

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 7199 OF 2025
(Arising out of SLP(C)No.27779/2023)

JITENDER KUMAR & ANR. ... APPELLANT(S)

VERSUS

SANJAY PRASAD & ORS. ...RESPONDENT(S)

ORDER

Time taken for disposal of the claim petition by MACT	Time taken for disposal of the appeal by the High Court	Time taken for disposal of the appeal in this Court
3 years 3 months 23 days	7 years 1 month 3 days	1 year 6 months 6 days

Leave granted.

2. This appeal is directed against the judgment and order dated 10th May 2023 passed in FAO-4114-2016 (O&M) by the High Court of Punjab and Haryana at Chandigarh, which, in turn, was preferred against the order dated 12th March 2014 in Claim Petition No.241 of 2013 passed by the Motor Accident Claims Tribunal, Karnal.
3. The brief facts giving rise to this appeal are that on 12th October 2010, the deceased, namely, Niranjan Das, aged

64 years, was travelling along with his friend from Jind, towards Narwala, in a car driven on the left side of the road. Upon reaching near Sugar Mills, Narwana Road, a Trailer bearing Registration No. WB-23B-1216¹, coming from the wrong side in a rash and negligent manner, dashed against the car of the deceased. As a result of the impact, the deceased succumbed to the injury suffered. In connection with the incident, an FIR No. 331/2010 was registered, under Section 279 and 304 A the Indian Penal Code, 1860, against the driver of the offending vehicle.

4. A claim petition was instituted by the claimant-appellants (*the legal representatives of the deceased*) under Section 166 of the Motor Vehicles Act, 1988², claiming compensation to the tune of Rs.5,00,00,000/- (Five Crores) along with interest @ 18% per annum, submitting therein that the deceased was self-employed, running a flour mill, and was also a professional Consultant, advising Rama Associates Pvt. Ltd and ASEL Agro Pvt. Ltd, having an income of Rs.3,50,000/- per month.
5. The Tribunal awarded an amount of Rs.1,60,000/- to the claimant-appellant(s) *vide* award dated 12th March 2014, along with interest @ 9% per annum from the date of filing the claim petition. The Tribunal, considering the

¹ Hereinafter referred to as "Offending Vehicle"

² Hereinafter referred to as "the Act".

evidence on record, observed that that the claimant-appellant(s) are the married sons and an unmarried daughter (Respondent No. 4) of the deceased. The sons were already the existing partners of the Firm having independent income from their respective shares in the Firm. The Tribunal concluded that the claimant-appellant(s) failed to prove any dependency, financial in nature, upon the deceased. The Tribunal awarded a sum of Rs.50,000/- under minimum statutory compensation as provided under Section 140 of the Act (*as the Section then existed*), for no fault liability; Rs.10,000/- towards transportation & last rites of the deceased; and Rs.1,00,000/- towards love and affection. The driver, owner and the insurer of the vehicle were jointly and severally held liable to pay the compensation amount to the claimant-appellant(s).

6. Aggrieved thereof, the claimant-appellant(s) preferred an appeal before the High Court seeking enhancement of the compensation awarded.
7. The High Court, *vide* the impugned judgment, partly allowed the appeal, quantifying the total compensation payable as Rs.21,70,000/- (*inclusive of a sum of Rs.1,60,000/- awarded by the Tribunal*), along with the interest 7.5% per annum. The Court assessed the income

of the deceased based on the Income Tax Returns at Rs.50,000/- per month. However, the Court refused to consider the income earned from the Roller Flour Mill, as the Mill was still operational, managed by the erstwhile partners, i.e., sons of the deceased. Furthermore, the Court affirmed the finding of the Tribunal on dependency and observed that the children of the deceased have not shown to be dependent upon him for their daily needs. Thus, the Court deducted 50% of the amount towards personal and living expenses of the deceased and a multiplier of 7 was applied in accordance with the law laid down in ***Sarla Verma v. Delhi Transport Corporation and Anr***³. Thereafter, the Court also awarded an amount of Rs.70,000/- towards non-pecuniary heads.

8. Dissatisfied with the judgment and order passed by the High Court, the claimant-appellant(s) are now before us. Significantly, neither the owners nor the Insurer have assailed the judgment as rendered by the High Court. The significant point of challenge taken is that the High Court erred in not considering the Income Tax Return of the deceased and the income earned as a Consultant with ASEl Agro Pvt. Ltd, for the computation of his income.

³ (2009) 6 SCC 121.

9. We have heard the learned counsel for the parties.
10. We are inclined to interfere with the finding of the High Court in determining the income of the deceased at Rs.50,000/- per month. The monthly income of the deceased was determined by generally presuming and assuming it to be so. From the bare perusal of the Income Tax Return for the assessment year 2011-12, annexed at Annexure A-25, in the additional documents produced by the claimant-appellant(s), it stands clearly established that the deceased was earning up to Rs.10,36,331/- per annum, which comes to Rs.86,360/- per month. In accordance with the aforesaid discussion, we deem it appropriate to determine the income of the deceased at Rs.86,360/- per month.
11. On the aspect of future prospects, the age of the deceased was 64 years at the time of accident, no loss of future prospects is to be awarded in terms of the decision laid down in ***National Insurance Co. Ltd. v. Pranay Sethi***⁴.
12. The High Court has placed reliance on the judgment of this Court in ***National Insurance Co. Ltd. v. Birender***⁵, to observe that the claimant-appellant(s) are legal representatives of the deceased and have a right to apply

⁴ (2017) 16 SCC 680.

⁵ (2020) 11 SCC 356.

for compensation. Thereafter, in its discussion, the Court observed that the claimant-appellant(s) have not been shown to be dependents on the deceased and consequently, a deduction of 50% is to be made to determine the compensation to be received by the claimant-appellant(s).

13. In our considered opinion, the view on this issue cannot be faulted. The exposition of law in **Birender** (Supra) is clear, wherein it was observed as under:

“14. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only.”

14. Such exposition came to be followed by this Court in **Seema Rani and Ors. v. Oriental Insurance Co. Ltd. and Ors.**⁶, wherein it was observed that the application for compensation, even by married sons and daughters, must be considered, irrespective of whether they are fully dependant or not. In the present case, it cannot be disputed that the claimant-appellant(s) became partner in the consultancy firm run by the deceased. Moreover, it is

⁶ 2025 SCC Online SC 283.

not in dispute that that the Flour Mill being run by the deceased, is still being run by the claimant-appellant(s). In such a factual circumstance, it cannot be said that the claimant-appellant(s) were financially dependent upon the deceased.

15. Therefore, in view of the above, while the claimant-appellant(s) were not dependent upon the deceased, they are entitled to receive compensation as his legal representatives, in accordance with law. Thus, the deduction towards the loss of personal and living expenses is to be $\frac{1}{2}$ (50 % of the income of the deceased) in accordance with law.
16. Additionally, in the interest of awarding just and fair compensation, we are inclined to increase the amount awarded under the conventional heads, namely, loss of estate, loss of consortium, and funeral expenses by 10% adverting to the settled principle of law laid down by this Court in ***Pranay Sethi*** (Supra), that such amount should be revised every three years.
17. In view of the aforesaid, the compensation now payable to the claimant-appellant(s) in accordance with law, is as follows:

CALCULATION OF COMPENSATION

Compensation Heads	Amount Awarded	In Accordance with:
Monthly Income	Rs.86,360/-	
Yearly Income	Rs.10,36,331/-	
Future Prospects (<i>Age being 64 years</i>)	-	National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC 680 <i>Para 37, 39, 41, 42 and 59.4</i>
Deduction (1/2)	10,36,331 – 5,18,165 = Rs.5,18,166/-	
Multiplier (7)	5,18,166 X 7 = Rs.36,27,162/-	
Loss of Income of the Deceased	Rs.36,27,162/-	
Loss of Estate	Rs.18,150/- (with 10% increase every 3 years from 2017)	National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC 680 <i>Para 59.8</i>
Loss of Funeral Expenses	Rs.18,150/- (with 10% increase every 3 years from 2017)	
Loss of Consortium	48,400 X 3 (with 10% increase every 3 years from 2017) = Rs.1,45,200	United India Insurance Co. Ltd. v. Satinder Kaur, (2021) 11 SCC 780 Para 37.12 Rajwati alias Rajjo and Ors v. United India Insurance Company Ltd. and Ors. 2022 SCC Online SC 1699 Para 34 Sadhana Tomar & Ors. v. Ashok Khushwaha & Ors.

		2025 SCC Online SC 554 Para 17
Total	Rs.38,08,662/-	

Thus, the difference in compensation is as under:

MACT	High Court	This Court
Rs.1,60,000/-	Rs.21,70,000/-	Rs.38,08,662/-

18.The Civil Appeal is allowed in the aforesaid terms. The impugned Award dated 12th March 2014 in Claim Petition No.241 of 2013 passed by the Motor Accident Claims Tribunal, Karnal, as modified in terms of the impugned order 10th May 2023 passed in FAO-4114-2016 (O&M) by the High Court of Punjab and Haryana at Chandigarh stands modified accordingly. Interest on the amount is to be paid as awarded by the High Court from the date of filing of the original petition i.e., 7.5% per annum.

19.Let the amount be directly remitted into the bank account of all the claimant-appellant(s) i.e. Appellant No. 1 (Son); Appellant No. 2 (Son) and Respondent No. 4 (Daughter). The particulars of the bank accounts are to be immediately supplied by their learned counsel to the learned counsel for the respondent, Insurance Company. 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.
(JOYMALYA BAGCHI)

**New Delhi;
22nd May, 2025**

ITEM NO.29 COURT NO.14 SECTION IV-B

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).
27779/2023

[Arising out of impugned final judgment and order
dated 10-05-2023 in FAO No. 4114/2016 passed by the
High Court of Punjab & Haryana at Chandigarh]

JITENDER KUMAR & ANR. Petitioner(s)

VERSUS

SANJAY PRASAD & ORS. Respondent(s)

IA No. 247284/2023 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

Date : 22-05-2025 This matter was called on for
hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KAROL
HON'BLE MR. JUSTICE JOYMALYA BAGCHI

For Petitioner(s) :Mr. Sameer Nandwani, Adv.
Mr. Varun Chugh, Adv.
Mr. Mohd. Parvez Dabas, Adv.
Mr. Uzmi Jameel Husain, Adv.
M/S. Shakil Ahmad Syed, AOR

For Respondent(s) :Mr. Jagdish Chandra, Adv.
Mr. Niteen Kumar Sinha, AOR
Ms. Aishwarya Sinha, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Leave granted.

2. The Civil Appeal is allowed in terms of the Signed Order.

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

(KAPIL TANDON)

COURT MASTER (SH)

(ANU BHALLA)

COURT MASTER (NSH)

(Signed Order is placed on the file)