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

% ***Reserved on: 26.11.2025***
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\+ MAC.APP. 337/2018 & CM APPL. 13041/2018

THE ORIENTAL INSURANCE CO LTD ..... Appellant
Through: Mr. Pankaj Seth and Ms. Shruti Jain, Advocates.

versus

HAAZARI SINGH RAWAT & ORS ..... Respondents
Through: Mr. Dharmender Arya, Ms. Vaishnavi Rao and Mr. Shashank Aggarwal, Advocates for R-1 alongwith R-1 in person.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

1. This appeal has been filed by Oriental Insurance Company Limited ["the Insurance Company"] against an award dated 16.12.2017, passed by the Motor Accident Claims Tribunal ["the Tribunal"] in Suit No. 4267/2016. By the impugned award, the Insurance Company was directed to pay a sum of Rs. 13,75,000/- to respondent No. 1, who was the claimant before the Tribunal.

A. FACTS

2. The proceedings before the Tribunal arose out of a road traffic accident which took place on 26.04.2009, at about 11:45 PM. The claimant was travelling on a motorcycle [bearing registration No. DL-3S-BK-5321] as a pillion-rider. The motorcycle was being driven by Mr. Rakesh Kumar [respondent No. 4 herein]. At a location situated at the roundabout of DND Flyover and Ring Road, near New Friends Colony, New Delhi, the motorcycle hit a parked truck [bearing registration No. HR-38E-6159] ["the offending vehicle"]. It was alleged that the offending vehicle was parked in the middle of the road and was not visible in darkness. The claimant and respondent No. 4 both sustained injuries as a result of the accident.

3. The accident resulted in registration of an FIR bearing No. 193/2009, dated 27.04.2009 in Police Station New Friends Colony. Although no accused was named in the FIR, a chargesheet was later filed, on 14.07.2011, against Mr. Sushil Kumar, who was the driver of the offending vehicle [respondent No. 2 herein].

4. The claimant filed a claim for compensation under Section 166 of the Motor Vehicles Act, 1988 ["MV Act"] before the Tribunal, and a detailed accident report was also submitted by the police authorities. In the said proceedings, the driver, owner and insurer of the offending vehicle were arrayed as respondent Nos. 1, 2 and 3, and Mr. Rakesh Kumar [owner and driver of the motorcycle] was arrayed as respondent No. 4.

5. The Tribunal returned a finding of rash and negligent driving against the driver of the offending vehicle, and awarded compensation of Rs.13,75,000/-, alongwith interest at the rate of 9% per annum, in favour of the claimant. The award was made under the following heads:

Heads	Amount awarded by the Tribunal
Pecuniary Loss	
Expenditure on treatment	Rs. 62,000/-
Expenditure on conveyance	Rs. 25,000/-
Expenditure on special diet	Rs. 25,000/-
Cost of nursing/attendant charges	Rs. 25,000/-
Loss of income during the period of treatment	Rs. 2,71,684/-
Non-Pecuniary Loss	
Compensation for mental and physical shock	Rs. 25,000/-
Pain and suffering	Rs. 25,000/-
Loss of amenities of life	Rs. 25,000/-
Disfiguration	Rs. 25,000/-
Loss of future income	Rs. 8,41,344/-
Loss of amenities or expectation of life span	Rs. 25,000/-
TOTAL	**Rs. 13,75,028/-** **(rounded to Rs. 13,75,000/-)**

6. The Insurance Company, which was the insurer of the offending vehicle, was directed to pay the compensation amount, and is in appeal before this Court.

B. SUBMISSIONS BY LEARNED COUNSEL FOR THE PARTIES

7. I have heard Mr. Pankaj Seth, learned counsel for the Insurance Company, and Ms. Vaishnavi Rao, learned counsel for the claimant.

8. In support of the appeal, Mr. Seth submitted as follows:

   a. The Medico-Legal Case ["MLC"] of the claimant indicated that he was under the influence of alcohol, and the amount of compensation should therefore have been reduced for contributory negligence.

   b. While computing loss of future income, the Tribunal has applied the multiplier of 16, which was applicable to the claimant's age at the time of the accident [35 years]. However, the Tribunal also granted loss of income for the period of treatment, which was held to be 62 months. As the claimant has thus been compensated for loss of income for the period of 62 months from the date of the accident, Mr. Seth submitted that the loss of future income ought to have been computed for the period thereafter, i.e. from the age of 40 onwards, for which the applicable multiplier would have been 15.

   c. The Tribunal erroneously assessed the claimant's functional disability at 100%, although his disability certificate signified only permanent disability of 25% regarding his intellectual capability.

9. Ms. Rao, on the other hand, contended as follows:

   a. The allegation of contributory negligence was misconceived as against the present claimant, as his alleged intoxication was not supported by any blood alcohol content report. In any event, she submitted that he was not the driver of the motorcycle at all, and no causation was established between his alleged negligence and the occurrence of the accident.

   b. The application of the multiplier must have reference to the date of the accident, and not to any later point in time, in terms of the

decisions of the Supreme Court in *Raj Kumar v. Ajay Kumar & Anr.*[1], *Kavin v. P. Sreemani Devi & Ors.*[2], *Sarla Verma v. Delhi Transport Corporation & Anr.*[3], *Reshma Kumari & Ors. v. Madan Mohan & Anr.*[4], and *National Insurance Company Ltd. v. Pranay Sethi & Ors.*[5]. She argued that the multiplier is, in any event, a notional construct, and is not intended to be applied mathematically.

c. Ms. Rao also prayed for enhancement of the compensation awarded by the Tribunal on the ground of future prospects having been missed in computation of loss of future income, and no compensation having been awarded for future medical expenses.

10. Mr. Seth, in rejoinder, disputed the claimant's assertion of future medical expenses on the ground that it is unsupported by medical evidence. Although he did not resist the award of future prospects on merits, he submitted that no enhancement of the award can be granted, in the absence of any cross-objection or cross-appeal by the claimant.

C. ANALYSIS REGARDING CONTRIBUTORY NEGLIGENCE

11. On the question of contributory negligence, the case of the Insurance Company is based upon the MLC report of the claimant prepared at Jai Prakash Narayan Trauma Centre, AIIMS, Delhi, on 27.04.2009 [Ex. PW-1/21]. It does record that the claimant was under the influence of alcohol. However, the Tribunal has also noted that the blood alcohol content of the claimant was not tested.

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[1] (2011) 1 SCC 343 [hereinafter, "*Raj Kumar*"].
[2] (2025) SCC OnLine SC 1786 [hereinafter, "*Kavin*"].
[3] (2009) 6 SCC 121 [hereinafter, "*Sarla Verma*"].
[4] (2013) 9 SCC 65 [hereinafter, "*Reshma Kumari*"].
[5] (2017) 16 SCC 680 [hereinafter, "*Pranay Sethi*"].

12. In any event, I am of the view that this is not relevant in the present case, as the claimant was not the driver of the motorcycle at all. Further, no causal link between the alleged contributory negligence and the accident has been established as required by the judgment of the Supreme Court in *Mohd. Siddique v. National Insurance Co. Ltd.*[6], which held as follows:

> *"12. But the above reason, in our view, is flawed.* ***The fact that the deceased was riding on a motorcycle along with the driver and another, may not, by itself, without anything more, make him guilty of contributory negligence. At the most, it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the driver of a two-wheeled motorcycle, not to carry more than one person on the motorcycle. Section 194-C, inserted by Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motorcycle drivers and pillion riders. Therefore, the fact that a person was a pillion rider on a motorcycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the accident upon the victim. It may so happen at times, that the accident could have been averted or the injuries sustained could have been of a lesser degree, if there had been no violation of the law by the victim.*** *What could otherwise have resulted in a simple injury, might have resulted in a grievous injury or even death due to the violation of the law by the victim.* ***It is in such cases, where, but for the violation of the law, either the accident could have been averted or the impact could have been minimised, that the principle of contributory negligence could be invoked.*** *It is not the case of the insurer that the accident itself occurred as a result of three persons riding on a motorcycle. It is not even the case of the insurer that the accident would have been averted, if three persons were not riding on the motorcycle. The fact that the motorcycle was hit by the car from behind, is admitted. Interestingly, the finding recorded by the Tribunal that the deceased was wearing a helmet and that the deceased was knocked down after the car hit the motorcycle from behind, are all not assailed. Therefore, the finding of the High Court that 2 persons on the pillion of the motorcycle, could have added to the imbalance, is nothing*

[6] (2020) 3 SCC 57.

but presumptuous and is not based either upon pleading or upon the evidence on record. Nothing was extracted from PW 3 to the effect that 2 persons on the pillion added to the imbalance.

*13. Therefore, **in the absence of any evidence to show that the wrongful act on the part of the deceased victim contributed either to the accident or to the nature of the injuries sustained, the victim could not have been held guilty of contributory negligence. Hence, the reduction of 10% towards contributory negligence, is clearly unjustified and the same has to be set aside**."*[7]

13. In these circumstances, the Tribunal was not required to reduce the compensation on account of contributory negligence.

D. CHOICE OF MULTIPLIER

14. In order to appreciate the rival contentions of the parties on this point, it is necessary to refer to the judgments of the Supreme Court, by which the concept of the multiplier has been established. In *Sarla Verma*, the Court was concerned with computation of loss of dependency in the cases of fatal accidents. It held as follows:

"*18. Basically **only three facts need to be established by the claimants for assessing compensation in the case of death:***
(a) age of the deceased;
(b) income of the deceased; and
(c) the number of dependents.
The issues to be determined by the Tribunal to arrive at the loss of dependency are:
(i) additions/deductions to be made for - arriving at the income;
(ii) the deduction to be made towards the personal living expenses of the deceased; and
(iii) the multiplier to be applied with reference of the age of the deceased.
***If these determinants are standardized, there will be uniformity and consistency in the decisions**. There will lesser need for detailed evidence. It will also be easier for the insurance companies to settle accident claims without delay.*

[7] Emphasis supplied.

> *19. To have uniformity and consistency, Tribunals should determine compensation in cases of death, by the following well settled steps:*
>
> *xxx xxx xxx*
>
> ***Step 2 (Ascertaining the multiplier)***
>
> ***Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased….***
>
> *xxx xxx xxx*
>
> *42. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years, reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.*"[8]

15. The issue was considered thereafter in *Reshma Kumari*, which affirmed *Sarla Verma*, and further held as follows:

> "*37. If the multiplier as indicated in Column (4) of the Table read with para 42 of the Report in Sarla Verma is followed, the wide variations in the selection of multiplier in the claims of compensation in fatal accident cases can be avoided.* ***A standard method for selection of multiplier is surely better than a criss-cross of varying methods. It is high time that we move to a standard method of selection of multiplier,*** *income for future prospects and deduction for personal and living expenses. The courts in some of the overseas jurisdictions have made this advance. It is for these reasons, we think we must approve the Table in Sarla Verma for the selection of multiplier in claim applications made under Section 166 in the cases of death. We do accordingly. If for the selection of multiplier, Column (4) of the Table in Sarla Verma is followed, there is no likelihood of the claimants who have chosen to apply under Section 166 being*

[8] Emphasis supplied.

> *awarded lesser amount on proof of negligence on the part of the driver of the motor vehicle than those who prefer to apply under Section 163-A. As regards the cases where the age of the victim happens to be up to 15 years, we are of the considered opinion that in such cases irrespective of Section 163-A or Section 166 under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the Table in Sarla Verma should be followed. This is to ensure that the claimants in such cases are not awarded lesser amount when the application is made under Section 166 of the 1988 Act. In all other cases of death where the application has been made under Section 166, the multiplier as indicated in Column (4) of the Table in Sarla Verma should be followed.*"[9]

16. The Constitution Bench of the Supreme Court, in *Pranay Sethi*, specifically upheld the application of the multiplier, as provided in *Sarla Verma*.

17. While the above cases deal with fatal accidents, the judgment in *Raj Kumar* laid down the method of calculation of compensation in personal injury cases. In this context, it also computed loss of future earnings by applying the multiplier method.

18. Having regard to the aforesaid judgments, it is clear that the multiplier method is used for calculation of loss of dependency in fatal accident cases, or loss of future income in personal injury cases. This is intended to standardise and simplify the process of computation by abstracting from real life variations. The principle, as expressly acknowledged in *Sarla Verma*, was to avoid the need for detailed evidence, and expedite settlement of claims[10]. While discussing the selection of the multiplier, the Court clarified that the multiplier should be chosen with reference to the age of the victim, and is not intended to ascertain the number of years he would have lived or

[9] Emphasis supplied.
[10] *Sarla Verma*, paragraph 18.

worked, but to account for several imponderables in life and economic factors. *Reshma Kumari* again emphasised uniformity and consistency as the hallmark of this exercise[11]. Paragraph 37 of *Reshma Kumari*, as set out above, makes this position clear, and the Constitution Bench in *Pranay Sethi* has also concurred. The ratio of these decisions is, therefore, that individual variations should not influence the choice of multiplier, which should be based upon the age of the victim alone.

19. Although this results in an apparent anomaly, in a case like the present, there is in fact no such incongruity. The multiplier has not been devised as a method of precise quantification of actual damages in each case. Application of the age-appropriate multiplier of 16 in the present case does not signify that the claimant has to be compensated for loss of income only for the next sixteen years, i.e. until the age of 41. The multiplier is instead an abstract and notional concept, which seeks to obviate the necessity of accounting for uncertainties in individual cases. Understood thus, the multiplier is uniform for a given age, regardless of the specific facts of a particular case. It does not require adjustment for particular factual situations, like in the present case.

20. It may be noted that, in *Raj Kumar* and *Kavin* also, the Supreme Court granted both, loss of income for the period of treatment, and applied the multiplier based on the age of the deceased on the date of the accident. While the issue raised by Mr. Seth in this case was not specifically discussed in those judgments, they provide some guidance as to the correct methodology to be adopted.

[11] *Reshma Kumari*, paragraph 30.

21. For the aforesaid reasons, I affirm the Tribunal's choice of multiplier, i.e. 16, based upon the age of the claimant, at the time of the accident.

E. ASSESSMENT OF FUNCTIONAL DISABILITY

22. In *Raj Kumar*, the Supreme Court has described the process of computation of functional disability in three steps:

> "*13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life. The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.*"

23. The process thus requires assessment of the loss of earning capacity based on the impairment suffered by the victim, with reference to the victim's profession/vocation.

24. In the present case, the Tribunal has acted on the basis of a disability certificate, which showed that the claimant had suffered 25% permanent disability regarding his intellectual capabilities. Although the said certificate does not appear on the record of the Tribunal transmitted to this Court, it has been recorded in the Tribunal's order dated 13.12.2017, and also in the impugned award.

25. Evidence as to the claimant's occupation was given in the claim petition, which stated that the claimant was in private service. This was reiterated in the affidavit of evidence filed by his wife [PW-1]. In cross-examination by learned counsel for the Insurance Company, she stated that her husband was in a position to move, but could not remember things. She also filed an additional affidavit of evidence on 16.09.2017, stating that the claimant was not in a position to depose due to his medical condition. The claimant thereafter gave evidence as PW-3, which was on the same lines as the evidence given by his wife. He was also cross-examined, but not on this aspect. The Tribunal put some questions to him, regarding his financial needs in respect of which he stated as follows:

> "***COURT QUESTIONS REGARDING FINANCIAL NEEDS:***
> *At the time of accident, I was doing a job but after the accident, I am not doing anything. I live in my own house. My brothers give me financial help. I have no objection if some amount of compensation payable to me is paid in cash to me and if some amount is kept in bank FDR. I do have any bank account but I will soon open one. I undertake to place on record a copy of the passoook, two photographs and attested specimen signatures of the all the claimants.*
> ***COURT OBSERVATIONS:***
> ***The witness is very slow in responding to the questions***."[12]

26. The Tribunal has, on the basis of this evidence, recorded as follows:

> "*(iv)* ***Loss of future Income:*** *25% permanent disability of intellectual impairment.*
> ***The injured examined himself as PW3 and his examination revealed that he was very very slow in reaction****. He had stated at the time of noting his financial needs that he was not doing anything.* ***The injury has rendered him jobless and his physical condition showed that he had no prospects of getting any job in future.***
> ***His disability is thus, taken as 100% for whole body.*** *As the minimum wages for an matriculate on date of accident were*

[12] Emphasis supplied.

Rs.4382/- per month. As per Ex.PW3/1 aadhar card of the injured the age of injured was 35 years on the date of the accident, hence multiplier of 16 is applied."[13]

27. In the facts and circumstances of the present case, I am of the view that this assessment does not call for interference by this Court. The claimant had admittedly suffered head injuries in the accident, and was found to be intellectually impaired to the extent of 25%. The Tribunal, which had occasion to observe the demeanour of the claimant in the witness box, has characterised his reactions as "*very very slow*". Although the exact nature of the claimant's occupation does not find mention in the evidence, the Tribunal's assessment was that he had been rendered jobless by the accident, and that he would have no prospects of securing employment in future. It may also be recalled that his injuries required treatment for over 5 years. On a holistic consideration of all these facts, I do not find any ground to interfere with the Tribunal's assessment.

F. GRANT OF FUTURE PROSPECTS

28. Paragraphs 59.3 and 59.4 of *Pranay Sethi* deal with the award of future prospects while assessing loss of dependency, as follows:

"*59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*

59.4. ***In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years.*** *An addition of 25% where the deceased was between the age of 40 to 50*

[13] Emphasis supplied.

years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."[14]

29. The same principle has been applied in personal injury cases also[15].

30. Mr. Seth did not therefore object to the grant of future prospects of 40% in the present case. It is so ordered.

G. ASSESSMENT OF LOSS OF FUTURE INCOME

31. The Tribunal had computed this head of damages on the basis of minimum wages of Rs. 4,382/- per month, being the minimum wages payable to a matriculate, as on the date of the accident. As the claimant was 35 years of age, the multiplier of 16 was applied. As a result of the aforesaid discussion, the loss of future income is re-computed as follows:

Heads	Amount
Monthly Income **[A]**	Rs. 4,382/-
Annual income **[A x 12 = B]**	Rs. 52,584/-
Addition of future prospects **[40% of B = C]**	Rs. 21,033.6/-
Annual income (including future prospects) **[B + C = D]**	Rs. 73,617.6/-
Loss of future earnings after accounting for functional disability (per annum) **[100% of D = E]**	Rs. 73,617.6/-
Loss of future income (after applying the applicable multiplier) **[E x 16]**	**Rs. 11,77,881.6/- (Rs. 11,77,882/- approx.)**

32. Loss of future income would therefore require enhancement from Rs.8,41,344/- to Rs.11,77,882/-.

[14] Emphasis supplied.

H. COMPENSATION FOR FUTURE MEDICAL EXPENSES

33. Ms. Rao submitted that the Supreme Court in *Raj Kumar* and *Kavin* has permitted compensation on an assessment of future medical expenses, which the Tribunal has failed to award in the present case. However, she was unable to point to any evidence before the Tribunal supporting this claim or even to establish that the claimant would require continued medical care for conditions arising out of the accident. At the time of hearing, I had put it to Ms. Rao that the matter could be remanded to the Tribunal for this purpose, so that evidence could be led, as it was in the case of *Kavin*, where the injured was in a permanent vegetative state. However, Ms. Rao, upon instructions, declined the suggestion of a remand. In these circumstances, I do not consider it appropriate to grant any amount on this account.

I. MODIFICATION OF AWARD

34. As a result of the above, the award of the Tribunal requires modification to the following extent:

S. No.	Heads	Amount awarded by the Tribunal	Amount awarded by the Court	Difference (+/-)
	Pecuniary Loss			
1.	Expenditure on treatment	Rs. 62,000/-	Rs. 62,000/-	NIL
2.	Expenditure on conveyance	Rs. 25,000/-	Rs. 25,000/-	NIL
3.	Expenditure on special diet	Rs. 25,000/-	Rs. 25,000/-	NIL
4.	Cost of	Rs. 25,000/-	Rs. 25,000/-	NIL

[15] *Sidram v. United India Insurance Co. Ltd.*, [(2023) 3 SCC 439], paragraph 31.

	nursing/attendant charges			
5.	Loss of income during the period of treatment	Rs. 2,71,684/-	Rs. 2,71,684/-	NIL
	Non-Pecuniary Loss			
6.	Compensation for mental and physical shock	Rs. 25,000/-	Rs. 25,000/-	NIL
7.	Pain and suffering	Rs. 25,000/-	Rs. 25,000/-	NIL
8.	Loss of amenities of life	Rs. 25,000/-	Rs. 25,000/-	NIL
9.	Disfiguration	Rs. 25,000/-	Rs. 25,000/-	NIL
10.	Loss of future income	Rs. 8,41,344/-	Rs.11,77,882/-	(+)Rs.3,36,538/-
11.	Loss of amenities or expectation of life span	Rs. 25,000/-	Rs. 25,000/-	NIL
	TOTAL	**Rs. 13,75,028/-** **(rounded to Rs.13,75,000/-)**	**Rs.17,11,566/-**	**(+)Rs.3,36,566/-**

J. ENHANCEMENT OF THE AWARD IN THE ABSENCE OF CROSS-OBJECTION IN THE APPEAL

35. A question however arises as to whether enhancement of compensation can be granted in the present case, as the claimant has not filed any cross-objection or cross-appeal. Mr. Seth drew my attention to the judgment of the Supreme Court in *Rajana Prakash & Ors. v. Divisional*

Manager & Anr.[16], to submit that no such order should be passed. I have dealt with this very issue in a recent judgment in *Oriental Insurance Co. Ltd. v. Shanti & Ors*.[17] wherein I have held as follows:

> "*27. The aforesaid re-computation gives rise to a further issue, which is, whether the award passed by the Tribunal can be enhanced on an appeal by the insurance company, when the claimants have not filed any cross-objection or cross appeal.*
>
> *28. This question came up for consideration before a two Judge Bench of the Supreme Court in Ranjana Prakash& Ors. v. Divisional Manager &Anr. wherein the Court held as follows:*
>
> > *"8. Where an appeal is filed challenging the quantum of compensation, irrespective of who files the appeal, the appropriate course for the High Court is to examine the facts and by applying the relevant principles, determine the just compensation.* ***If the compensation determined by it is higher than the compensation awarded by the Tribunal, the High Court will allow the appeal, if it is by the claimants and dismiss the appeal, if it is by the owner/insurer****. Similarly, if the compensation determined by the High Court is lesser than the compensation awarded by the Tribunal, the High Court will dismiss any appeal by the claimants for enhancement, but allow any appeal by the owner/insurer for reduction.* ***The High Court cannot obviously increase the compensation in an appeal by the owner/insurer for reducing the compensation, nor can it reduce the compensation in an appeal by the claimants seeking enhancement of compensation.****"*
>
> *29. However, a later order of a three-Judge Bench of the Supreme Court in Surekha & Ors. v. Santosh & Ors.*[18]*, reads as follows:*
>
> > *"1. Leave granted. This appeal takes exception to the judgment and order dated 4-1-2019 [Shriram General Insurance Co. Ltd. v. Surekha, 2019 SCC OnLine Bom 12] passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No. 2564 of 2016, whereby* ***the High Court,***

[16] (2011) 14 SCC 639.
[17] MAC.APP. 891/2013, decided on 11.12.2025 [hereinafter, "*Shanti*"].
[18] (2021) 16 SCC 467 [hereinafter, "*Surekha*"].

even though agreed with the stand of the appellants that just compensation amount ought to be Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal*.*

2. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hypertechnical approach and ensure that just compensation is awarded to the affected person or the claimants.

3. As a result, we modify the order passed by the High Court *to the effect that the compensation amount payable to the appellants is determined at Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), with interest thereon as awarded by the High Court.*

4. The appeal is allowed in the above terms. Pending applications, if any, stand disposed of."

30. While the aforesaid order does not refer to Ranjana Prakash, the appeal therein arose from a judgment of the Bombay High Court in Shriram General Insurance Company Limited v. Surekha & Ors[19]*. In the said judgment, the Bombay High Court found that the compensation payable to the claimants required enhancement, but declined such relief in the absence of a cross-objection or cross-appeal, relying on Ranjana Prakash. It is thus evident that Ranjana Prakash, was expressly considered by the Bombay High Court in the judgment, which was under challenge before the Supreme Court in Surekha. The three-Judge Bench of the Supreme Court nevertheless reversed the view taken by the High Court, which in turn was based upon Ranjana Prakash.*

31. ***In these circumstances, I am of the view that the judgment in Surekha now holds the field, and this Court is entitled to award just and reasonable compensation to the claimant, by ordering enhancement of the award, even in the absence of a cross-objection or cross-appeal.***

32. This view is further strengthened by the principle that a Court is required to grant just and fair compensation to the victim of road accident, unrestrained by strict rules of pleadings and

[19] (2019) SCC OnLine Bom 12.

evidence, established by a judgment of the Supreme Court in Nagappa v. Gurudayal Singh & Ors[20].

33. I am fortified in this view by several judgments which rely upon the Supreme Court's order in Surekha, including by this Court in The New India Assurance Co. Ltd. v. Ali Sher Khan & Ors.[21]*, by Rajasthan High Court in United India Insurance Co. Ltd. v. Moti Lal*[22]*, by the Bombay High Court in United India Insurance Co. Ltd. v. Rukmini Deepak*[23]*, and by the Andhra Pradesh High Court in National Insurance Co. Ltd. v. Nakkala Seshaiah*[24]*."*[25]

36. In addition to the judgments cited in *Shanti*, Ms. Rao also drew my attention to the judgments of the Allahabad High Court and Karnataka High Court in *New India Assurance Co. Ltd. v. Lajjawati*[26] and *National Insurance Co. Ltd. v. Sujatha & Ors.*[27] respectively, which follow the view taken in *Surekha*.

37. Mr. Seth however relied upon an order of the Supreme Court in *The Oriental Insurance Co. Ltd. v. Sardar Singh & Ors.*[28], dated 07.01.2021, which reads as follows:

"*Learned counsel for the petitioner Insurance Company makes a threefold submission:*
a) In an appeal of the insurance company without there being a cross appeal or cross objection, the amount has been enhanced by the High Court which is contrary to the law laid down in Ranjana Prakash & Ors. vs. Divisional Manager & Anr., 2011 8 SCALE 240.
b) The deceased driving motor cycle was a minor and thus the factor of contributory negligence should have been taken into account.
c) An amount for loss of consortium has been granted of Rs. 1 lakh contrary to the amount set forth in National Insurance Company Ltd. Vs. Praney Sethi & Ors., (2017))16 SCC 680.

[20] (2003) 2 SCC 274.
[21] 2023 SCC OnLine Del 916.
[22] 2025 SCC OnLine Raj 364.
[23] 2025 SCC OnLine Bom 2589.
[24] 2025 SCC OnLine AP 3782.
[25] Emphasis supplied.
[26] 2022 SCC OnLine All 1798.
[27] Miscellaneous First Appeal No. 1492/2017, decided on 09.07.2025.
[28] SLP(C) No. 14319/2020.

Issue notice limited to the aforesaid extent.
In the meantime, the operation of the impugned order is stayed."

38. It may be noted that the above order is an interim order, and the proceedings remain pending before the Supreme Court. In view of discussion above, which considers both *Ranjana Prakash* and *Surekha*, I am of the view that this Court is bound to enhance the awarded amount, even in the absence of a cross-appeal or cross-objection by the claimant.

K. CONCLUSION

39. For the reasons aforesaid, the impugned award in the present case stands enhanced by Rs. 3,36,538/-, from Rs. 13,75,000/- to Rs. 17,11,566/-.

40. By an interim order dated 06.04.2018, the Insurance Company was directed to deposit the amount awarded with the Tribunal. It was also directed that 40% of the amount was to be released to the claimant in accordance with the directions contained in the Tribunal's award.

41. The impugned award provided for disbursement of the awarded amount to the claimant within a period of 125 months, i.e. 12 years and 5 months. Around 8 years have passed since the impugned award.

42. As the proceedings have resulted in enhancement of the award, the following directions are passed:

a) The Insurance Company is directed to deposit the enhanced amount of Rs. 3,36,566/- with the Tribunal, alongwith interest, within a period of 8 weeks from today. Interest will be computed at the rate of 9% per annum, as granted by the Tribunal, from the date of filing of the detailed accident report, i.e. 27.07.2009.

b) The balance amount which ought to have been released to the claimant under the orders of the Tribunal, but has not been released due to the interim orders of this Court, be released to him forthwith.

c) The remaining amount shall continue to be released in terms of the directions given by the Tribunal.

d) The enhanced amount to be deposited in terms of this judgment will be disbursed in accordance with further directions of the Tribunal. The claimant will appear before the Tribunal on 09.02.2026 for consideration of this issue.

43. The appeal, alongwith the pending application, stands disposed of with the aforesaid directions.

44. Statutory deposit be refunded to the Insurance Company.

PRATEEK JALAN, J

JANUARY 28, 2026
'PV/Ainesh'/