in *Sunita (Supra)* and *Kusum Lata (Supra)*, strict rules of evidence as applicable in a criminal trial, are not applicable in motor accident compensation cases, i.e., to say, “the standard of proof to be borne in mind must be of preponderance of probability and not the strict*

---

<sup>1</sup> (2022) 1 SCC 198

<sup>2</sup> 2025 SCC OnLine SC 455

standard of proof beyond all reasonable doubt which is followed in criminal cases.”

9. The Courts below have not given due appreciation to the uncontroverted oral evidence given by one Mr. Kishore Kumar Behera (PW-3), the manager of the fish firm owned by the deceased, who deposed that the deceased used to earn Rs.15,000/- per month from the wholesale business of fish. We in these circumstances and in light of the law laid down by this Court proceed to reassess the income of the deceased @ Rs.15,000/- per month. Furthermore, as per this Court's judgment in *National Insurance Co. v. Pranay Sethi*<sup>3</sup>, we deem it appropriate to enhance and award the claimant-appellant(s) consortium charges to the tune of Rs.48,400/- x 5 = Rs.2,42,000/-.

10. As a result of the discussion above, we deem it appropriate to enhance the compensation awarded to the claimant-appellant(s) in accordance with the law as follows: -

#### CALCULATION OF COMPENSATION

| Compensation Heads | Amount Awarded | In Accordance with:                                                                                                        |
|--------------------|----------------|----------------------------------------------------------------------------------------------------------------------------|
| Monthly Income     | Rs.15,000/-    | <i>Prabhavati and Others v. MD, Bangalore Metropolitan Transport Corporation</i><br>2025 SCC Online SC 455<br>Para 10 & 13 |
| Yearly Income      | Rs.1,80,000/-  |                                                                                                                            |

---

<sup>3</sup> (2017) 16 SCC 680

|                                          |                                      |                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Future Prospects (40%)<br>(Age being 24) | 1,80,000 + 72,000<br>= Rs.2,52,000/- | <i>National Insurance Co. Ltd. v. Pranay Sethi</i><br>(2017) 16 SCC 680<br>Para 37, 39, 41, 42 and 59.4                                                                                                                                                                                                                 |
| Deduction (1/4)                          | 2,52,000 – 63,000<br>= Rs.1,89,000/- |                                                                                                                                                                                                                                                                                                                         |
| Multiplier (18)                          | 1,89,000 X 18<br>= Rs.34,02,000/-    |                                                                                                                                                                                                                                                                                                                         |
| Loss of Income of the Deceased           | Rs.34,02,000/-                       |                                                                                                                                                                                                                                                                                                                         |
| Loss of Estate                           | Rs.18,150/-                          | <i>National Insurance Co. Ltd. v. Pranay Sethi</i><br>(2017) 16 SCC 680<br>Para 59.8                                                                                                                                                                                                                                    |
| Loss of Funeral Expenses                 | Rs.18,150/-                          |                                                                                                                                                                                                                                                                                                                         |
| Loss of Consortium                       | 48,400 X 5<br><br>= Rs.2,42,000/-    | <i>National Insurance Co. Ltd. v. Pranay Sethi</i><br>(2017) 16 SCC 680<br>Para 59.8<br><br><i>United India Insurance Co. Ltd. v. Satinder Kaur,</i><br>(2021) 11 SCC 780<br>Para 37.12<br><br><i>Rajwati alias Rajjo and Ors v. United India Insurance Company Ltd. and Ors.</i><br>2022 SCC Online SC 1699<br>Para 34 |
| Total                                    | Rs. 36,80,300/-                      |                                                                                                                                                                                                                                                                                                                         |

Thus, the difference in compensation is as under:

| MACT                   | High Court             | This Court             |
|------------------------|------------------------|------------------------|
| <b>Rs. 17,29,400/-</b> | <b>Rs. 18,29,400/-</b> | <b>Rs. 36,80,300/-</b> |

**11.** The Civil Appeal is allowed in the aforesaid terms. The impugned Award dated 30<sup>th</sup> October 2021 in MAC Case

No.1402/2014 passed by the Additional District Judge-cum-3<sup>rd</sup> Motor Accident Claims Tribunal, Jagatsinghpur, as modified by the High Court of Orissa at Cuttack, *vide* the impugned order dated 3<sup>rd</sup> October 2024, passed in MACA No.433 of 2022 stands modified accordingly. Interest on the amount is to be paid @6% (*simple interest*) from the date of the filing of the original petition. The interest accruing during the 135-day delay in the filing of the Special Leave Petition shall be excluded from computation.

**12.** The amount be directly remitted into the bank account of the claimant-appellant(s). The particulars of the bank account are to be immediately supplied by the learned counsel for the claimant-appellant(s) to the learned counsel for the respondent. The amount be remitted positively within a period of four weeks thereafter.

Pending application(s), if any, shall stand disposed of.

.....J.  
(SANJAY KAROL)

.....J.  
(VIPUL M. PANCHOLI)

**New Delhi;  
12<sup>th</sup> November, 2025**