



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on* : 10th March 2026
Pronounced on : 30th April 2026
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+ MAC.APP. 330/2024

SAVITA & ORS.

.....Appellants

Through: Mr. Vaibhav Verma and Ms.
Tanya Singh, Advs.

versus

NATIONAL INSURANCE COMPANY LTDRespondent

Through: Mr. Pankaj Seth, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

%

ANISH DAYAL, J.

1. This appeal has been filed by claimants seeking enhancement of compensation of Rs. 16,76,900/- along with interest at the rate of 7.5% per annum awarded by Motor Accidents Claims Tribunal ('*MACT*'), Patiala House Courts, New Delhi in *MAC Petition No. 205/2018* by award dated 11th March 2024.

2. *Mr. Vaibhav Verma*, counsel appears on behalf of appellants/claimants and seeks enhancement of compensation on the sole basis that benchmark income has wrongly been assessed at the minimum wages of an unskilled person as prevalent in Uttar Pradesh ('*U.P.*') and were taken at Rs.7,400/- per month.

The Accident

3. On 18th January 2018, at about 08:30 am, *Sh. Ashok Kumar* (hereinafter, '*deceased*') was going from *Noida* to his village, *Nangla*



Rustampur on his motorcycle. When he reached near *Zero Point Yamuna Expressway, Knowledge Park, Greater Noida*, the offending vehicle, being a motorcycle, bearing registration no. UP-16BB-6929, driven by the driver, came from the back side and dashed with the motorcycle of deceased, due to which he sustained grievous injuries. He was removed to *Kailash Hospital, Greater Noida*, where he was declared as ‘*brought dead*’ by the doctors.

4. He was about 37 years of age and was survived by his wife, three children and mother. The offending vehicle was insured with respondent/Insurance Company.

Impugned Award

5. Claim petition was filed on behalf of legal representatives (*‘LRs’*) of deceased. Three witnesses were examined, *PW-1, Smt. Savita*, wife of deceased; *PW-2, Sh. Ajit Singh*, eye witness of the accident and; *PW-3, Narender Kumar Gautam*, proprietor of *M/s Kanta Enterprises*.

6. On issue no.1, MACT held that the accident had occurred due to rash and negligent driving of offending vehicle, which was insured with respondent/Insurance Company. As regards the computation, the following compensation was awarded:

Sr. No.	Heads	Awarded by the tribunal
1.	Income of the deceased (A)	Rs 7,400
2.	Add-Future Prospects (B)	Rs.2,960
3.	Less-personal expenses of the deceased (C)	Rs. 2,590
4.	Monthly loss of dependency [(A+B) - C = D]	Rs. 7,770
5.	Annual loss of dependency (Dx12)	Rs. 93,240
6.	Multiplier (E)	15
7.	Total loss of dependency (D x 12x E = F)	Rs. 13,98,600
8.	Medical Expenses (G)	Nil
9.	Compensation for loss of love and affection (H)	Nil



10.	Compensation for loss of consortium (I)	Rs. 2,42,000
11.	Compensation for loss of estate (J)	Rs. 18,150
12.	Compensation towards funeral expenses (K)	Rs. 18,150
13.	Total Compensation (F+G+H+I+J+K = L)	Rs. 16,76,900
14.	Interest Awarded	7.5%

7. Counsel for appellants/claimants relies upon the testimony of **PW-1**, who stated that the deceased was working as a helper at *M/s Kanta Enterprises* in *Sector-49, U.P.* at Rs. 15,000/- per month. It is further stated that this was corroborated by evidence of **PW-3** who stated that the deceased was a supervisor in *M/s Kanta Enterprises* and was engaged in services from 01st September 2017 to 18th January 2018 at monthly wages of Rs.15,000/-. A wage certificate had been placed on record by **PW-3** exhibited as **Ex.PW-1/2**.

8. However, since he was not able to substantiate in his cross-examination as to any further proof of Rs.15,000/- being paid as monthly salary to deceased, MACT chose to instead rely upon the minimum wages of an unskilled worker.

9. *Mr. Verma*, counsel for appellants/claimants has relied upon decision of Supreme Court in ***Chandra v. Mukesh Kumar Yadav***, (2022) 1 SCC 198 where the Supreme Court has stated that in the absence of documentary evidence, some amount of guesswork is required to be done, though the guesswork should not be totally detached from reality. While computing the income, the adoption of lowest tier of minimum wage should not be the default mechanism, if the claimants have been unable to produce documentary evidence to show the monthly income.

10. In that case, while assessing the benchmark income of deceased



for the purpose of loss of dependency, the Court arrived at the finding on the basis of age and nature of work, which was purported to be done by deceased.

11. On that basis, counsel for appellants/claimants, states that considering the deceased was doing the work of a helper or a supervisor in *M/s. Kanta Enterprise*, minimum wages of an unskilled worker should not be accorded.

12. *Mr. Vaibhav Verma*, counsel for appellants/claimants, further contended that the informal unorganised sector always pays employees in cash and appellant/*wife of deceased* was unable to provide any document to support the claim of monthly payment. Wage certificate exhibited as *Ex. PW-1/2* had been provided by *PW-3*. In these circumstances, the minimum wage notification, at best, can be a yardstick, but it cannot be taken as an absolute parameter.

13. *Mr. Verma*, counsel for appellants/claimants, submitted that just because records have not been adequately maintained by *PW-3*, the same should not imperil the family of deceased. He further stated that taking the minimum wages of U.P. was unreliable, as there are various regions of Eastern and Western U.P., which are strikingly different in terms of income, earnings, and cost of living.

14. Reliance has also been placed on the first information report ('*FIR*'), which mentioned that the deceased was travelling by his motorcycle from his *Village Nagla Rustampur, Greater Noida*, at 08:00 am for his duty towards Noida, further substantiating his employment.

Analysis

15. It would be constructive to examine decisions of the Supreme



Court and this Court in order to understand the rationale behind the views taken regarding affixing benchmark income in various scenarios and assess some of these decisions delivered by the Supreme Court in a chronological order.

Supreme Court Decisions

16. In ***Kirti v. Oriental Insurance Co. Ltd.*** (2021) 2 SCC 166, while ascertaining compensation for the death of a husband and wife who were survived by 4 dependents, the Supreme Court considered the standard of living of the family of deceased in the absence of documentary evidence, holding that the standard of living must be preserved in tandem with the jurisprudence of motor accident compensation. Relevant assessment of the Supreme Court is extracted hereunder:

“II. Assessment of monthly income

11.Second, although it is correct that the claimants have been unable to produce any document evidencing Vinod's income, nor have they established his employment as a teacher; but that does not justify adoption of the lowest tier of minimum wage while computing his income. From the statement of witnesses, documentary evidence-on-record and circumstances of the accident, it is apparent that Vinod was comparatively more educationally qualified and skilled. Further, he maintained a reasonable standard of living for his family as evidenced by his use of a motorcycle for commuting. Preserving the existing standard of living of a deceased's family is a fundamental endeavour of motor accident compensation law. [See R.K. Malik v. Kiran Pal, (2009) 14 SCC 1, para 9 : (2009) 5 SCC (Civ) 265 : (2010) 1 SCC (Cri) 1265] Thus, at the very least, the minimum wage of Rs 6197 as applicable to skilled workers during April 2014 in the State of Haryana ought to be applied in his case.”

(emphasis added)



17. In *Manusha Sreekumar v. United India Insurance Co. Ltd.*, (2022) 17 SCC 321, the underlying facts involved a claim for compensation filed by the LRs of a deceased person working as a fish vendor-cum driver with a valid license. Relying upon *Chandra (supra)*, the Supreme Court held that relevant minimum wages may be used as a yardstick, along with some guesswork. Additionally, the Supreme Court also looked at the classification of a ‘skilled worker’ under the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971 in order to determine the wages paid to a driver in the year 2015. Relevant findings of the Supreme Court are extracted as under:

“21. This Court in Chandra v. Mukesh Kumar Yadav [Chandra v. Mukesh Kumar Yadav, (2022) 1 SCC 198 : (2022) 1 SCC (Civ) 359 : (2022) 1 SCC (Cri) 204] , has aptly held that in the absence of a salary certificate, the minimum wages notification along with some amount of guesswork that is not completely detached from reality shall act as a yardstick to determine the income of the deceased. In this context, keeping in view the import of Section 57 of the Evidence Act, 1872, we take judicial notice of the provisions of the Kerala Fair Wages Act, especially Section 2 thereof which defines the following expressions:

“2. Definitions.—In this Act, unless the context otherwise requires—

(a) “employer” means in relation to any motor transport undertaking, the person who or the authority which, has the ultimate control over the affairs of the motor transport undertaking, and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent or by any other name, such other person;

(b) “motor transport undertaking” means a motor transport undertaking including a private carrier engaged in carrying passengers or goods or both by road for hire or reward;



(c) “motor transport worker” means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend to duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk; cash clerk, depot clerk, time keeper, watchman, or attendant;

(d) “fair wages” means the rate of wages payable to the motor transport workers specified in the Schedule to this Act or the agreed rate of wages whichever is higher.”

22. Schedule B Category III to the Kerala Fair Wages Act classifies a driver as a “skilled worker”. Reading this in conjunction with the Notification that came into effect from 1-1-2015 which amended Schedule A to the Kerala Fair Wages Act, prescribing a minimum pay scale of the workers listed in Schedule B, it is apparent that a “driver” in Kerala earned a minimum of Rs 15,600 in 2015. It appears to us that the aforesaid Act and the notification issued thereunder were not brought to the notice of the Tribunal or the High Court. As a result thereto, the High Court could not be cognizant of the statutory mandate prescribing minimum wages for a skilled worker like “driver”, and thus, erred in fixing the income of the deceased at Rs 10,000. We are therefore inclined to fix the income of the deceased notionally at Rs 15,600 per month.”

(emphasis added)

18. In **Chandra** (*supra*), which is a decision delivered by the Supreme Court on 01st October 2021, the deceased/Shivpal was employed as a driver of a truck trailer. Claimants had raised a plea that the deceased was earning Rs.15,000/- per month, however, the Tribunal had taken the income of deceased at Rs.5,746/- per month as per the minimum wages of a skilled worker, even though, the wife of deceased had stated in her



deposition that the deceased was earning Rs.15,000/- per month. Against this depressed assessment by the MACT, an appeal was preferred before the High Court which was dismissed.

18.1. The Supreme Court in *paragraph 10* noted that it has already been proved from evidence on record that the deceased was driving a heavy vehicle on the date of accident possessed a driving license for the same. In the absence of a salary certificate, the minimum wage notification can be a yardstick, but cannot provide an absolute figure. The inability to produce documentary evidence did not justify the adoption of the lowest tier of minimum wage while computing the income of deceased. Supreme Court considered the growth of the vehicle population and demand for good drivers and assessed the income of deceased at Rs. 8,000/- per month for calculating loss of dependency.

19. In ***Rajwati @ Rajjo & Ors v United India Insurance Company Ltd & Ors***. 2022 SCC OnLine SC 1699, one, *Ghasita Ram* was working as a driver in a private company and died in a motor accident when he was driving a motorcycle, while returning home from work. His salary certificate and pay slip had been produced and the income of deceased was assessed by the Tribunal at Rs.11,225/- per month. An appeal was filed before the High Court by the Insurance Company challenging this aspect. The High Court reduced the income of deceased and assessed the same at Rs. 4,836/- per month, in view of the minimum wages fixed by the State.

19.1. This was challenged before the Supreme Court on the basis that the wife of deceased had testified that he was earning Rs.17,000/- per month as a driver before the Tribunal, same had also been testified by his



co-workers who were eye-witnesses to the accident and further corroborated by the salary certificate and pay slip of the deceased. Passbook of the deceased had not been produced by the claimants.

19.2. The Supreme Court relied upon the decision in ***United India Insurance Co. Ltd. v. Shila Datta & Ors.***, (2011) 10 SCC 509, emphasizing that the claim petition constituted under Section 165 of Motor Vehicles Act, 1988 (***'MV' Act***) is neither a suit nor an adversarial *lis*, therefore, strict rules of pleadings do not apply. Further, the Tribunal can follow a summary procedure in the process of inquiry under Section 169 of MV Act. Reliance was also placed on ***Sunita and Ors v Rajasthan State Road Transport Corporation and Ors.*** (2020) 13 SCC 486, on the standard of proof being *preponderance of probabilities*. Taking these into account, the opinion of High Court in rejecting the salary certificate and pay slip on the ground that the person issuing these documents was not examined, was rejected by the Supreme Court. Based on the statement of deceased's wife and as corroborated by the co-workers, the Supreme Court upheld the assessment taken by the Tribunal and reverted the benchmark income to Rs. 11,225/-.

20. In ***Nur Ahamad Abdulsab Kanavi v. Abdul Munaf & Ors.***, (2025) INSC 191, the facts involved a 27-year-old travelling on his motorcycle who suffered injuries in an accident. Income of Rs. 10,000/- per month was asserted by the claimants, however, the Tribunal considered the benchmark income at Rs.7,500/- per month. This assessment was endorsed by the High Court. On appeal, the Supreme Court relied upon the decision in ***Chandra*** (*supra*) and took the monthly income at Rs.10,000/- relying upon the statement of deceased's wife and



considering that there was no material to discard the oral testimony of the wife.

21. In *Rasmita Sahu and Ors v Divisional Manager and Anr.* SLP (C) No. 5252/2023, an order delivered on 28th May 2025, the Supreme Court was hearing an appeal filed by the LR's of deceased who was riding as a pillion rider on the motorcycle. Income of deceased was assessed by the Tribunal at Rs.35,000/- per month, while the claimants had contended that the deceased was earning Rs. 55,000/- per month. An appeal was filed by the Insurance Company before the High Court, stating that the assessment was excessive and, therefore, was assessed at Rs. 15,000/- per month by the High Court, in the absence of any credible evidence on record and consideration of place of residence and employment of deceased.

21.1. The Supreme Court noted that the salary certificate of deceased had been produced, which had not been refuted by the respondents. Relying upon *Kishan Gopal and Anr v Lala and Ors.*, (2014) 1 SCC 244, where the Supreme Court held that documentary evidence placed on record assumes greater evidentiary value, especially when respondents have failed to adduce any rebuttal evidence. Considering that the evidence was uncontroverted, the income of deceased was taken at Rs. 35,000/- per month.

22. In a recent decision of *Sharad Singh v. H.D. Narang*, 2025 SCC OnLine SC 2085, the Supreme Court considered the future career prospects of a student preparing for Chartered Accountancy examinations and the nature of employment he would have been engaged in, Rs. 5,000/- was taken as the monthly income and the



Supreme Court observed as under:

“5. The learned Senior Counsel for the appellant argued that there was no rationale in adopting the minimum wages for determining the income of a bright student who was in the process of completing his graduation and proceeding to sit for the Chartered Accountants examinations. The learned Counsel for the Insurance Company first argued that the amounts determined as minimum wages, is as per the schedule in Delhi relatable to a graduate. We were not convinced that the minimum wages would be determined on the basis of the educational qualification alone without reference to the nature of work carried on. The learned Counsel after further verification submitted that minimum wages adopted is of the year 2001 applicable to a skilled worker. We are not convinced that even that can be adopted for a graduate who was in the process of sitting for the Chartered Accountant examination which would have placed him in a good employment with immense prospects. The aspirations of the young man were shattered by the accident which left him paraplegic and fighting for breath, which also prompted the parents to relocate to another part of the country. We are of the opinion that even if he had not obtained the certificate as a Chartered Accountant, upon graduation, he could have been employed as an Accountant, who would have, on any reasonable estimate, received an amount of Rs. 5,000/- as monthly income in the year 2001, if the minimum wages prescribed for a skilled worker was Rs. 3,352/-. Adopting Rs. 5,000/- as monthly income, we are of the opinion that, as has been held in Pranay Sethi, 40% has to be computed as future prospects. The loss of income for the 100% disabled paraplegic would be Rs. 15,12,000/- (Rs. 5,000/- × 140% × 12 × 18)...”

(emphasis added)

23. It would also be apposite to consider decisions delivered by this Court in a chronological order.

Delhi High Court Decisions

24. A Coordinate Bench of this Court in ***United India Insurance Co.***



Ltd. v. Ram Prakash Mishra, 2023 SCC OnLine Del 231 was adjudicating the issue of adoption of minimum wages of a skilled worker in Delhi, while the claimant was a resident of UP, as claimed by the Insurance Company. It was further alleged that no documentary proof of income had been produced before the Tribunal. *Per contra*, counsel for claimant asserted that he was a graduate holding a degree of LL.B. and had previously worked with Food Corporation of India (FCI). After his retirement, the claimant initially worked as an Advocate, whereafter he started working as a property dealer and was earning more than Rs. 30,000/- per month from the said business. It was also admitted that adoption of Rs. 16,858/- as monthly income was incorrect and minimum wages applicable to a skilled worker in Delhi, should at least be applicable, considering that the claimant was working in a clerical capacity. The Court perused the documentary evidence and the fact that, even though, the claimant was a resident of UP, he had been residing in Sultanpur, Delhi, at the time of accident was taken notice of. Applying the minimum wages of a skilled worker in Delhi, this Court considered the totality of facts including his educational qualifications. Relevant paragraphs of the decision are extracted hereunder for ease of reference:

“8. Coming to the respondent's plea that his monthly income should be treated as Rs. 12,142/-, I find that while it is correct that the respondent did not file any proof of his monthly income being Rs. 30,000/- at the time of the accident, the fact remains that there is no dispute that he was holding a LL.B. degree at the time of the accident. It is also not seriously denied that after his retirement from the FCI, the respondent initially worked as an Advocate and was thereafter working as a property dealer. It is in the light of these admitted facts that the respondent's income has to be determined....”



(emphasis added)

25. This Court has also taken a view in ***United India Insurance Co. Ltd. v. Rajneesh Singh***, 2023 SCC OnLine Del 7682 which was an appeal filed by the Insurance Company challenging the assessment of monthly income of Rs. 25,000/- for injured/claimant as a student giving final year examinations of Chartered Accountancy (CA) was without basis and *de hors* the evidence on record. What was pressed was that the process of becoming a Chartered Accountant is arduous and only 8.26% of candidates are estimated to pass through the final examinations. The mere fact that injured/claimant had passed the first set of papers could not lead to a safe assumption that he would have passed his final papers for Chartered Accountancy. It was pleaded that assessment ought to have been done on the basis of minimum wages prevalent at that time. This Court relied upon the testimony of injured/claimant and his inability to continue his studies, along with taking tuitions through which he was earning Rs. 15,000-20,000/- which had not been proved through documentary evidence, however, reliance was placed on his cross examination. Rejecting the contentions of the Insurance Company, this Court upheld the view taken by the Tribunal. Observations in this regard are extracted as under:

“14. In these facts and circumstance, this Court is of the view that the possibility of him not clearing the Chartered Accountancy Examination may not be so acutely relevant to reduce his income assessment from Rs. 25,000/- (as assessed by the Ld. MACT) to minimum wages prescribed at Rs. 9,282/- (as asserted by the appellant). It is evident from the facts on record that not only was respondent No. 1, a B.Com. Graduate but also had been successful in clearing his two groups of papers for the CA Exam and most



importantly had already completed three years of Articleship. This coupled with the fact that he was possibly providing tuition to students of class 12th for Accountancy and Mathematics (even though there was no documentary proof) would show that he was a serious contender and not involved in the pursuit of CA as a pastime or with a half-hearted approach. He was clearly a serious student and even assuming against him that he was not giving tuitions to earn livelihood, reasonable assessment even in 2012 would be that he was a 24-year-old graduate, in the hope of acquiring a professional degree and had substantially travelled ahead on that path. Because an accident occurred just before the final examinations of CA, cannot reduce him to a minimum wages category. The Hon'ble Supreme Court in Chandra alias Chanda alias Chandraram (supra) held as under:

“In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because the claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income.”

(emphasis added)

26. This Court in **Geeta v. Mohd. Jamaluddin**, 2023 SCC OnLine Del 8065 while deciding the monthly income of a domestic servant placed reliance upon the statement of her employer, in the absence of an appointment letter, considering the informal nature of the employment. Relevant observations of the Court are extracted as under:

“17. This Court has perused the documents and assessed the contention of the parties. The assessment by this Court



is as under:

(i) MACT had not accepted the testimony of the appellant that she was earning Rs. 5000/- per month as a domestic servant, despite her employer Shri Ashish Bhatnagar having deposed in her favour and corroborated the same, as PW3. Merely because in his cross-examination, he could not produce an appointment letter and a document to confirm that she was given payment of Rs. 5000/-, MACT granted her minimum wages only. In the opinion of this Court, a domestic servant will be paid in cash and there will be no documentation either on the side of the employer or the employee for receipt of such wages. Payment of Rs. 5000/- per month for a domestic servant at that time would be a reasonable figure from all points of view. Further, the appellant/injured had taken pains to produce her employer as a witness, who categorically stated in her testimony that she indeed had been working as a domestic servant since 2004, and after her accident she had not come to work. In his cross-examination, he stated that he did not have any receipt of the payment of Rs. 5000/- but denied the suggestion that he had not paid the said amount to her. Further, he had placed on record his income tax returns stating that he was an income tax payee. Further, he did state, in his cross, that the news of the accident of the appellant had been received by him through a telephone call made by the appellant's mother and that his own mother had gone to see the appellant after the accident in LBS Hospital. On perusal of testimony, this Court is of the view that the MACT erred in not accepting the corroboration by PW-3 of the employment of the appellant as a domestic servant with him and that she was being paid Rs. 5000/- since his testimony was rather specific, not vague and gave attendant facts as well. The requirement of proof even in situations where there are unskilled workers are paid in cash, cannot work to the prejudice of the claimant.

(emphasis added)

27. A Coordinate Bench of this Court in **United India Insurance Co. Ltd. v. Narender**, 2024 SCC OnLine Del 5973 was considering an



appeal filed by the Insurance Company raising an argument that the Tribunal erred in calculating the benchmark income of a security officer working in Noida, UP, and instead attributed minimum wages prevailing in Delhi. Taking a liberal view and relying upon the oral testimony of the wife of injured, this Court upheld the assessment of Tribunal and observed as under:

“24. In the past, this Court has time and again held that the Act is a welfare legislation aimed at benefiting the victims of the accidents. In the instant case, it is not in dispute that the victim has suffered 90% disability and therefore, would not be able to continue the work of security officer.

25. The material on record also makes it clear that he was the sole earner in the family and therefore, the family shall be dependent on the compensation awarded for subsistence and furtherance of treatment of the victim.

26. Since the calculated compensation is already based on the minimum wage and not the actual claimed income of the victim, in the interest of justice, this Court does not deem it appropriate to reduce it further as the same would be an addition to the misery of already suffering family.

27. The increase in living cost has already increased the difficulties of the families where the sole earner have suffered disabilities due to accident and therefore, the further reduction would be nothing but an impediment for the basic sustenance of the families.”

(emphasis added)

28. A Coordinate Bench of this Court in ***Magma HDI GIC Ltd v. Poonam Kumari & Ors.***, 2025:DHC:11987, dealt with an appeal filed by the Insurance Company against the Tribunal’s award in the case of death of one, *Rahul Kumar* in a road accident. Claimants had asserted that the deceased was earning a salary of Rs.23,000/- per month while working as a *munshi*/clerk at a shop. Considering that there was no



evidence in support of the salary, minimum wages of a *matriculate* were taken at Rs.19,473/- per month. In the appeal before High Court, claimants relied upon oral evidence of the wife of deceased and the employer of deceased. The employer had stated that he was a fruit seller and running a small business in the name of '*Papita Merchants & Order Supplier*' thereby, appointment letters were not issued, but asserted that the deceased had been employed with him since 2019.

28.1. The High Court noted that it was not possible to insist upon the provision of documentary evidence in the form of appointment letters, salary slips, etc. where the employment is in the informal sector. Therefore, evidence must be looked at holistically. Considering that the evidence of wife of deceased was corroborated by the testimony of employer himself, coupled with the fact that the accident occurred at the location of his stated employment.

28.2. The High Court, however, noted that the Tribunal did not accept the assertion of claimants as regards the quantum of income. In the absence of documentary evidence and in view of the payment being made in cash, assessment on the basis of minimum wages of a *matriculate* was appropriate.

29. This Court in *IFFCO Tokio General Insurance Co. Ltd v. Naresh Chander and Ors.* 2026:DHC:683, was dealing with an appeal filed by the Insurance Company whereby the income of deceased had been computed by the Tribunal at Rs.18,222/- per month on the basis of his employment details, which was upheld by this Court relying upon *Rajwati @ Rajjo (supra)* and *Poonam Kumari (supra)*, based on a cumulative assessment of the testimonies of father and the two



employers. This Court noted that the Insurance Company could not provide any evidence to controvert the engagement of the deceased with the two employers where he was working in part-time service.

Guideposts

30. Principles which may be culled out from these cases cited above, and be used as guidepost for assessment of benchmark income, can be summarised as under:

A. Lack of documentary proof

- i. In the informal sector, it may not always be possible to produce documentary proof of employment and payment of wages, which are usually paid in cash.
- ii. Where there is lack of documentary proof to support that the victim was working in Delhi, reliance may be placed on facts and circumstances of the case to determine whether, the victim was residing in Delhi on the date of accident, in conjunction with documents such as driver's license, voter ID card, etc. Minimum wages of place of work will be then considered.
- iii. If documentary proof has not been filed, the Court can use the minimum wage benchmark of an appropriate category *i.e., unskilled, skilled, matriculate, etc.*, as a benchmark for assessment, but not be constrained to grant the lowest tier.

B. Oral testimony of family members, employers

- i. Assessment of income can also be done on the statement of the immediate legal heir of deceased, *i.e., wife, father, or immediate family member*, along with a statement of the employer, if any. Testimonies of the above-mentioned persons should be consistent



and there should be an unsuccessful rebuttal by the Insurance Company or the contesting party.

- ii. If the testimonies are not reliable, the Court can use the minimum wage benchmark of an appropriate category *i.e., unskilled, skilled, matriculate, etc.*, as a benchmark for assessment, but not be constrained to grant the lowest tier.

C. Proof of employment

- i. If documents in support of employment *inter alia*, Salary/Wage Certificate, Income Tax Returns (*'ITRs'*) have been filed, same shall be considered.
- ii. In the absence of such proof, assessment done by the Court has to be based on some intelligent guesswork and may not be restricted to the minimum wage parameter after taking into account a holistic analysis of the evidence on record. For example, place of employment, testimony of co-workers, or any other person who testifies in favour of the injured/deceased employee.
- iii. The entire assessment is ultimately imbued with an element of approximation and guesswork, as part of the inquiry proceedings and not on exactitude.
- iv. Reliance may be placed on State specific legislations, as well as Minimum Wage Notifications to lean on for support, in order to determine what qualifies as a skilled worker and an unskilled worker, with respect to the vocation of the victim.

D. Age, occupation and educational background of the victim

- i. In cases where the victim was a student and the evidence on record suggests that the victim would have engaged in employment after



completing education, had the accident not taken place; the Courts must consider the educational background keeping in view the missed future opportunities.

- ii. Reliance to be placed on documents and testimonies indicating the prior educational background of the victim, if no proof has been placed with regards to the employment details.

E. Standard of living of deceased persons

- i. When a claim petition has been filed by the surviving dependents of a deceased, where the deceased was the breadwinner of the family, Courts must attempt to ascertain the benchmark income keeping in view the void left by the breadwinner's death and income must be determined keeping in view the standard of living enjoyed by the family before the accident took place. While monetary compensation is a means to filling the financial hole left by the deceased, an estimate may be required to be done in order to support the remaining family members.

31. Needless to say, these are merely guidepost, illustrative and not exhaustive. However, there is no denying that individual cases would turn on its own peculiar facts.

The Present Case

32. In the present case, a wage certificate has been produced as **Ex. PW 1/2**, signed by the proprietor of *M/s Kanta Enterprises* where the deceased was working from 4th September 2017 to 18th January 2018 at a wage of Rs. 15,000/- per month. **PW-3** was a summoned witness and has testified in support of this certificate. While **PW-1** had stated that the deceased was working as a helper in *M/s Kanta Enterprises*, on the other



hand, **PW-3**, stated that there were 3 or 4 employees working with him during that period. Notably, respondent/Insurance Company has heavily relied upon the cross examination of **PW-3**, which may be reproduced for the sake of assessment:

"I am a summoned witness. I am Proprietor in Kanta Enterprises. There were 3-4 employees working from January, 2017 to January, 2018. Summons was received by my neighbourer at the address mentioned in the summon. I worked in the address mentioned in the summons. It is wrong to suggest that neither I work there nor I stay in the address mentioned in the summon. It is wrong to suggest that I did not receive the summon and I came here at the behest of petitioner to give false statement. I have not maintained any book of accounts for 3-4 employee who worked from January, 2017 to January, 2018. It is wrong to suggest that I have not maintained any books of account for the wages paid to the employees as I have not paid any wages to any of the employee working at that time. I have not placed on record the ITR filed by me for the period January, 2017 to January, 2018. I do not recall wages mentioned at the time of filing of ITR for the said period. I have given details to CA. It is wrong to suggest that I do not have any record showing the wages mentioned at the time of filing of ITR for the said period and any document showing that I have tendered the same to my CA.

I have never deducted Provident Fund from the salary of my employees. It is correct that no provident fund was deducted from the wages of Ashok. It is correct that there is no mention in the books of accounts maintained by me that the wages were paid to deceased Ashok. It is correct that I have not given any details to CA for deduction of wages/salary paid to deceased Ashok. Again said, I have given details to CA for wages/salary of deceased Ashok at the time of filing of ITR. It is wrong to suggest that I have given details to CA for wages/salary of deceased Ashok at the time of filing of ITR. It is wrong to suggest that I have not placed on record the details filed by CA at the time of filing of ITR. No police



verification of deceased Ashok was carried out by me before his employment.

I personally do not know the family of deceased Ashok. I have not placed any document/record showing that I have paid wages/salary to deceased Ashok. Wages/salary were paid to the employee in cash. It is wrong to suggest that neither the wages/salary was paid in cash or cheque. It is wrong to suggest that the salary certificate dated 10.02.2018 is a false document and without any supporting document to show that Rs.15,000/- was ever paid to deceased Ashok.

I have not maintained any attendance register of employees from 1st September, 2017 to 18th January 2018. I do not have any other document to show that deceased Ashok was working with me from 1st September, 2017 to 18th January, 2018. It is wrong to suggest that the deceased Ashok was working with M/s. Kanta Enterprises from 1st September, 2017 to 18th January, 2018. It is wrong to suggest that I have placed on record **Ex.PW3/1** is false and fabricated. It is wrong to suggest that I am deposing falsely at the behest of petitioner. It is further wrong to suggest that **Ex.PW3/A** is false.”

(emphasis added)

33. The Court has perused the testimony of **PW-1**, along with the statement of **PW-3** and cross examination conducted by respondent/Insurance Company. Moreover, the statement made by the Proprietor by way of affidavit in examination-in-chief, **Ex PW3/A** and the Salary Certificate exhibited has been taken note of.

34. In his statement, **PW-3**, Proprietor of M/s. Kanta Enterprises has categorically stated that the wage/attendance register for the period of September 2017 to January 2018 were not maintained by him. He goes on to state that the wages were paid in cash and the Salary Certificate



exhibited was not false. It is pertinent to note that the testimony was not relied upon the MACT by stating that, “*there is no wage register or attendance register or even the ITR of said firm filed on record to corroborate the oral testimony of PW2 nor there is any other proof of payment of salary at said rate in favour of deceased.*” It was also noted that there being no cogent proof of employment or salary, the MACT was left with no option but to assess the monthly income of the basis of minimum wages of an unskilled worker.

35. In this regard, this Court is of the view that the oral testimony of **PW-3** cannot be relied upon, as it has not been supported by any documentary evidence. It was further stated by him that, he did not have any document to show that the deceased had been working with him from 01.09.2017 to 18.01.2018. Therefore, in view of the principles culled hereinabove, this Court is of the opinion that minimum wages will have to be considered if the oral testimony cannot be relied upon.

36. As regards the categorization of minimum wages, reliance may be placed upon the testimony of **PW-1**, which remained unrebutted after cross-examination by respondent no.1/Insurance Company. The FIR also records the statement made by brother of deceased, who stated that the deceased was travelling from his village Nagla Rustampur to Noida for work on his motorcycle and the accident occurred at Yamuna Expressway, Noida.

37. There is no reason to displace the testimony of **PW-1**, however, in the absence of documentary proof to support this testimony, this Court is inclined to consider income of deceased on the basis of minimum wages of a skilled worker in UP. In this regard, statement made by brother of



deceased that that he was on his way to work when the accident took place, also needs to be taken into consideration to conclude that the deceased was working in a private job.

38. Therefore, in view of the above observations, this Court is inclined to assess the income of deceased on the basis of minimum wages of a skilled worker *i.e.* Rs. 9,381/- per month. Assessment undertaken by the Court has to be done by taking note of all the facts and materials on record, along with some intelligent guesswork.

39. The revised computation is therefore, as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court
1.	Income of the deceased (A)	Rs. 7,400/-	Rs. 9,381/-
2.	Add-Future Prospects (B)	Rs.2,960/-	Rs. 3,752.4/-
3.	Less-personal expenses of the deceased (C)	Rs. 2,590/-	Rs. 3,283.35/-
4.	Monthly loss of dependency [(A+B) - C = D]	Rs. 7,770/-	Rs. 9,850.05/-
5.	Annual loss of dependency (Dx12)= (E)	Rs. 93,240/-	Rs. 1,18,200.6/-
6.	Multiplier (F)	15	15
7.	Total loss of dependency (E x F) = (G)	Rs. 13,98,600/-	Rs. 17,73,009/-
8.	Compensation for loss of love and affection (H)	Nil	Nil
9.	Compensation for loss of consortium (I)	Rs. 2,42,000/-	Rs. 2,42,000/-
10.	Compensation for loss of estate (J)	Rs. 18,150/-	Rs. 18,150/-
11.	Compensation towards funeral expenses (K)	Rs. 18,150/-	Rs. 18,150/-
12.	Total Compensation (G+H+I+J+K = L)	Rs. 16,76,900/-	Rs. 20,51,309/-
13.	Interest Awarded	7.5%	7.5%
14.	Enhanced Compensation	Rs. 3,74,409/-	

Directions

40. For the aforesaid reasons, compensation has been enhanced by



Rs.3,74,409/- [“*enhanced amount*”].

41. Enhanced amount along with 7.5% interest per annum from the date of filing the petition shall be deposited before MACT within a period of four weeks, which shall be released as per the scheme of the MACT. Original compensation awarded by the MACT shall continue to be released as per scheme of the MACT.

42. The appeal is accordingly disposed of in the above terms.

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

44. Copy of this judgement be sent to concerned MACT.

45. Copy of this judgement shall also be sent to concerned bank.

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

(ANISH DAYAL)
JUDGE

APRIL 30, 2026/RK/sp