

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

CIVIL APPEAL NO. 4472 OF 2025
(Arising out of SLP(C) No.3947/2019)

**MOHAMMAD MARUF
KHAN & ANR.**

... APPELLANT(S)

VERSUS

**ICICI LOMBARD GENERAL
INSURANCE COMPANY
LTD. & ORS.**

...RESPONDENT(S)

ORDER

Rounds	Time taken for disposal of the claim petition by the MACT	Time taken for disposal of the appeal by the High Court	Time taken for disposal of the appeal in this Court
Round No. 1	2 years 1 month	5 months	6 years 3 months
Round No. 2	3 months	10 months	

Leave granted.

2. This appeal is directed against the judgment and order dated 21st February, 2018, passed in S.B. Civil Misc. Appeal

No.2022/2017 by the High Court of Judicature for Rajasthan at Jaipur Bench, Jaipur, which, in turn, was preferred against the order dated 23rd January, 2017 in Case/Claim No.737/2017 passed by the Motor Accident Claims Tribunal No.2, Jaipur Metropolitan City.

3. The brief facts giving rise to this appeal are that on 23rd October, 2012, the deceased, namely, Ruksana Kayamkhani Kali, aged 28 years, along with her father and son, was going towards Pali from village Jabasar at district Jhunjhunu, in a car bearing number RJ 22 UB 0001 (hereinafter referred as “the offending vehicle”). After reaching near Goridi bus stand, the driver of the offending vehicle/Respondent No.3, who was driving the vehicle in a rash and negligent manner, suddenly applied the brakes due to which the car toppled and took multiple rollovers, before coming to a stop. As a result of the incident, the deceased was taken to the hospital, where she died during treatment, whereas her father died on the spot of the incident.

4. In connection with this incident, FIR No.210/2012 was registered against the driver of the offending vehicle at PS Ladnu, district Nagaur under Sections 279, 337 and 304 of the Indian Penal Code, 1860.

5. A claim petition was filed on behalf of the claimant-appellants (legal representatives of the deceased) under Section

166 of the Motor Vehicle Act,1989, before the Tribunal seeking compensation to the tune of Rs.1,62,70,000/-, submitting therein that the deceased was working as a teacher in Upadhyay Convent School, Kadi Vihar, Burari, Delhi, earning Rs.25,000/- per month.

6. The Tribunal *vide* its order dated 27th October, 2015, proceeded *ex-parte* against the driver and owner of the offending vehicle. The monthly income of the deceased was fixed at Rs.3,000/-, on the basis of the prevailing minimum wages, observing that the appointment letter produced, did not appear to be reliable, as the deceased was appointed in Upadhyay Convent School on 1st October 2012 and the accident occurred on 23rd October 2012, so, she had not received any salary and there being no proof establishing her income. Cumulatively, under various heads, the Tribunal awarded a total compensation of Rs.7,37,000/- along with an interest @ 6% per annum from the date of filing of the claim petition.

7. Being aggrieved, the claimant-appellants filed S.B. Civil Misc. Appeal No.1037/2016, before the High Court on the ground that the findings of the Tribunal in awarding the compensation amount were contrary to the material available on the record. The High Court *vide* its judgment and order dated 25th July, 2016, while setting aside the Tribunal's order, remanded the matter back to the Tribunal with a direction to decide the

matter afresh only on the issue of determination of the amount of compensation by considering the evidence available on record.

8. The Tribunal *vide* order dated 23rd January, 2017, awarded an amount of Rs.11,97,320/- along with the interest @ 7.5% on the enhanced amount from the date of receipt of the case after remand i.e., 5th October 2016 till its realization. The monthly income of the deceased was taken as Rs. 5,330/-, considering the minimum wages fixed by the State of Rajasthan, as per the Notification dated 27th December 2010, issued by the Labour Department, Government of Rajasthan and revised on 1st January, 2011. The daily wages for a highly skilled person is fixed at 205/- per day, which, for 26 days, comes to Rs.5,330/-.

9. Being aggrieved with the amount of compensation awarded, the claimant-appellants filed an appeal before the High Court for enhancement of the amount of compensation awarded by the Tribunal on the ground that the deceased was earning Rs.25,000/- per month. On the other hand, the insurance company also preferred cross-appeal before the High Court seeking reduction of the compensation amount.

10. The High Court, *vide* the impugned order, enhanced the amount of Rs.34,140/-, consequently, the total compensation arrived at was Rs. 12,31,460/. The Court assessed the monthly

income of the deceased at Rs.6,150/-, considering the nature of her job as a teacher.

11. Yet dissatisfied with the compensation awarded by the High Court, the appellant is now before us.

12. The point raised by the appellants is that the Courts below have incorrectly assessed the monthly income of the deceased without even considering the ocular and cogent evidence regarding the educational qualification and potential earning capacity of the deceased.

13. The present special leave petition was challenged by the respondent-insurance company, stating that the evidence establishing the appointment of the deceased was not considered trustworthy by the Courts below, and the findings of the facts returned by the Tribunal can not be said to be perverse.

14. We have heard the learned counsel for the parties.

15. We are inclined to interfere with the findings of the Courts below. Bare perusal of the record in hand and the evidence led by Mohd. Maroof Khan - AW1 and Rajeev Gupta - AW-2, show that the deceased was appointed as a teacher and her income was to be Rs.25,000/- per month. To substantiate the claim, the appellant has submitted additional Trial Court documents on record, including an appointment letter issued by the Upadhyay Convent School. The letter indicates that the deceased was

appointed to the post of TGT with effect from 1st October, 2012, at a pay scale of Rs.9,300-34,800/-.

16. In the present case, it is evident from the record that the deceased who was appointed to the position of TGT from 1st October 2012, tragically passed away as a result of the accident on 23rd October 2012, a mere 20 days following her appointment. In our view, the testimony of AW-1 and AW-2 cannot be discarded in the present case, solely on the basis that the deceased had only commenced her employment and had not received any salary. Consequently, we are inclined to determine her monthly income to be Rs. 9,300/- in accordance with the appointment letter.

17. As a result of the discussion above, the compensation payable to the appellants in accordance with law is as follows:

CALCULATION OF COMPENSATION

Compensation Heads	Amount Awarded	In accordance with:
Monthly Income	Rs.9,300/-	
Yearly Income	Rs.1,11,600/-	
Future Prospects (40%) (<i>Age being 28</i>)	1,11,600/- + 44,640/- = Rs.1,56,240/-	<i>National Insurance Co. Ltd. v. Pranay Sethi</i>
Deduction (1/3)	1,56,240/- - 52,080/- = Rs.1,04,160/-	

Multiplier (17) (Age being 28)	1,04,160/- x 17 = Rs.17,70,720/-	(2017) 16 SCC 680 Para 37, 39, 41, 42 and 59.4
Loss of Income of the Deceased	Rs.17,70,720/-	
Loss of Estate	Rs.18,150/-	National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC 680 Para 59.8
Loss of Funeral Expenses	Rs.18,150/-	
Loss of Consortium	48,400/- x 4 = Rs.1,93,600/-	
Total	Rs.20,00,620/-	

Thus, the difference in compensation is as under:

MACT	High Court	This Court
Rs.11,97,320/-	Rs.12,31,460/-	Rs.20,00,620/-

18. The Civil Appeal is allowed in the aforesaid terms. The impugned Award dated 23rd January, 2017 in Motor Accident Case/Claim No.737/2013 passed by the Motor Accident Claims Tribunal No.2, Jaipur Metropolitan City, as modified by the High Court of Judicature for Rajasthan at Jaipur Bench, Jaipur, *vide* the impugned judgment and order dated 21st February, 2018, passed in S.B. Civil Misc. Appeal No.2022/2017 stands modified

accordingly. Interest on the enhanced amount is to be paid at the rate of 6% per annum, from the date of filing of the claim petition till its disbursement.

19. The amount be directly remitted in terms of the directions issued by the Tribunal. The particulars of the bank account are to be immediately supplied by the learned counsel for the appellants to the learned counsel for the respondents. The amount be remitted positively within a period of four weeks, thereafter.

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

.....**J.**
(SANJAY KAROL)

.....**J.**
(MANOJ MISRA)

New Delhi;
28th March, 2025