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

% ***Reserved on : 22nd May 2026***
Pronounced on : 01st July 2026
Uploaded on : 02nd July 2026

\+ **MAC.APP. 509/2024 & & CM APPL. 56043/2024**

ORIENTAL INSURANCE CO LTD .....Appellant

Through: Mr. Kanwar Kochar, Advocate

versus

VINAY JAIN & ORS .....Respondents

Through: Mr. Rajat Wadhwa and Mr. Honey Jain, Advocates for Respondent No.1

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

%

ANISH DAYAL, J.

1. This appeal has been filed by the appellant/Insurance Company assailing the Award dated 9th July 2024 passed by the Motor Accident Claims Tribunal, South East District, Saket Courts ['***MACT/Tribunal***'] in ***MACT No.372/2022***, whereby compensation of *Rs.57,64,476/-* along with interest at the rate of 9% per annum from the date of filing claim petition till realisation ["***impugned award***'], was awarded to the claimant, *Mr. Vinay Jain* [*respondent no.1 herein*].

2. The essential contention raised by *Mr. Kanwar Kochar*, counsel for appellant/Insurance Company, is that *husband* of the deceased/claimant [*respondent no.1*] was an '*earning member*' of the

family, and was not financially dependent upon his *wife* and, therefore, would not be entitled to compensation under the head of "*loss of dependency*".

3. The issue for consideration before this Court is whether "*dependency of husband*", in the context of contribution made by a *wife*, in the form of services, income, or contribution to the household, ought to be taken into account while calculating the total compensation.

4. The accident took place on 26th January 2022 when *Ms. Nidhi Jain* [hereinafter '***deceased***'] was travelling along with her *husband*, *Mr. Vinay Jain*/claimant [*respondent no.1*], their *daughter*, her *mother-in-law* and *niece* in a car which was being driven by claimant/respondent no.1. At about 10:00 - 10:30 p.m., when they were on *National Highway-58* ["***NH-58***"], a truck bearing registration number *UP-15-AT-0876* ["***offending vehicle***"], allegedly being driven in a rash and negligent manner at high speed, suddenly came onto the highway and hit their car. Due to the impact, deceased along with her *daughter*, *mother-in-law* and *niece*, passed away, while her *husband* [*claimant/respondent no.1*] survived.

5. Separate claim petitions were filed with respect to the deaths of the *daughter* and *niece*. *FIR No.33/2022* dated 27th January 2022, under *Sections 279/338/304-A/427* of the Indian Penal Code, 1860 ['***IPC***'] was registered at *Police Station Partapur*; investigation ensued and a charge-sheet was filed.

Impugned Award and Appeal

6. The issue of '*causation*' and '*negligence*' was decided in favour of claimant/respondent no.1 and liability was fastened upon the appellant/Insurance Company, being insurer of the offending vehicle.

7. What is disputed before this Court is the '*quantum*' of compensation. Deceased was *33 years* of age on date of the accident, and, therefore, multiplier was taken as '***16***'. As regards the income of deceased, it was noticed that deceased was a *postgraduate (M. Phil*) and was working as a '*Salaried Director*' with *Grepix Infotech Pvt. Ltd*. at time of the accident.

8. It was contented by claimant/respondent no.1 that her last drawn salary was *Rs. 65,000/-* per month, and that she was contributing towards family expenses. In this regard, claimant/respondent no.1 relied upon the Income Tax Returns ['***ITRs***'] of the deceased, for the Financial Years ['***FY***'] 2019-2020, 2020-2021 and 2021-2020, exhibited as **Exhibit PW1/8**, **Exhibit PW1/9** and **Exhibit PW1/10** respectively.

9. Since ITR for the FY 2021-2022 had been filed after the accident, the MACT chose to rely upon the ITR filed for FY 2020-2021 and accordingly, assessed the total annual income of deceased as *Rs.5,06,230/-*.

10. *Future prospects* were added at **40%** on the basis of her employment. Deduction towards *personal and living expenses* was taken as *one-half*, considering that she was contributing towards the family expenses along with her *husband*. Consequently, *loss of dependency* was calculated at *Rs.56,69,776/-*.

11. Compensation under non-pecuniary heads, *viz*. *loss of consortium*, *loss of estate*, *funeral expenses*, was awarded in terms of the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi,*** (2017) 16 SCC 680 and ***Sarla Verma v. DTC,*** (2009) 6 SCC 121 at *Rs. 48,400/-*, *Rs.18,150/-* and *Rs.18,150/-* respectively. The total compensation awarded was *Rs.57,54,476/-* along with interest at the rate of *9%* per

annum, out of which the MACT directed release of *Rs.10,54,476/-*, while the balance amount of *Rs.47,00,000/-* was directed to be kept in Fixed Deposit Receipts [‘***FDRs***’].

12. Thereafter, an appeal was filed by appellant/Insurance Company. Notice was issued by this Court on 24th September 2024, and appellant/Insurance Company was directed to deposit the entire compensation amount along with interest from date of institution of the claim before the Registrar General of this Court. No directions for release were passed; however, liberty was granted to respondents to file an application seeking release of the amount.

13. On 28th October 2024, pursuant to ***CM APPL. 63642/2024*** seeking release of said amount, this Court directed release of **30%** of the compensation amount in favour of claimant/respondent no.1, on the same terms and conditions as stipulated in the impugned award.

Submissions on behalf of appellant/Insurance Company

14. *Mr. Kanwar Kochar*, counsel for appellant/Insurance Company, relied upon the decisions in ***National Insurance Co. Ltd V. Ashok Kumar Kochhar & Ors***. 2024:DHC:4807 and ***Oriental Insurance Co. Ltd v. Pawan Kumar Sharma & Ors.*** 2024:DHC:2973, both rendered by a Single Judge of this Court.

15. In ***Pawan Kumar Sharma*** (*supra)*, *wife* and *child* of the claimant died in a motor accident, in respect of which compensation was sought. The *wife* was working as an ‘*Executive*’ in a private company and was drawing a salary of *Rs.2,42,174/-* per annum. The Tribunal assessed the monthly income at *Rs.14,133/-* per month and computed *loss of dependency* after adding **50%** towards *future prospects*. Insurance Company preferred an appeal on the ground that the *husband* was not

dependent upon his *wife* and, therefore, sought modification of compensation awarded. The Single Judge relied upon the decision of this Court in ***Keith Rowe v. Prashant Sagar***, 2010 SCC OnLine Del 4686 and of the Karnataka High Court in ***A. Manavalagan v. A. Krishnamurthy***, 2004 SCC OnLine Karnataka 222. Consequently, the compensation was re-computed, and reduced to about **50%** of the compensation awarded by the MACT, on the basis of ***Keith Rowe*** *(supra)*, wherein a formulaic assessment was laid down.

16. The Single Judge followed his earlier decision in ***Pawan Kumar Sharma*** (*supra)* in ***Ashok Kumar Kochhar*** (*supra*), which also pertained to an accident wherein the *wife* of the claimant died. The deceased *wife* was working as an '*Accountant*' with a State-owned organization and was drawing a salary of *Rs. 56,975/-* per month. The Tribunal granted compensation by applying the settled principles governing the calculation of compensation, and accordingly, awarded compensation under the head of *loss of dependency*. Insurance company challenged the same, contending that the *husband* was not a '*dependent*' and, therefore, was not entitled to compensation under the head of *loss of dependency* in terms of the decision in ***Keith Rowe*** *(supra)*.

17. Yet again, the Single Judge relied upon ***Keith Rowe*** *(supra)* and ***A. Manavalagan*** (*supra*), and calculated the *loss of estate* as *one-third* of annual income multiplied by a suitable multiplier. Therefore, the compensation was reduced.

Submissions on behalf of the Claimant/respondent no.1

18. *Mr. Rajat Wadhwa*, counsel for claimant/respondent no.1, submitted that factum of the accident was not in dispute; driver of the offending vehicle was charge-sheeted. He further submitted that the

MACT had awarded compensation after taking into account the *loss of dependency*.

19. Countering the submissions made by counsel for appellant/Insurance Company, he submitted that, ***firstly***, appellant/Insurance Company did not lead any evidence to establish that the surviving *husband* was not financially dependent upon his *wife*; ***secondly***, it was not disputed that deceased was gainfully employed as a '*Salaried Director*' and was drawing a substantial income; ***thirdly***, reliance placed upon ***Keith Rowe*** *(supra)* was misplaced in view of the subsequent decision of the Supreme Court in ***Malakappa and Others v. IFFCO Tokio General Insurance Company Limited and Anr.***, 2025 SCC Online SC 979, wherein the Supreme Court held that where the employment or income of *husband* had not been proved, the Court could not presume that the *husband* was not dependent upon deceased *wife*, and, at the very least, '*partial dependency*' cannot be ruled out.

20. *Mr. Rajat Wadhwa*, counsel for claimant/respondent no.1, further contended that claimant/respondent no.1 had specifically pleaded in the claim petition that he continued to be dependent upon deceased, which was further substantiated by evidence on record, including his evidence by way of affidavit. For ease of reference, same is extracted as under:

> "*5. That after the death of the wife of petitioner/deponent, the deponent morally and mentally became down and had came in depression. The petitioner is also burdened with home loans and other liabilities such as office rent etc. The income of the wife of the petitioner/deponent was great contribution in loans and rent and hence the petitioner/deponent is dependent on the income of his wife deceased Nidhi Jain.*"

21. Furthermore, reliance was placed upon ***Arun Kumar Agarwal v. National Insurance Company Ltd.***, (2010) 9 SCC 218, wherein the Supreme Court held that, in cases of death of a *wife*, her *husband* and *children* were entitled to compensation, not only for her lost earnings, but also for the pecuniary value of her domestic and familial services, which has to be assessed on some pecuniary basis. Reliance was also placed upon the decision of the Madhya Pradesh High Court in ***United Insurance Co. Ltd. v. Shubham Kumar Jatav***, 2025:MPHC-JBP:47597, wherein it was held by a Single Judge of that Court that *husbands* were generally dependent on their *wives*, either financially or through unpaid domestic labour, and that the work of a '*homemake*r' has monetary value, even if it is not salaried.

Analysis

22. Before appreciating and assessing the various decisions cited by respective counsels, certain facts which may have a bearing on the issue of *loss of dependency*, need to be stated.

23. The claim petition states that the deceased [*Ms. Nidhi Jain*] was *34 years* of age, was a *postgraduate (M. Phil)*, and was working as a '*Salaried Director*' with *Grepix Infotech Pvt. Ltd.*. The claim petition further states that her last drawn gross salary was *Rs. 65,000/-* per month and that she was supporting her *husband* in making payments and bearing additional expenses. It is further stated that claimant/respondent no.1 fell into a "*state of depression*" following the death of his *wife*, while also being burdened with liabilities such as home loans and office rent. Income of the deceased constituted a substantial contribution towards payment of said loans and rent and, on this basis, *dependency* of claimant/respondent no.1 upon the deceased was asserted.

24. In response thereto, appellant/Insurance Company filed its written statement stating that claimant/respondent no.1 had failed to enclose any documentary proof pertaining to '*age*', '*income*', '*educational qualifications*' or '*employment*' of the deceased. However, there was neither any denial of nor any challenge to the issue of '*dependency of husband*'.

25. In context of the aforesaid, testimony of **PW-1** [*claimant/respondent no.1*] needs to be examined, which reiterates assertions made in the claim petition, as noted above. During the cross-examination of **PW-1**, all relevant documents, including bank statements of the company managed by the *husband* [claimant/respondent no.1] of the deceased, namely *Grepix Infotech Pvt. Ltd.*, for the relevant period, were brought on record. Further, during cross-examination dated 16th February 2023, claimant/respondent no.1 stated that he had taken a "*joint home loan*" with his *wife* from the *Industrial Development Bank of India* [***IDBI Bank***] in the year 2019-2020. A perusal of records pertaining to the cross-examination reveals that counsel for appellant/Insurance Company initially did not cross-examine **PW-1** [*claimant/respondent no.1*] on the issue of *dependency*; however, as recorded in proceedings before the Local Commissioner dated 1st April 2023, counsel for the appellant/Insurance Company subsequently submitted that they wished to lead evidence. Resultantly, it was contended by counsel for claimant/respondent no.1 that not only had the appellant/Insurance Company failed to lead evidence to establish that claimant/respondent no.1 was not dependent upon deceased, but the categorical assertions made by **PW-1**[*claimant/respondent no.1*] in this regard also remained unrebutted, as they were not controverted by appellant/Insurance

Company during cross-examination. Therefore, the issue of '*dependency of husband*' has only been raised by appellant/Insurance Company in the present appeal, which cannot be sustained.

26. Yet another issue which requires mentioning is that *Section 166(1)(c)* of the Motor Vehicles Act, 1988 ['***MV Act***'], permits an application for compensation to be preferred by '*all or any of the legal representatives*' of the deceased, where death has resulted from an accident. On said basis, it has been claimed that claimant/respondent no.1 is a '***Class-I***' legal heir of the deceased in terms of *Section 15(1)(a)* of the ***Hindu Succession Act, 1956*** and, therefore, there exists no statutory bar to his claiming compensation.

27. To this effect, none of the judgments, relied upon by appellant/Insurance Company, hold that there exists a statutory bar upon *husband* of deceased from claiming compensation. Therefore, there is no occasion for this Court to examine the said contention, considering that the legal position in this regard is not disputed. Even otherwise, the legal right of a *husband* to claim compensation in respect of death of his *spouse* due an accident cannot be denied in any manner. Accordingly, the only issue which remains is that of the '*quantum of compensation*' and '*loss of dependency of husband*'.

28. The genesis of the argument that an earning *husband* cannot seek compensation under the head of *loss of dependency* upon the death of his *wife* appears to arise from the misconception that, in most societal setups, the *husband* is the earning member of the family and, the *wife*, largely being a non-earning member, disentitles the *husband* from grant of compensation under the head of '*loss of dependency*' in the event of *wife's* demise.

29. *Mr. Rajat Wadhwa*, counsel for claimant/respondent no.1, drew attention to an observation made by the Single Judge of this Court in ***Ashok Kumar Kochhar*** (*supra*) which exemplifies this presumption and is extracted as under:

> *"....In a contemporary Indian society, which is by and large a patriarchal set up, while the death of the wife would definitely entail pain and misery to the surviving husband, the element of financial dependency has to be discounted and the loss would be in the nature of loss to estate."*

30. *Mr. Rajat Wadhwa*, counsel for claimant/respondent no.1, contended that the aforesaid reflects the underlying theme which formed the basis for decisions in ***Ashok Kumar Kochhar*** (*supra*) and ***Pawan Kumar Sharma*** (*supra)*, both incidentally rendered by the same Judge.

31. Nevertheless, without commenting upon the said observation, this Court is of the view that the issue of compensation resulting from an accident cannot be seen through a prism of whether society is a patriarchal setup, or otherwise. Such considerations ought to be anathema to the application of legal principles. The legal principle which imbues the issue of compensation in a motor accident claim is rooted in the law of torts, being a claim for damages/compensation arising out of a negligent act resulting in death of a person, in respect of which a claimant approaches either the Claims Tribunal or the Court. A claim for damages/compensation does not depend upon whether it is made by a *husband* on account of the death of his *wife* or *vice-versa*. It would be extremely difficult and inappropriate for the Court to peer into private arrangements amongst family members, including the manner in which their household expenses are met, lifestyles sustained, or savings made

for future investments or contingencies. More often than not, Tribunals and Courts rely upon anecdotal and insubstantial statements made in the testimonies of legal representatives, which frequently remain unrebutted. Furthermore, no reliable or cogent evidence is ordinarily led by the Insurance Companies, and the driver or owner of the insured offending vehicle is usually absent from proceedings.

32. Material placed before Courts having evidentiary value includes salary statements or salary slips, income certificates, Income Tax Returns [**ITRs**], testimonies of employers and employees, bank statements and other financial documents, all of which ordinarily stand unrebutted. If deceased in a motor accident was an '*earning member*' of the family, whether *husband* or *wife*, it is evident that such income constituted a contribution to the family corpus. For the Tribunal or the Court to deny the same on an assumption that such contribution was unnecessary merely because another member of the family was also earning would amount to an erroneous assessment. Such an assessment would, in fact, inject unnecessary subjectivity, contrary to the guideposts laid down by the Supreme Court standardising large tracts of compensation, *inter alia*, in ***Sarla Verma*** (*supra*) and ***Pranay Sethi*** (*supra*).

33. On the other hand, if the deceased was '*not an earning member*', then other aspects deliberated upon by the Courts, get triggered. Any *non-earning member* forming part of the '*head unit*' of the family, whether *husband* or *wife*, would ordinarily contribute through gratuitous services rendered for the upkeep of the family. Yet again, such a *non-earning member*, could either be a '*non-earning husband*' or a '*non-earning wife*'. It is perhaps time that the Courts take note of evolving

societal structures and changing realities, which are no longer anchored in the traditional past. For this purpose, certain decisions of the Supreme Court and international jurisprudence may be relevant.

Decision in Arun Kumar Agarwal v. National Insurance Company Ltd. (2010) 9 SCC 218

34. In ***Arun Kumar Agrawal*** (*supra*), the Supreme Court undertook an extensive assessment regarding the award of compensation in respect of death of a '*non-earning member*' of the family (in that case, the *wife*). *Wife* of the appellant died in a road accident. Following her death, appellant filed a claim for compensation stating that he had become '*miserable*' and, was therefore, unable to look after his minor child or manage the domestic affairs of the family. *Dependency* was disputed; the Tribunal reduced the compensation; the High Court dismissed the appeal filed by claimants. Subsequently, the argument advanced before the Supreme Court was that refusal to recognize the immense importance of invaluable services rendered by a *housewife*/*mother* to the family throughout her life constituted an error.

35. The Supreme Court proceeded to consider the question formulated by it, which was as follows: "*What should be the criteria for determination of compensation, payable to the dependents of a woman, who dies in a road accident and who does not have a regular source of income?*"

36. The discussion by the Supreme Court in this regard begins from *paragraph 22* of the judgement, wherein certain English decisions were considered. The Court noted that the trend in English law had been that, in cases involving death of a *wife*, compensation was granted having regard to pecuniary aspects, *inter alia*, loss to the family of the *wife's*

housekeeping services, loss suffered by *children* due to deprivation of personal attention by their *mother*, and the loss arising from absence of a *wife's* personal care and attention, etc. In *paragraph 26*, the Court further noted that, in India, Courts have recognized that the contribution made by a *wife* to the household is invaluable and cannot be assessed in monetary terms. However, since such contributions are non-pecuniary in nature, some pecuniary estimate has to be made for the services rendered. Without paraphrasing the relevant paragraphs, the said paragraphs from the Supreme Court's decision are reproduced as under:

> "***26.*** *In India the courts have recognised that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by the wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of the husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean, etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children.*
>
> ***27.*** *It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. the husband and children. However, for the purpose of award of compensation to the dependants, some pecuniary estimate has to be made of the services*

of the housewife/mother. In that context, the term "services" is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. The amount payable to the dependants cannot be diminished on the ground that some close relation like a grandmother may volunteer to render some of the services to the family which the deceased was giving earlier.

xxxx

***35.** In our view, it is highly unfair, unjust and inappropriate to compute the compensation payable to the dependants of a deceased wife/mother, who does not have a regular income, by comparing her services with that of a housekeeper or a servant or an employee, who works for a fixed period. The gratuitous services rendered by the wife/mother to the husband and children cannot be equated with the services of an employee and no evidence or data can possibly be produced for estimating the value of such services. It is virtually impossible to measure in terms of money the loss of personal care and attention suffered by the husband and children on the demise of the housewife. In its wisdom, the legislature had, as early as in 1994, fixed the notional income of a non-earning person at Rs. 15,000 per annum and in case of a spouse, 1/3rd income of the earning/surviving spouse for the purpose of computing the compensation.*"

(emphasis added)

37. After assessing the matter on facts, the Supreme Court held as under:

"***37.** Reverting to the facts of this case, we find that while in his deposition, Appellant 1 had categorically stated that the deceased was earning Rs. 50,000 per annum by paintings and handicrafts, the respondents*

> *did not lead any evidence to controvert the same. Notwithstanding this, the Tribunal and the High Court altogether ignored the income of the deceased. The Tribunal did advert to the Second Schedule of the Act and observed that the income of the deceased could be assessed at Rs.5,000 per month (Rs. 60,000 per annum) because the income of her spouse was Rs. 15,416 per month and then held that after making deduction, the total loss of dependency could be Rs. 6 lakhs. However, without any tangible reason, the Tribunal decided to reduce the amount of compensation by observing that the deceased was actually a non-earning member and the amount of compensation would be too much. The High Court went a step further and dismissed the appeal by erroneously presuming that neither of the claimants was dependent upon the deceased and the services rendered by her could be estimated as Rs. 1250 per month.*
>
> ***38.** In our view, the reasons assigned by the Tribunal for reducing the amount of compensation are wholly untenable and the approach adopted by the High Court in dealing with the issue of payment of compensation to the appellants was ex facie erroneous and unjustified*."
>
> (emphasis added)

38. The opinion rendered by *Justice A. K. Ganguly*, in ***Arun Kumar Agrawal*** (*supra*), provides a useful academic assessment of the gender bias that exists in assessment of compensation and is contained in *paragraphs 41* to *65* of the said judgement.

39. The opinion authored by *Justice A. K. Ganguly* was prefaced by an important observation, which is extracted as under:

> "***41.** Despite the clear constitutional mandate to eschew discrimination on grounds of sex in Article 15(1) of the Constitution, in its implementation there is a distinct gender bias against women and various*

social welfare legislations and also in judicial pronouncements."

(emphasis added)

40. In fact, *Justice A. K. Ganguly* traverses the aspect of how the census is also viewed with the same bias and, after some discussion, notes as under:

> "***50.*** *Women are generally engaged in homemaking, bringing up children and also in production of goods and services which are not sold in the market but are consumed at the household level. Thus, the work of women mostly goes unrecognised and they are never valued. Therefore, in the categorisation by the census what is ignored is the well-known fact that women make significant contribution at various levels including agricultural production by sowing, harvesting, transplanting and also tending cattle and by cooking and delivering the food to those persons who are on the field during the agriculture season.*
> ***51.*** *Though census operations do not call for consideration in this case but reference to the same has been made to show the strong bias shown against women and their work. We hope and trust that in the ongoing census operations this will be corrected*."
>
> (emphasis added)

41. The Court, in the aforesaid decision, also notes that the restriction of consideration of income of a '*non-earning spouse*' to not more than *one-third* of the income of '*earning spouse*', as applied in some judgments, is not based on any rational basis. Relevant *paragraphs* in this regard are reproduced as under:

> "***42.*** *In the Motor Vehicles Act, 1988 (hereinafter "the said Act"), Section 163-A provides for special provision for payment of compensation on structured*

formula basis. The said section has been quoted in the earlier part of the judgment by Brother Singhvi, J. Therefore, I refrain from quoting the same. The Second Schedule which is referred to in the said section has several clauses. Clause 6 of the said Schedule provides for notional income of those who had no income prior to accident. Clause 6 has been divided into two classes of persons, (a) non-earning persons, and (b) spouse.

43. *Insofar as the spouse is concerned, the income of the injured in fatal and non-fatal accident has been categorised as 1/3rd of the income of the earning and surviving spouse. It is, therefore, assumed if the spouse who does not earn, which is normally the woman in the house and the homemaker, such a person cannot have an income more than 1/3rd of the income of the person who is earning. This categorisation has been made without properly appreciating the value of the services rendered by the homemaker. To value the income of the homemaker as one-third of the income of the earning spouse is not based on any apparently rational basis.*"

(emphasis added)

42. The decision in ***Arun Kumar Agarwal*** (*supra*) has been notably followed in subsequent decisions, as under:

(i) ***Jitender Khimshankar Trivedi v. Kasam Daud Kumbhar*** (2015) 4 SCC 237, the issue concerned the death of a lady in an accident, the claim being preferred by the *husband* and *husband's sisters, daughter* and *father-in-law*. The Tribunal awarded compensation, and the High Court enhanced the same. This was challenged on account of inadequate assessment of income of deceased, who was a *homemaker* and was '*self-employed*' doing embroidery work. The Court

held that even if her self-employment had not been proved, the fact remained that she was a '*housewife*' and a '*homemaker*', and that the Courts have recognized contribution made by the *wife* to the house as invaluable. The secision in ***Arun Kumar Agarwal*** (*supra*) was followed, recognizing the services of the '*homemaker*'.

(ii) In ***Rajendra Singh v. National Insurance Company Ltd.*** (2020) S7 SCC 256, where the matter concerned claim for compensation with respect of the death of a '*housewife*'. The Supreme Court held, relying upon ***Lata Wadhwa v. State of Bihar*** (2001) 8 SCC 197, that considering the multifarious services rendered by '*housewives*', even on a modest estimation, the income of a '*housewife*' in the age group of *34-59* years, who is active, should be assessed at *Rs.36,000/-* per annum, relying upon ***Arun Kumar Agarwal*** (*supra*).

(iii) In ***Kirti v. Oriental Insurance Co. Ltd.*** (2021) 2 SCC 166, yet again, the claim was filed by the *daughters* and *parents* of the deceased. The Supreme Court considered the decision in ***Lata Wadhwa*** (*supra*), wherein compensation was granted for accident cases of '*housewives*' on the basis of services rendered by them. The decision relied upon ***Arun Kumar Agarwal*** (*supra*), in particular the concurring opinion of *Justice N.V. Ramana*.

(iv) In ***Sunita v. Vinod Singh*** 2025 SCC OnLine SC 586, relying upon ***Rajendra Singh*** (*supra*) and ***Arun Kumar***

Agarwal (*supra*), the Supreme Court enhanced the notional income of the deceased '*housewife*'.

Decision in Malakappa and Others v. IFFCO Tokio General Insurance Company Limited and Anr., 2025 SCC Online SC 979

43. More recently, in ***Malakappa*** (*supra*), the Supreme Court dealt with a matter involving death of a *wife*, who was working as a '*coolie*'. The Tribunal assessed her income at *Rs.7,000/-* and deducted *one-third* of said income towards *personal expenses* on the basis that the *husband* was not dependent on the deceased. To the said *one-third* of income, **50%** was added for *future prospects*, and a multiplier of ***16*** was applied for 35-year-old deceased. The Insurance Company preferred an appeal before the High Court, which enhanced the benchmark income to *Rs. 8,000/-*.

44. The Supreme Court noted that, since no employment of the *husband* was specified, it could not be assumed that he would not have been at least '*partially dependent*' upon the deceased, and that the family was to be treated as a '*unit of four'*. Accordingly, the deduction towards *personal expenses* was reduced to *one-fourth*.

45. A similar issue pertaining to the notional income of a '*homemaker*' was considered by the Madhya Pradesh High Court in ***Shubham Kumar Jatav*** (*supra*), wherein it was noted that, on several occasions, the Supreme Court has held that services rendered by a '*homemaker*' carry monetary value, even if they are not salaried.

46. This leads us to examine the view previously taken by Single Judge of this Court in ***Keith Rowe*** *(supra)*, which held the field for some time, and has been relied upon.

Decision in Keith Rowe v. Prashant Sagar, 2010 SCC OnLine Del 4686

47. In ***Keith Rowe*** *(supra),* a decision delivered by a Single Judge of this Court on 15th January 2010, prior to the Supreme Court's decision in ***Arun Kumar Agarwal*** (*supra*), the Court dealt with a case involving the death of *Parminder Kaur Rowe*, in an accident which occurred in 2001. She was was 31 years of age at the time of accident and was survived by her *husband*, who was 38 years of age and who, thereafter, filed the claim petition in this regard. Deceased was working as an '*Executive Assistant*' in a private company with a monthly salary of *Rs.20,000/-*. The appellant sought enhancement of compensation awarded by the Tribunal, which had been quantified at *Rs.4,93,000/-*. The Tribunal, treating the appellant as not being '*dependent*' upon deceased, assessed the *loss of estate* as *one-fourth* of the income of the deceased and applied a multiplier of ***12***. The appellant, however, contended that compensation under regular head of '*loss of dependency*' ought to have been granted, applying the principles enunciated in ***Sarla Verma*** (*supra*).

48. The Court relied upon the decision of the Karnataka High Court in ***A. Manavalagan*** (*supra*). Relevant paragraphs of ***A. Manavalagan*** (*supra*), upon which reliance was placed by the Court, note that there were '*two categories*' of damages in cases involving the death of a person: ***first***, pecuniary loss sustained by family members dependent upon the deceased as a result of such death; and ***second***, loss caused to the estate as a result of the death of the deceased. In the ***first category***, action is brought by the legal representatives as trustees for the dependants claiming entitlement to compensation. In the ***second***

category, action is brought by the legal representatives on behalf of the estate of the deceased, and the compensation recovered forms part of the assets of the estate. A distinction was thereafter drawn between '*loss of dependency*' and '*loss of estate'*. Where the claim was for *dependency*, the basis for the award of compensation was '*loss of dependency*', which refers to the contribution made by the deceased to such claimants. Conversely, where the claim was brought by legal representatives of the deceased who were not dependants, compensation was assessed as 'l*oss to the estate*', that is, loss of savings of the deceased. The method for determination of '*loss of estate*' was broadly similar to that of '*loss of dependency*', which includes ascertaining the multiplicand and multiplying the same by the multiplier. As noted in ***A. Manavalagan*** (*supra*), the significant difference lay in the figure adopted as the multiplicand. For the assessment of '*loss of dependency*', the annual contribution made by the deceased to the family constitutes the multiplicand, whereas, in cases of '*loss of estate*', the multiplicand comprises the annual savings of the deceased; the selection of multiplier remains the same.

49. One of the illustrations provided in ***A. Manavalagan*** (*supra*) was that where the deceased was survived by an educated *wife* who was earning an amount almost equal to that of her *husband*, and each of them was maintaining a separate establishment, the question of '*loss of dependency*' would not arise. This was based on the assumption that if both *spouses* pooled their respective incomes and, thereafter, spent from the said *common pool*, the amount spent by each *spouse* towards *personal and living expenses* would comparatively be higher, that is, *three-fourths* of the income. Consequently, only the remaining *one-*

fourth [**25%**] would be saved. In such a case, '*loss to estate*' would be assessed on that basis by applying the appropriate multiplier. However, if both *spouses* were earning and living under a common roof, the *surviving spouse* would be entitled to compensation both under the head of *'loss of estate*' [*savings to the extent of one-third of the income*] and '*loss of dependency*' [*for loss of services rendered in managing the household*].

50. The aforesaid rule was employed for computing compensation in ***Keith Rowe*** (*supra*).

51. It was further noted that where a *husband* and *wife*, having separate incomes, live together and share expenses, the joint living expenses are less than twice the expenses that each would incur while living separately, thereby conferring a benefit upon one another. This results in higher savings, that is, *one-third* of the income. The *loss of benefit of services* rendered by the other *spouse* in managing the household, taken at *Rs. 12,000/-* per annum, would then be added to the aforesaid savings. Accordingly, the *surviving spouse* would be entitled to compensation under the heads of '*loss of dependency*' [*towards loss of services rendered in managing the household*] as well as '*loss to estate*' [*towards savings to the extent of Rs. 1,00,000/-*], both of which are to be multiplied. This formula was adopted by the learned Single Judge in ***Keith Rowe*** (*supra*) and was subsequently followed in ***Pawan Kumar Sharma*** (*supra*) and ***Ashok Kumar Kochhar*** (*supra*). Contemporaneously, another judgment was delivered by the same learned Single Judge in ***Dinesh Adhlak v. Pritam Singh***, 2010 SCC OnLine Del 165.

52. However, in the Supreme Court's decision in ***Arun Kumar Agrawal*** (*supra*), *Justice A.K. Ganguly* specifically observed, albeit without reference to ***Keith Rowe*** (*supra*), that limiting the income of a '*non-earning spouse*' to not more than *one-third* of the income of the *earning spouse* cannot be justified on any rational basis.

53. It is essential to discuss the aforesaid decision rendered by the Single Judge of this Court, particularly since it seeks to carve out a separate category of '*loss of estate*' in respect of those claimants who, though family members of the deceased, do not strictly fall within the realm of '*dependency*'.

54. Although this judgment precedes the decision rendered by the Constitution Bench of the Supreme Court in ***Pranay Sethi*** (*supra*), the reasoning adopted therein appears to have been followed in subsequent decisions.

55. From the assessment in ***Keith Rowe*** (*supra*) and the subsequent decisions following it, it transpires that the principles laid down in ***Keith Rowe*** (*supra*) do not apply to those falling within the realm of '*dependency*', namely *parents, spouses,* and *children*. Therefore, the said principles may not be strictly applicable to the case at hand, where the claimant is the *husband* of the deceased. However, it is necessary to clear the air with respect to these principles.

Decision in Indrawati v. Ranbir Singh, 2021 SCC OnLine Del 114

56. In ***Indrawati v. Ranbir Singh,*** 2021 SCC OnLine Del 114, a clarification of ***Keith Rowe*** (*supra*) and ***Dinesh Adhlak*** (*supra*) was supplied by the same judge who authored ***Keith Rowe*** (*supra*). This case

involved a claim by *parents* of the deceased in respect of the death of their *child* who was *23* years of age.

57. The Tribunal held that they were not entitled to compensation under the head of '*loss of dependency*', but only under the '*loss of estate*' in terms of principles laid down in ***Keith Rowe*** (*supra*).

58. However, the High Court concluded that *parents* of the deceased are considered, in law, as dependent on their *children*, as *children* are bound to support their *parents* in old age. Even if *parents* are not dependant on their *children* at the time of accident, they would be both financially and emotionally dependant on their *children* at later stages of life. On this basis, it was clarified that principles laid down in ***Keith Rowe*** (*supra*) and ***Dinesh Adhlak*** (*supra*) would not apply to a claim for compensation filed by *parents* in respect of death of their *child*, and would apply to claims of '*loss of estate*' made by claimants other than *parents*, *spouse* and *children*.

59. In fact, this principle finds application in ***National Insurance Co. Ltd. v. Dev Kumari***, 2025 SCC OnLine Del 1645, wherein a Coordinate Bench of this Court, in a claim filed by *married sisters* of the deceased, denied compensation under the head of '*loss of dependency*'. However, the Court held them entitled to compensation under the head of '*loss to the estate*'. The Court further noted that the Tribunal had, in fact, held the *two married sisters* entitled to *loss of savings*/*loss to the estate*, but had erroneously applied the formula meant for calculating the multiplicand in case of '*loss of dependency*'. Accordingly, savings at *50%* of the notional income, along with *future prospects*, was taken as the multiplicand, and the appropriate multiplier for *loss of savings*/*loss to the estate* was applied.

60. The Court clarified this aspect of the principles laid down in ***Keith Rowe*** (*supra*) in the *paragraph* extracted hereinbelow:

> "***22. It was further explained that the procedure for determination of "Loss to Estate" is broadly the same as the procedure for determination of "Loss of Dependency***". *Both involve ascertaining the multiplicand and capitalising it by multiplying it by an appropriate multiplier. But the significant difference is that in cases of Claimants who are dependents can claim "Loss of Dependency", while those who are not dependents, can only claim "Loss to the Estate".* ***The annual contribution to the family constitutes the multiplicand in the case of loss of dependency, whereas the annual savings of the deceased becomes the multiplicand in the case of loss to estate***. *The method of selection of multiplier, is however the same in both the cases.* ***It was also emphasized that the quantum of savings will vary from person to person and would be subject to any specific evidence led by the Claimants***."

61. The Supreme Court also took note of the decision in ***Keith Rowe*** (*supra*) in ***Pushkar Mehra v. Brij Mohan Kushwaha,*** (2015) 12 SCC 688. The said case was one wherein the claim petition had been filed by the *widow* of the deceased, along with his *mother* and *children*. '*Loss of dependency*' was awarded by the Tribunal, which was challenged by the Insurance Company. The court held that since no claimant was *dependent* upon the deceased, there was no '*loss of dependency*', and claimants were only entitled to compensation under the head of '*loss of estate*', on the basis of the decision in ***Keith Rowe*** (*supra*).

62. The High Court's decision was challenged before the Supreme Court on the ground that, in the facts of ***Keith Rowe*** (*supra*), the salary had to be proved by way of documentary evidence.

63. The Supreme Court held that the Tribunal and the High Court ought to have taken the wages of the deceased equivalent to that of a skilled worker while awarding the '*loss of dependency*' by applying the standard formula.

64. It is, therefore, quite clear that, even though the principles enunciated in ***Keith Rowe*** (*supra*), relying upon ***A. Manavalagan*** *(supra)*, have not been deviated from by any judgment of the Supreme Court or any High Court, on the point of law, the principles governing compensation would be split into ***two worlds***. The ***first*** pertains to compensation under '*loss of dependency*', in cases where claim for compensation is brought by dependants, including the *spouse*, *parents* and *children* and, the ***second***, includes claims brought by claimants other than *parents*, *spouse,* and *children*, such as *siblings* and other relatives to whom loss of estate would be granted.

65. Compensation under '*loss of dependency*' would be calculated in accordance with the principles enunciated in ***Pranay Sethi*** *(supra)* and ***Sarla Varma*** *(supra)*. Therefore, the multiplicand would be calculated on the basis of notional income of the deceased, after adding *future prospects* and deducting *personal and living expenses*. The same would then be multiplied by the appropriate multiplier, as provided in the standard tabulation. However, to calculate '*loss of estate*', the element of savings would have to be considered which, depending on the facts of the case, may differ, from the amount to be considered while calculating the '*loss of dependency*'. Thereafter, the appropriate multiplier would be applied.

66. Furthermore, the Court notes that there is not too much of a difference between these two approaches and that they may, in some

cases, lead to a similar calculation. However, for the purposes of classification, we clarify that the terminologies employed in '*loss of dependency*' and '*loss of estate*' are different. While '*loss of dependency*' refers to compensation for the loss of benefit arising from the income/services of the deceased, '*loss of estate*', in effect, refers to the contribution that the deceased would have made to his or her estate, the benefit of which would now be go to whoever claims for the estate.

67. As can be seen, there is only marginal difference between the two. However, marginal differences arise only in exceptional cases where the issue of '*loss of estate*' arises.

68. The feature of *loss of estate*', as laid down by the decision in ***A. Manavalagan*** *(supra)*, and further applied by ***Keith Rowe*** (*supra*), continues to survive; however, it has to be applied with caution and only in exceptional cases where the claimant is beyond the realm of '*dependency*' and is not a *parent*, *spouse* or a *child*, even if, such *parent*, *spouse* or *child* is earning.

International jurisprudence

69. It may be instructive to gain a sense of what international courts in foreign jurisdictions have held in respect of compensation revolving around the death of a spouse:

(i) In ***Harris v. Empress Motors Ltd.*** [1984] 1 WLR 212 CA, a claim by a *widow* and *two sons* was filed under the Fatal Accidents Act, 1976, and involved assessment of dependency, raising issues regarding the manner in which *personal living expenses* ought to be deducted while computing dependency. The Court of Appeal noted that, in past, calculation for dependency had called for a '*tedious*

inquiry' into how much housekeeping money was paid to the *wife* and how much was spent on the *children's* shoes, etc. However, this had been "*swept away and the modern practice is to deduct a percentage from the net income figure to represent what the deceased would have spent exclusively on himself*". Where the family unit comprised a *husband* and *wife*, the conventional figure was **33%**, on the basis that *one-third* was spent for the benefit of *each spouse* and *one-third* for their joint benefit. Where there were *children*, the deduction fell to **25%**.

(ii) In ***Burgess v. Florence Nightingale Hospital for Gentlewomen*** [1955] 1 QB 349, the plaintiff (*husband*) and his *wife* were professional dancing partners and their income was derived from demonstration fees and prize money won in competitions. The *wife* died as a result of the negligence of a surgeon, and a claim was made under the Fatal Accidents Act, 1846, for *loss of contribution towards joint living expenses*. The claim was challenged on the ground that there was no evidence to establish that the *wife* had contributed out of her share of the income. The counter-argument advanced by the opposing counsel was that, had the position been reversed and the *wife* had been suing on account of the death of the *husband*, "*no one would have thought of contending that at least a half was not paid by the husband*". It was further submitted that "*the possibility of contention really only arises*" because "*this is a claim in respect of the wife and not of the husband*". The Court noted

that the argument appeared to proceed on the assumption that a higher degree of proof ought to be required for the assertion that a *wife* contributes towards joint expenses than would ordinarily be expected in the case of a *husband*. The Court, therefore, held us under:

> "*I do not think that under present conditions any such greater burden of proof ought to be imposed, or that there is any presumption one way or the other. No doubt, 50 or 100 years ago, the presumption was that the husband paid all the joint living expenses and anything that the wife earned was a sort of pin money, which she could keep for herself; but I do not think that it fits the facts of modern married life, and I do not think that it fits the case of the very sensible in ordinary way in which the married couple in this case were in fact carrying on their married life. They were both earning equally, and both contributing equally and I think the wife was just as much contributing to the joint living expenses by the way in which they were discharged, as she had kept the money herself and then handed it over to her husband*".
>
> (emphasis added)

It may be noted that the reference of ***Burgess*** (*supra*) was also made in ***Keith Rowe*** (*supra)*.

(iii) In ***Nielsen et al v. Kaufimann*** 54 OR (2d) 188, [1986] OJ No 2359, 54 OR (2d) 188, a decision of the Ontario Court of Appeal, Canada, a very notable observation was made in case involving two '*breadwinners*' in the family:

> "*The fact that there are two "breadwinners" in the family skews the applicability of the "conventional" principle and figures somewhat. Those figures are based on a male breadwinner as the sole support of the family. The trial judge does not appear to have*

considered how the "conventional" figures might be affected when there is a two-wage earner family. It must be assumed that in such families some portion of the husband's income goes to the wife or vice versa. That portion remains with the survivor. The appellant's expert, Dr. Segal, was of the view that in a two wage- earner family the deceased would consume 30% of the total family income of husband and wife. The deceased would be partially dependent on the income that the surviving spouse is receiving and, therefore, there is an offset of that amount which the surviving spouse is no longer paying and for which "credit" should be given. Counsel for the appellant submits that in such families the appropriate dependency percentage should be 50% rather than 70%."

(emphasis added)

(iv) In ***Hechavarria v. Reale*** [2000] O.J. No. 4288, yet another judgment by the Ontario Superior Court of Justice relied upon the decision in ***Nielsen*** (*supra*), wherein the Court found that the '*cross-dependency approach*' was not suitable, since there was evidence to show that the deceased lady spent almost the entirety of her income on family and relatives, retaining only a small portion on *personal expenses*. It was, therefore, stated that the results of *cross-dependency approach* were skewed by the assumption that a significant portion of the deceased income had been spent on herself; whereas evidence established the contrary. The Court observed as under:

"***26.*** *Having said that, however, there are also problems with using the cross-dependency approach which I will review in a moment. In the end result, it seems to me that the proper determination of what*

approach should be taken to the loss of income claim should, first and foremost, be driven by the factual situation that is before the court. In other words, whatever approach is eventually adopted should give rise to a result that reflects, to the degree possible, the factual realities of the family whose loss is being determined. In this case, the evidence establishes to my satisfaction that Winsome Hechavarria used her income almost entirely for expenses of the family as well as for her mother and sisters. She spent little of her income on herself. While I acknowledge that some portion of Winsome Hechavarria's income was used to pay for her automobile, it seems to me that any "savings" resulting from that fact are more than offset by the loss of use of that second vehicle to the family including the transportation that she provided to the children.

27. *In my view, the cross-dependency approach urged by Dr. Pesando would lead to a result that does not accord with the realities of the Hechavarria family because it does not account for the actual use to which the income of Winsome Hechavarria was put. The results of that approach are skewed by the assumption that a significant portion of Winsome Hechavarria income was spent by her on herself whereas the evidence, as I have already stated, establishes the contrary. The cross-dependency approach may be appropriate in cases where the factual situation before the court more closely resembles the assumptions which are built-in to the approach, particularly the assumptions regarding the levels of personal income expenditures, but I do not accept that the cross-dependency approach is the appropriate approach to be used in this case.*

28. *Rather, it seems to me that the fairest approach, and the approach which most closely accords with the facts in this case, is the one used by the Court of Appeal in Nielsen, that is, what might be called the modified sole dependency approach. This approach*

> *reflects both the fact that Winsome Hechavarria used her income almost exclusively for the benefit of the family and relatives and at the same time reflects the reality that there must be some "savings" from the fact that there is one less member in the family unit….*"
>
> (emphasis added)

(v) A similar situation arose in ***Chouza (Personal Representative of Albino Otero Rodriguez, Deceased) v. Martins & Ors.*** [2021] EWHC 1669 (QB), wherein the Queen's Bench Division, dealt with a claim by a *partner* of the deceased, who were in a relationship, although the claimant described her as a *housewife*. There was an extensive discussion regarding the deceased's frugality and limited personal expenditure, which persuaded the Court to adopt percentages higher than conventional deductions derived in ***Harris v. Empress Motors*** (*supra*) which was *one-third*. The Court adopted its own percentage rather than undertaking a tedious examination of household expenses, and assessed dependency at **85%** pre-retirement and **70%** dependency post-retirement.

Assessment in the present case

70. Having considered and traversed through these large tracts of jurisprudence, both domestic and international, this Court concludes that, in the present case, where an '*earning wife*' had passed away leaving behind an '*earning husband*', there exists no basis for accepting the plea of the appellant/Insurance Company that only '*loss of estate*' ought to be awarded. The clarification supplied by the Single Judge who authored ***Keith Rowe*** (*supra*) in the subsequent judgment in ***Indrawati*** (*supra*)

precludes the adoption of the principle of '*loss of estate*' for those who are dependants, including an '*earning spouse*'. This also resonates with the view taken by this Court that an '*earning husband*' is not necessarily "*not dependent*" upon the income of the deceased *wife*.

71. Since the '*issue of dependency*' operates in a broader context, it must be viewed in a larger sense and not merely as simplicitor *dependency* in the literal sense of the term. Where there is a '*joint income*' sustaining the household, the *dependency* of the *surviving spouse* extends to the extent of the loss occasioned by the contribution of the deceased *spouse* to the '*corpus of the household*', whether through pecuniary earnings or through non-pecuniary contributions in the form of gratuitous services rendered in running the household.

72. In the present case, compensation would encompass both the pecuniary and non-pecuniary aspects of the *wife's* contribution, and the Tribunal has rightly assessed compensation under the head of '*loss of dependency*'. The annual income of the deceased was taken from her employment records, *future prospects* were added at **40%**, deduction towards *personal and living expenses* was taken at *one-half,* considering that she was contributing towards the family along with her *husband*, and '*loss of dependency*' was accordingly calculated.

73. Considering that the claimant was the *only surviving member* of the family, the Tribunal adopted a conservative approach in deducting *personal and living expenses* at *one-half* instead of potentially *one-third*, particularly considering that the *daughter* and *mother-in-law* would otherwise have constituted additional dependants. In the peculiar facts of the present case, where the *daughter*, *mother-in-law*, and *niece* also passed away in the same accident, the deduction was taken at *one-half*,

which may be justified not only on that basis but also having regard to the discussion hereinabove concerning joint household income. Another possible view may have been to deduct *one-third*.

74. However, this Court considers the deduction of *one-half* to be appropriate, considering that there were *two earning members* and that the benefit accruing to the *husband* towards the household corpus would effectively have been approximately **50%** of the *wife's* income. Even if the *wife's* expenditure on herself was minimal, no evidence to that effect has been placed on record by the claimant. Therefore, the assessment at *one-half*, in the peculiar circumstances of the present case, appears to be appropriate.

75. Accordingly, considering that all other components are aligned with the decisions in ***Pranay Sethi*** (*supra*), said impugned award passed by the MACT seems to be correct and needs no interference.

76. However, if the calculation was as per ***Keith Rowe*** (*supra*), calculation of compensation *would* have been as follows:

S. NO.	HEADS	Calculation As Per *Keith Rowe* (*supra*)
1	Income of deceased **(A)** (less Income Tax)	Rs.42,186 /-
2	Add Future Prospects **(B)** @ 40%	Rs.16,874 /-
3	Gross Monthly Income [(A+B) = **C**]	Rs.59,060/-
4	Less Personal expenses of the deceased [2/3rd] (**D**)	Rs.39,373 /-
5	Monthly loss to estate [C-D=**E**]	Rs.19,687 /-
6	Annual loss to estate (Ex12)	Rs.2,36,244 /-
7	Multiplier (**F**)	16
8	Total loss to Estate (E x F = **G**)	Rs.37,79,904 /-
9	Medical expenses (**H**)	Nil
10	Compensation for loss of consortium (**I**) (40,000x2)	Rs. 48,400/-
11	Compensation for loss of love and affection (**J**)	Nil
12	Compensation for loss of estate (**K**)	Rs.18,150 /-
13	Compensation towards funeral expenses (**L**)	Rs.18,150 /-
Total Compensation (G+H+I+J+K+L=**M**)		**Rs.38,64,604 /-**
Interest		**9%**

77. Otherwise, the calculation of the MACT is as under on the '*issue of dependency*':

S. NO.	HEADS	AWARDED BY THE TRIBUNAL
1	Income of deceased (A) (less Income Tax)	Rs. 42,186/-
2	Add Future Prospects (B) @ 40%	Rs. 16,874 /-
3	Less Personal expenses of the deceased (C) @ 50%	Rs. 29,530/-
4	Monthly loss of dependency [(A +B)-C = D]	Rs. 29,530/-
5	Annual loss of dependency (Dx12)	Rs.3,54,360 /-
6	Multiplier (E)	16
7	Total loss of dependency (Dx12xE = F)	Rs.56,69,766 /-
8	Medical expenses (G)	Nil
9	Compensation for loss of consortium (H) (40,000x2)	Rs.48,400 /-
10	Compensation for loss of love and affection (I)	Nil
11	Compensation for loss of estate (J)	Rs. 18,150/-
12	Compensation towards funeral expenses (K)	Rs.18,150 /-
Total Compensation (F+G+H+I+J+K = L)		**Rs.57,54,476 /-**
Interest		**9%**

78. As can be seen, the only difference between the two calculations lies in the deduction towards *personal expenses*, which, in terms of ***Keith Rowe*** (*supra*), has effectively been taken at *two-thirds*, leaving *one-third* towards savings, whereas in the *dependency* calculation, the deduction has been taken at *one-half* on the basis of settled principles. Even though ***Keith Rowe*** (*supra*) does not strictly apply, this comparison has been undertaken in order to clarify that the approaches towards '*loss of dependency*' and '*loss of estate*' may not, in practical terms, be substantially different and primarily revolve around the deduction towards *personal expenses*.

79. As a *post script*, the Court must take notice of a recent decision of the Supreme Court in ***Shishu Pal v. Surjeet,*** 2026 SCC OnLine SC

1114, rendered on 11th June 2026, after the present matter had been finally heard and reserved for judgment. The aforementioned decision concerned additional compensation to be granted in cases involving the death of a *homemaker*. The issue before the Court was regarding *quantification*/*monetization* of a *homemaker's* contribution to her family, in particular, and therefore, to the nation, at large. The Supreme Court rendered a detailed opinion on inadequacy in assessing the *contribution of a homemaker* and its translation into compensation for the claimants.

80. The Court introduced a new head of compensation termed '***loss of domestic care***', providing that in cases where the *homemaker* has no income in monetary terms, compensation under this head would be treated as the monthly income. The Court further stated that in cases where the *homemaker* is '*part of the workforce*', the component of '***loss of domestic care***', shall be in addition to the monthly income as may be proved before the Tribunal/Courts.

81. However, since no cross-appeal seeking enhancement of compensation has been filed on behalf of claimant/respondent no.1, and no arguments have been made before this Court in that regard, this Court is of the view that it would not be expedient or appropriate to go into this aspect in the present case.

82. Accordingly, this appeal by appellant/Insurance Company stands dismissed.

83. In view of dismissal of appeal, balance amount shall also be disbursed in favour of the claimant/respondent no.1, in terms of the directions passed by the Tribunal.

84. Pending applications, if any, are rendered as infructuous.

85. Statutory deposit, if any, shall be refunded to the appellant.

86. Judgement be uploaded to the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 01, 2026/sm/ya+tk