
(2025) 06 DEL CK 0605

In the Delhi High Court

Case No : MAC.APP. No. 106 Of 2025, Civil Miscellaneous Application No. 7345, 7346 Of 2025

Universal Sompo General Insurance Company Ltd

APPELLANT

Vs

Sh. Dinesh Kumar Singh & Ors

RESPONDENT

Date of Decision : 09-06-2025

Acts Referred:

Indian Penal Code, 1860 — Section 279, 304
Motor Vehicles Act, 1988 — Section 173
Income Tax Act, 1961 — Section 192(I), 201(1A)

Citation : (2025) 06 DEL CK 0605

Hon'ble Judges : Amit Mahajan, J

Bench : Single Bench

Advocate : Rajat Khattry

Final Decision : Dismissed

Judgement

Amit Mahajan, J

1. The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter 'MV Act') seeking reduction of compensation awarded by the learned Motor Accident Claims Tribunal vide award dated 28.08.2024 (hereafter 'the impugned award'), passed in MACT No. 692/2019.

2. The brief facts are that on 06.07.2019 at about 9:30 p.m., Mr. Sanjeev Kumar Singh/deceased along with his father/Respondent No.1 were returning to their home. When they reached near Surajkund Pali Road, a truck bearing No. HR-38S-6678, being driven by Respondent No. 2 in a rash and negligent manner hit them.

3. Due to the impact they both fell on the road and sustained injuries. The deceased sustained grievous injuries on his head, whereafter, he was taken to a nearby hospital and was declared brought dead.

4. This incident led to the registration of FIR No. 419/2019 at Police Station

Surajkund, for offences under Sections 279/304A of the Indian Penal Code, 1860 ('IPC'). After the completion of investigation, the police charge sheeted Respondent No. 2 for the said offences.

5. The learned Tribunal, after examining the pleadings, evidence, and documents on record, assessed the compensation at ₹ 49,82,740/- and awarded an interest at the rate of 7.5% per annum to the legal heir of the deceased/Respondent No.

1. The details thereof are as under:

S.no.

Heads of Compensation

Amount

1.

Loss of Dependency

₹ 49,98,040/-

2.

Loss of Consortium

₹ 48,400/-

3.

Funeral Expenses

₹ 18,150/-

4.

Loss of Estate

₹ 18,150/-

TOTAL

₹ 49,82,740/-

6. Aggrieved by the quantum of compensation awarded, the appellant – Insurance Company has preferred the present appeal.

7. The learned counsel for the appellant submitted that that learned Tribunal erred in assessing the income of the deceased at ₹ 34,300/-. He submitted that the deceased, at the relevant time, fell under the tax slab for which 5% income tax was payable and the same ought to have been deducted by the learned Tribunal while assessing the income of the deceased.

8. He further submitted that interest awarded at the rate of 7.5% per annum is on the higher side and that the same should be reduced to 6% per annum.

Analysis

9. The short question for consideration before this Court is whether the compensation as awarded by the learned Tribunal is adequate or whether the same ought to be reduced.

10. The learned counsel for the appellant contented that the learned Tribunal ought to have deducted the income tax from the income of the deceased. He contended that the deceased at the time of the accident fell under the tax slab for which 5% income tax was payable.

11. The Hon'ble Apex Court in the case of *Sarla Verma and Ors. v. Delhi Transport Corporation and Anr.*: (2009) 6 SCC 121 held that for calculating compensation, the income of the victim less the income tax should be treated as the actual income.

12. In *Vimal Kanwar and Ors. v. Kishore Den and Ors.*: (2013) 7 SCC 476, the Hon'ble Apex Court while relying on the judgment of *Sarla Verma and Ors. v. Delhi Transport Corporation and Anr* (supra) observed as under:

"22. The third issue is "whether the income tax is liable to be deducted for determination of compensation under the Motor Vehicles Act".

23. In *Sarla Verma* this Court held:

"20. Generally, the actual income of the deceased less income tax should be the starting point for calculating compensation"

This Court further observed that:

"24. ... Where the annual income is in taxable range, the words 'actual salary' should be read as 'actual salary less tax'."

Therefore, it is clear that if the annual income comes within the taxable range, income tax is required to be deducted for determination of the actual salary. But while deducting income tax from the salary, it is necessary to notice the nature of the income of the victim. If the victim is receiving income chargeable under the head "salaries" one should keep in mind that under Section 192(1) of the Income Tax Act, 1961 any person responsible for paying any income chargeable under the head "salaries" shall at the time of payment, deduct income tax on estimated income of the employee from "salaries" for that financial year. Such deduction is commonly known as tax deducted at source ("TDS", for short). When the employer fails in default to deduct the TDS from the employee's salary, as it is his duty to deduct the TDS, then the penalty for non-deduction of TDS is prescribed under Section 201(1-A) of the Income Tax Act, 1961. Therefore, it is clear that if the annual income comes within the taxable range, income tax is required to be deducted for determination of the actual salary. But while deducting income tax from the salary, it is necessary to notice the nature of the income of the victim. If the victim is receiving income chargeable under the head "salaries" one should income of the victim is only from "salary", the presumption

would be that the employer under Section 192(1) of the Income Tax Act, 1961 has deducted the tax at source from the employee's salary. In case if an objection is raised by any party, the objector is required to prove by producing evidence such as LPC to suggest that the employer failed to deduct the TDS from the salary of the employee. However, there can be cases where the victim is not a salaried person i.e. his income is from sources other than salary, and the annual income falls within taxable range, in such cases, if any objection as to deduction of tax is made by a party then the claimant is required to prove that the victim has already paid income tax and no further tax has to be deducted from the income."

(emphasis supplied)

13. The learned Tribunal after a perusal of the salary slips and testimony of PW-2 who proved the said salary slips assessed the income of the deceased at ₹ 34,300/- per month. Thereby his gross annual income would be ₹ 4,11,600/-. The said income undoubtedly would be subject to tax as applicable at the relevant time. Thus, the learned Tribunal in the opinion of this Court ought to have considered the applicable tax and its deduction for the purpose of assessing the income of the deceased.

14. The accident took place on 06.07.2019. The Ministry of Finance by way of the Finance Bill, 2019 notified the tax slabs applicable for the financial year 2019-20. The relevant portion is reproduced hereunder:

"PART I

INCOME-TAX

Paragraph A

(I) In the case of every individual (other than those mentioned in items

(II) and (III) of this paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act (not being a case to which any other Paragraph of Part III applies) are as under:—

Rates of Income-tax

Upto Rs. 2,50,000	Nil.
Rs. 2,50,001 to Rs. 5,00,000	5 per cent..
Rs. 5,00,001 to Rs. 10,00,000	20per cent..
Above Rs 10,00,000	30per cent..

(ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous

year,—

Upto Rs.3,00,000	Nil.
Rs. 3,00,001 to Rs. 5,00,000	5 per cent..
Rs. 5,00,001 to Rs. 10,00,000	20 per cent..
Above Rs 10,00,000	30 per cent..

(iii) in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Upto Rs. 5,00,000	Nil.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent..
Above Rs 10,00,000	30 per cent..”

(emphasis supplied)

15. Even though the gross income of ₹ 4,11,600/- is subject to payment of tax under the relevant slab, however, the assessee is also entitled to benefit of standard deduction and other benefits as available to the tax payers.

16. The quantum of standard deduction as applicable on the annual gross income in the financial year 2019-20 was ₹ 50,000/-. The benefit of the standard deduction of ₹ 50,000/- from the gross annual income would be available to the deceased. Gross monthly salary of the deceased also included the component of House Rent Allowance. As per the salary slip the victim was getting monthly salary in the following manner:

17. Undisputedly, House Rent Allowance is taxable in nature.

18. As per the tax regime applicable in the financial year 2019-20, the taxpayer was entitled to the benefit of deductions from the gross income under the head of House Rent Allowance if such person was paying any rent towards his accommodation.

19. In the present case the learned Tribunal has not noted whether the deceased at the time of the accident was paying rent towards his accommodation, however, considering the facts of the present case it can safely be presumed that the deceased would have at least been paying an amount of ₹ 75,000/- to ₹ 1,00,000/- annually towards rent and therefore relevant deductions will be applicable from the gross income of the deceased.

20. Considering that the deceased at the time of the accident was earning gross annual income of ₹ 4,11,600/- and if the aforesaid deductions are made from the said amount, the net income of the deceased would be around ₹ 2,50,000/- and hence not liable for payment of any income tax.

21. It is well-settled that the amount of compensation awarded under the MV Act

should be just and, to the extent possible, should fully and adequately restore the claimant to a position as existed prior to the accident. The object being to make good the loss suffered as a result of the accident in a fair, reasonable and equitable manner.

22. By its very nature, when a tribunal or court is tasked with determining the amount of compensation in accident cases, it inevitably involves a degree of estimation, hypothetical assessments, and a measure of compassion related to the severity of the disability sustained. However, all these factors must be evaluated with objective standards.

23. The Hon'ble Apex Court in the case of State of Arunachal Pradesh v. Ramchandra Rabidas alias Ratan Rabidas and another : (2019) 10 SCC 75 held that the MV Act is a beneficial legislation aimed at providing compensation to people affected by motor accidents. The relevant observations are reproduced hereunder:

"5.The M.V. Act is a beneficial legislation, the primary objective being to provide a statutory scheme for compensation of victims of motor vehicle accidents; or, their family members who are rendered helpless and disadvantaged by the untimely death or injuries caused to a member of the family, if the claim is found to be genuine. The Act provides a summary procedure for claiming compensation for the loss sustained in an accident, which is otherwise applicable to suits and other proceedings while prosecuting a claim before a civil court."

24. Therefore, in light of the aforesaid judgment noting the beneficial nature of the MV Act and the fact that the net income of the deceased after the requisite deductions fell within the range for which no tax was liable to be deducted, this Court finds no reason to interfere with the impugned award passed by the learned Tribunal.

25. The present appeal is therefore dismissed. Pending application(s) if any also stand disposed of.