IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C) No. 25497/2025)

KIROSATA DEVI & ORS. … APPELLANT(S)

VERSUS

RAM JI LAL & ORS. … RESPONDENT(S)

O R D E R

Time taken for the disposal of the claim petition by MACT	**Time taken for the disposal of the appeal by the High Court**	**Time taken for the disposal of the appeal in this Court**
1 year, 11 months, 22 days	10 years, 4 months, 22 days	7 months, 28 days

Leave granted.

1. This appeal is directed against the Judgment and Order dated 5th October 2023, passed in S.B. Civil Miscellaneous Appeal No. 1866/2013 by the High Court of Judicature for Rajasthan, Bench at Jaipur. which, in turn, was preferred against the order dated 21st January 2013 in MACT Claim Petition No.09 of 2011 passed by the Motor Accident Claim Tribunal, Kishangarh, Bass (Alwar).

2. The brief facts giving rise to the present appeal are that on 21st November 2010, the deceased, Ramjas Yadav, aged 43 years along with his family was travelling to Alwar from his village on a motorcycle, At around 9AM, they parked their vehicle on the roadside to attend nature's call, when the Respondent No.1, driving his bus bearing registration no. RJ-32-PA-0277 (*Offending Vehicle*) negligently, dashed into the vehicle of the deceased. As a result of the accident, the deceased sustained severe injuries and died on the spot. In connection with the incident, a FIR was registered at PS Kharthal against the driver of the offending vehicle.

3. A claim petition was filed on behalf of the claimant-appellant(s) (*the legal representatives of the deceased*), under Section 166 of the Motor Vehicles Act, 1988, before the Tribunal, seeking compensation to the tune of Rs.1,28,63,088/-. It was asserted that the deceased was earning a total monthly income of Rs.38,312/-, comprising of Rs.32,473/- from his job as a staff officer in Integrown Property Management Service Private Limited and Rs.5,829/- towards pension, having retired from the Border Security Force as a Head Constable.

4. The Tribunal *vide* its order dated 21st January 2013, awarded a sum of Rs.25,42,000/- to the claimant-appellant(s) along with interest @9% per annum from the date of filing the claim petition. The Tribunal, considering the evidence on record, determined the income of the deceased to be Rs.20,000/- per month. A deduction of 1/4th of the income of the deceased was made towards living expenses, and a multiplier of 14 was applied. The Respondents were held jointly and severally liable to pay compensation to the claimant-appellant(s).

5. Aggrieved by the compensation awarded by the Tribunal, the claimant-appellant(s) filed an appeal before the High Court seeking an enhancement of the compensation amount. It was contended that the Tribunal erred in not considering the deceased's income @Rs.32,473/- per month. It was also asserted that no amount has been awarded under the head of future prospects, and the amount awarded under the other conventional heads is on the lower side.

6. The High Court, *vide* the impugned judgment, partly allowed the appeal and enhanced the compensation amount to the tune of Rs.39,71,176/- from Rs.25,42,000/- as awarded by the Tribunal. The enhancement was made under the heads of future prospects, Loss of consortium, loss of estate and also under other conventional heads. The High Court re-assessed the income of the deceased @Rs.23,084/- per month and, after applying the settled principles of law as laid down in ***National Insurance Company v. Pranay Sethi***[1] deducted 1/4th of the income towards personal and living expenses, considering the number of dependents.

7. Yet, dissatisfied with the judgment and order passed by the High Court, the claimant-appellant(s) are now before us. The significant point of challenge taken is that both Courts below erred in assessing the deceased's income and failed to consider the various allowances payable to him. It was further urged that the High Court overlooked the fact that the pension of the was reduced to 50% of what he would have been entitled to had he survived, thereby causing additional financial loss of the family.

8. We have heard the learned counsel for the parties and the *Amicus Curiae*, Mr. Kartik Jain, who has ably assisted this Court. We have also perused the counter-affidavits filed on behalf of the Respondent Nos.1 & 2. Now we proceed to decide the matter.

9. In the present case, we are inclined to interfere with the findings of the Courts below in assessing the annual income of the deceased. The claimant-appellant(s) have placed on record the salary slips and the pensioner's identity card of the deceased, which clearly establish that he used to earn Rs.32,673/- per month from his private employment and also

[1] (2017) 16 SCC 680

drew a monthly pension of Rs.5,839/- being a retired Head Constable of Border Security Force. Both the Courts below have concurrently held that, since the deceased's wife, Appellant No.1, continued to receive family pension after his demise, no loss on account of pension was proved. Be that as it may, this court in ***Hanumantharaju B. v. M. Akram Pasha***[2]**,** has held that:

> **"19.** It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.
> For this proposition of law, we may refer to the decision in *Vimal Kanwar* v. *Kishore Dan* (2013) 7 SCC 476, wherein this Court, by referring to the earlier decision in *Helen C. Rebello* v. *Maharashtra SRTC* (1999) 1 SCC 90, held as follows:—
> ***"19.*** *The aforesaid issue fell for consideration before this Court in* Helen C. Rebello *v.* Maharashtra SRTC *[(1999) 1 SCC 90 : 1999 SCC (Cri) 197]. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of*

[2] 2025 SCC OnLine SC 1106

accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. The following was the observation and finding of this Court : (SCC pp. 111-12, para 35)

"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co-relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of

> *any co-relation. The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual.”*
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> Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in *Reliance General Insurance Co. Ltd.* v. *Shashi Sharma* (2016) 9 SCC 627 and *National Insurance Company Ltd.* v. *Birender* (2020) 11 SCC 356.”

10. What flows from ***Hanumantharaju B.*** (supra) is that pension being a recurring and assured source of income arising from the past service of the deceased constitutes an integral part of his pecuniary benefits. Hence, while determining the loss of dependency, the pension amount cannot be excluded or deducted, as it forms a legitimate and continuing component of the income which the dependents would have otherwise received, and hence the pension amount as receivable at the time of the accident, by the deceased has to be considered while calculating the loss of income and hence in the present case as the deceased was receiving a pension of Rs.5,839/- per month, and accordingly the same has to be added to the salary as received by the deceased from his private job. As far as the income from the private service is concerned, the Courts below have made certain unwarranted deductions in calculating the income. We therefore fix the income of the deceased from his private service at Rs.32,673/- per month, and as a result, the total monthly income of the deceased is re-fixed at Rs.38,512/- for the computation of compensation. The claimant-appellant(s) are also entitled to compensation under other heads in accordance with the settled principles of law.

11. In view of the aforesaid, the compensation payable to the appellants would be recalculated as follows:

CALCULATION OF COMPENSATION

Compensation Heads	**Amount Awarded**	**In Accordance with:**
Monthly Income	Rs. 38,512/-	***Hanumantharaju B. v. M. Akram Pasha*** 2025 SCC Online SC 1106
Yearly Income	Rs.4,62,144/-	
Future Prospects (30%) (*Age being 43*)	4,62,144 + 1,38,643 = Rs.6,00,787/-	***National Insurance Co. Ltd. v. Pranay Sethi*** (2017) 16 SCC 680 *Para 37, 39, 41, 42 and 59.4*
Deduction (1/4)	6,00,787 – 1,50,196 = Rs. 4,50,591/-	
Multiplier (14)	4,50,591 X 14 = Rs. 63,08,274/-	
Loss of Income of the Deceased	**Rs.63,08,274/-**	
Loss of Estate	**Rs.18,150/-**	***National Insurance Co. Ltd. v. Pranay Sethi*** (2017) 16 SCC 680
Loss of Funeral Expenses	**Rs.18,150/-**	

		Para 59.8
Loss of Consortium	48,400 X 4 = **Rs.1,93,600/-**	***National Insurance Co. Ltd. v. Pranay Sethi*** (2017) 16 SCC 680 *Para 59.8* ***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*
Total	**Rs.65,38,174/-**	

Thus, the difference in compensation is as under:

MACT	High Court	This Court
Rs.25,42,000/-	**Rs.39,71,176/-**	**Rs.65,38,174/-**

12. The Civil Appeal is allowed in the aforesaid terms. The impugned Award dated 21st January 2013 in Claim Petition No.09 of 2011 passed by the Motor Accident Claim Tribunal, Kishangarh, Bass (Alwar), as modified by the High Court of Judicature for Rajasthan, Bench at Jaipur, *vide* the impugned order dated 5th October 2023, passed in S.B. Civil Miscellaneous Appeal No.1866/2013 stands modified accordingly. The aspect of liability, being joint and several, is not interfered with. Interest on the amount is to be paid as awarded by the Tribunal. The period of delay of 443 days in filing and 124 days of refiling this appeal shall not be counted towards the computation of interest.

13. 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.
(SATISH CHANDRA SHARMA)

New Delhi;
17th November, 2025