2026:DHC:9920

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

Reserved on : 05th August 2026.
Pronounced on : 06th November 2026.
Uploaded on : 06th November 2026.

\# **CNR No. DLHC010238052019**

\+ **MAC.APP. 586/2019 & CM APPL. 24454/2019**

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Mr. Ravi Sabharwal, Advocate.

versus

SAVITA & ANR .....Respondents

Through: Mr. Jatinder Kamra & Mr. B. P. Saxena Advocates for R-1

\# **CNR No. DLHC010238062019**

\+ **MAC.APP. 588/2019 & CM APPL. 24461/2019**

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Mr. Ravi Sabharwal, Advocate

versus

SAVITA & ANR .....Respondents

Through: Mr. Jatinder Kamra & Mr. B. P. Saxena Advocates for R-1

\# **CNR No. DLHC010019872023**

\+ **MAC.APP. 47/2023**

SAVITA .....Appellant

Through: Mr. Jatinder Kamra & Mr. B. P. Saxena Advocates

versus

ISHWAR DAS AND ANR .....Respondents

Through: Mr. Ravi Sabharwal, Advocate for Insurance Co.

CNR No. DLHC010019882023

\+ **MAC.APP. 48/2023**

SAVITA .....Appellant

Through: Mr. Jatinder Kamra & Mr. B. P. Saxena Advocates

versus

ISHWAR DAS AND ANR .....Respondents

Through: Mr. Ravi Sabharwal, Advocate for Insurance Co.

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CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

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ANISH DAYAL, J.

1. The peculiar facts of this case prompted this Court to deliberate and assess the principles governing '*dependency'*, its scope and its impact on grant of compensation in motor vehicle accident cases.

Background

2. These cross-appeals have been filed in relation to award dated 12th March 2019, with respect to an accident that occurred on 31st August 2015, whereby the Tribunal has granted compensation in respect of the death of *Meenu* and *Chamanlal*. *Meenu* was the sister of the claimant, *Savita*, and *Chamanlal* was their father. *Savita* is, therefore, claiming compensation both for the death of her father *Chamanlal* and

of her sister *Meenu*. Mother of *Savita* has already passed away previously.

3. ***MAC.APP.586/2019*** and ***MAC.APP. 588/2019*** have been filed by the Insurance Company, represented by *Mr. Ravi Sabharwal,* counsel, while ***MAC.APP.47/2023*** and ***MAC.APP.48/2023*** have been filed on behalf of the claimant seeking enhancement of compensation, represented by *Mr. Kamra*.

Impugned Award

4. The Tribunal, in order to calculate compensation for non-dependant-claimant, chose to adopt the principle laid down by a Coordinate Bench of this Court in ***Keith Rowe v. Prashant Sagar*** 2010 SCC OnLine Del 4686, by calculating a notional *loss of estate* in the following manner. Date of birth of the deceased was 02nd June 1992 and the accident took place on 31st August 2015. Therefore, the deceased, *Meenu*, was 23 years of age at the time of her death. The applicable multiplier of 18 was applied to the notional income based on the minimum wages applicable to an unskilled worker, taken at *Rs. 9,048/-* per month, with an addition of 40% towards future prospects. The *loss of dependency*, therefore, came to *Rs. 27,36,108/-*. 1/3rd thereof, amounting *to Rs. 9,12,100/-*, was calculated towards this notional *loss of estate*. Along with funeral expenses of *Rs. 15,000/-,* total compensation of *Rs. 9,27,100/-* was awarded in respect of the death of *Meenu*.

5. In the case of *Chamanlal*, out of his two daughters, *Meenu* passed away in the same accident, while the mother of *Chamanlal* had pre-deceased him. Applying ***Keith Rowe*** (*supra*), the notional *loss of estate*

was calculated in the following manner. Age of the deceased, *Chamanlal*, was 56 years on the date of the accident. Multiplier of 9 was applied to his monthly salary of *Rs. 31,415/-* per month, with an addition of 15% towards future prospects. *Loss of dependency* was arrived at *Rs. 39,01,743/-,* and 1/3rd thereof, amounting to *Rs. 13,00,600/-,* was calculated towards notional *loss of estate*. This amount, along with *Rs. 15,000/-* towards funeral expenses, resulted in a total compensation of *Rs. 13,15,600/-.*

Submissions on behalf of Insurance Company

6. *Mr. Ravi Sabharwal*, counsel for the Insurance Company, contends that in both cases of *Meenu* and *Chamanlal*, the MACT awarded compensation by relying upon the decision in ***Keith Rowe*** (*supra*), and computed compensation under the head of *loss of estate*, i.e. loss of savings of the deceased at 1/3rd of her income, considering that *Savita* (the claimant) was married and had her own family unit.

7. He further contended that the savings/loss of estate ought to have been assessed at *15*% of the income, as ***Keith Rowe*** (*supra*) mandates that, where non-dependent brothers and sisters claim compensation on behalf of the estate, the quantum of savings should be taken at *15*% of the income. According to him, the same principle would apply to the case of a non-dependent son or daughter. He further relies upon the decision of the Supreme Court in ***New India Insurance Co. Ltd. v. Anand Pal***, SLP (Civil) No. 7805/2022, decided on 4th December 2023, wherein it was observed that compensation ought not to be awarded to married siblings.

8. He further pointed out that the claimant, *Savita*, in her testimony had stated that she had got married in 2002 and that her husband was working with the MCD on a temporary basis. He, therefore, contended that she could not have been considered dependent upon the income of her deceased father.

9. Therefore, he contended that, since the claimant was married and was not dependent on the deceased, no compensation should have been granted under the head of loss of dependency. In support of his contention, he relies upon the following judgments, which are arranged in chronological order, for purposes of proper appreciation:

i. ***New India Insurance Co. Ltd. v. Anand Pal***, SLP (Civil) No. 7805/2022, decided on 4th December 2023, wherein the Supreme Court held that married and separately residing brothers cannot be treated as dependants in the absence of evidence establishing financial dependency.

ii. ***IFFCO Tokio General Insurance Co Ltd. v. Ramwati & Ors.*** 2025:DHC:11191, wherein this Court held that married daughters residing with their parents due to disputes with in-laws could be treated as dependants and awarded compensation for loss of dependency. He relied upon this decision to show that, even in that case, the married daughter was residing with the deceased and was, actually, financially dependent on them.

iii. In ***Sarjit & Anr. v. Hanuman Das Chaturvedi & Anr.*** 2017:DHC:7840 and ***Bajaj Allianz General Insurance Company***

Ltd. v. Krishna & Ors. 2018:DHC:3927**,** wherein to a non-dependent person compensation was awarded for *loss of estate* to the extent of *15%* of the income of the deceased on basis of parameters laid down in ***Keith Rowe*** (*supra*). Counsel relied on the same to state that, at most, compensation could be awarded to the extent of 15% since claimant was not dependent on the deceased persons.

Submissions on behalf of claimant

10. *Mr. Kamra*, counsel for claimant, submitted that *Savita* (the claimant), who testified as **PW1**, denied that she was not dependent upon the income of her deceased father. She also denied that her deceased sister was not earning anything and was dependent upon the earnings of their deceased father.

11. *Mr. Kamra* further stated that in *paragraph 5* of the evidence by way of examination-in-chief filed by **PW1**, Savita, had clearly stated that her sister was earning approximately *Rs. 15,000/-* per month and was a graduate. She used to provide tuition to students from Classes 4th to 9th prior to her death. She also stated that her sister used to regularly contribute *Rs. 8,000/-* per month from her earnings and savings to Savita and that they were dependent upon each other.

12. It was submitted that there was no cross-examination on this aspect by the Insurance Company, although *Savita* stated that she could not produce any documentary evidence regarding the earnings of her deceased sister.

13. *Mr. Kamra* further submitted that various courts have considered married siblings, married children and financially non-dependent family members as dependents and have awarded compensation to them. In support of his contention, he relied upon the following judgments:

i. ***Gujarat State Road Transport Corporation, Ahmedabad v. Ramanbhai Prabhatbhai and Anr.*** (1987) 3 SCC 234, wherein brother of the deceased was awarded compensation.

ii. ***Gangaraju Sowmini (Dr.) v. Alavala Sudhakar Reddy,*** 2016 SCC OnLine Hyd 430, wherein claim of a a non-dependent brother was allowed.

iii. ***National Insurance Company Ltd. v. Birinder & Ors.*** (2020) 11 SCC 356, wherein major married earning sons of the deceased were awarded compensation.

iv. ***Tata AIG General Insurance Co. Ltd. v. Sarita & Ors***., 2023:DHC:5892, wherein married daughter of the deceased was awarded compensation.

v. ***Seema Rani v. Oriental Insurance Company Ltd.*** 2025 INSC 192, wherein married daughter was also considered dependent**.**

vi. ***Sadhana Tomar & Ors. v Ashok Kushwaha & Ors. Civil Appeal No. 3763 OF 2025,*** wherein father and younger sister, though not financially dependent, were considered to fall within the definition of legal representatives.

vii. ***Oriental Insurance Co. Ltd. v. Vinay Jain & Ors***.

2026:DHC:5198, wherein compensation was awarded to financially independent husband.

viii. ***Jagdish v. Om Pal Singh & Ors.*** 2024:DHC:9806, wherein husband and a major child were awarded loss of dependency.

14. Relying on the above-mentioned decisions, *Mr. Kamra* contended that, even though the claimant herein was not dependent on the deceased, she would nonetheless be entitled to compensation on account of the death of her sister and father.

Analysis

15. To appreciate the legal issues involved in the present matter, it is imperative to examine ***first,*** as to who can file a claim; ***second***, the principles governing '*dependency'*; ***third***, various categories of dependants who do potentially file a claim; ***fourth***, standardisation and uniformity in compensation assessment; and ***fifth,*** deduction of personal and living expenses; ***sixth,*** apportionment and disbursement of compensation.

I. Who can file a claim

16. The distinction between a *legal representative*, a *dependent* and an *heir*, and the circumstances in which each may maintain a claim under MV Act, form the focus of the following paragraphs.

16.1. The expression "*legal representative*" has not been defined under the MV Act. However, recourse may be taken from the definition contained in Section 2(11) of the Code of Civil Procedure, 1908

('***CPC***'), which defines a *legal representative* to mean a person who in law represents the estate of a deceased person and includes a person who intermeddles with the estate of the deceased, as well as the person upon whom the estate devolves where a party sues or is sued in a representative character.

16.2. The definition is inclusive and of wide amplitude and is not confined to legal heirs alone. In ***Custodian of Branches of Banco National Ultramarino v. Nalini Bai Naique*** 1989 Supp (2) SCC 275, the Supreme Court held that those who were impleaded as parties to the suit in place of the deceased defendant represented the entire estate as they had share in the property, and since they had been brought on record, the decree was binding on the entire estate.

16.3. This position was reiterated in ***Manjuri Bera*** (*supra*), wherein the Supreme Court, while considering a claim under Section 166 of the MV Act, held that the expression "*legal representative*" must be given the widest meaning in terms of Section 2(11) CPC and that a legal representative need not necessarily be a legal heir or a dependent of the deceased.

16.4. The distinction between the concepts of legal representation, dependency and succession is therefore material. A person may be a legal representative of the deceased and consequently entitled to maintain a claim notwithstanding that such person was not financially dependent upon the deceased. In ***Manjuri Bera*** (*supra*), the Supreme Court expressly recognised that absence of dependency does not, by itself, extinguish the right of a legal representative to maintain a claim.

The Court also explained that the assessment of compensation involves distinct stages, namely, determination of liability, quantification of compensation and identification of the person or persons to whom the compensation is to be paid.

II. Principle of restitutio in integrum

17. Before we proceed further, it is important to look at the fundamental objective that imbues award of compensation in cases of tortious injury.

17.1. The principle of *restitutio in integrum* signifies that the injured person should, as nearly as possible, be placed in the same position, in monetary terms, as he would have been if the wrong, omission or injury had not occurred. Compensation is not intended to give a bonanza to claimant, but to provide monetary compensation for the loss, injury and deprivation suffered as a consequence of the wrongful act.

17.2. Courts have observed in various judgements that monetary compensation can only substitute certain forms of loss, particularly where the injury is to the human body or involves pain, suffering, disability or loss of amenities. Accordingly, the principle requires the court to determine a reasonable sum to fairly compensate the claimant to restore his position as it would have been had the accident not occurred.

17.3. The principle was explained by Lord Blackburn in ***Livingstone v. Rawyards Coal Co***. (1880) 5 App Cas 25 (HL), wherein the following was observed:

> "*I do not think there is any difference of opinion as to its being a general rule that, where any injury is to be compensated by damages, in settling the sum of money to be given for reparation of damages you should as nearly as possible get at that sum of money which will put the party who has been injured, or who has suffered, in the same position as he would have been in if he had not sustained the wrong for which he is now getting his compensation or reparation*."
>
> (emphasis added)

17.4. Lord Morris in ***H. West & Son Ltd. v. Shephard***, [1964] AC 326 (HL), observed that "*Money may be awarded so that something tangible may be procured to replace something else of like nature which has been destroyed or lost. But the money cannot renew a physical frame that has been battered and shattered*".

17.5. The same principle has been adopted and applied by the Supreme Court of India in ***R.D. Hattangadi v. Pest Control (India) Pvt. Ltd***. (1995) 1 SCC 551. The Court, while dealing with the case of a practising lawyer who had become paraplegic as a result of the accident, observed as under:

> "*10. It cannot be disputed that because of the accident the appellant who was an active practising lawyer has become paraplegic on account of the injuries sustained by him. It is really difficult in this background to assess the exact amount of compensation for the pain and agony suffered by the appellant and for having become a lifelong handicapped. No amount of compensation can restore the physical frame of the appellant. That is why it has been said by courts that whenever any amount is determined as the compensation payable*

> *for any injury suffered during an accident, the object is to compensate such injury 'so far as money can compensate' because it is impossible to equate the money with the human sufferings or personal deprivations. Money cannot renew a broken and shattered physical frame*."
>
> (emphasis added)

17.6. The Supreme Court subsequently reiterated the application of *restitutio in integrum* in ***Malay Kumar Ganguly v. Sukumar Mukherjee*** (2009) 9 SCC 221, and held as under:

> "*170. Indisputably, grant of compensation involving an accident is within the realm of law of torts. It is based on the principle of restitutio in integrum. The said principle provides that a person entitled to damages should, as nearly as possible, get that sum of money which would put him in the same position as he would have been if he had not sustained the wrong.*"
>
> (emphasis added)

17.7. In ***Balram Prasad v. Kunal Saha*** (2014) 1 SCC 384, the Supreme Court referred to the judgment of *Malay Kumar Ganguly* and observed as under:

> "*113. The claimant has further rightly contended that with respect to the fundamental principle for awarding just and reasonable compensation, this Court in Malay Kumar Ganguly case [Malay Kumar Ganguly v. Sukumar Mukherjee, (2009) 9 SCC 221 : (2009) 3 SCC (Civ) 663 : (2010) 2 SCC (Cri) 299] has categorically stated while remanding this case back to the National Commission that the principle for just and reasonable compensation is*

> *based on restitutio in integrum, that is, the claimant must receive sum of money which would put him in the same position as he would have been if he had not sustained the wrong.*"
>
> (emphasis added)

17.8. Accordingly, the principle of *restitutio in integrum* forms the underlying basis for the assessment of compensation in motor accident claims as well. The statutory mandate to award *just and reasonable compensation* under the MV Act has to be understood in this context. The object is to place the injured-claimant, or the legal representatives of a deceased victim, as nearly as possible in monetary terms as they would have been had the accident not occurred, though physical impairment cannot be undone.

17.9. This principle assumes importance in determining who is entitled to maintain a claim arising out of the death of a victim. The right to claim compensation is not necessarily limited to the legal heirs of the deceased, but extends to all *legal representatives* who have suffered loss on account of the death. Thus, all *legal representatives*, and not merely the legal heirs, falling within the category of persons who have suffered as a result of the death, are entitled to maintain an application under Section 166 of the MV Act.

17.10. Once the *legal representatives* are held entitled to maintain a claim, the loss of dependency ought to be determined on that basis, and they can't be shut out at the very threshold.

III. ***Various categories of dependants who do potentially file a claim***

18. To appreciate and understand the issue of *dependency*, it would be appropriate to first examine the views taken by various Courts on the subject. For this purpose, the relevant cases have been divided into different categories of claimants, based on the relationship of the claimant with the deceased, to assess the principles laid down by the Courts regarding the grant of compensation in each category of family member.

A. Claim by married and/or earning children

A.1. In ***Manjuri Bera v. Oriental Insurance Co. Ltd.*** (2007) 10 SCC 643, the Supreme Court expounded that the liability to pay compensation does not cease merely because there is an absence of dependency on the part of the legal representative. It was held that even if there was no loss of dependency, the claimant, if he or she was a legal representative, may nevertheless be entitled to compensation. The Court then held as under:

> "*18. In the present case, as stated above, the victim's married daughter has made her claim under Section 140 of the said Act saying that she has five children; that they are minors; that she was brought up by her uncle; that after her mother's death the deceased lived in the same house in which the claimant was living with her uncle before her marriage; that the deceased was a mason that after her marriage she lived with her husband and, therefore, she was entitled to get statutory compensation under Section 140 of the said Act.*"
>
> (emphasis added)

A.2. Similarly, in ***National Insurance Company Ltd. v. Birinder & Ors.*** (2020) 11 SCC 356, the claim petition was filed by the major sons of the deceased. The sons claimed that the fact that they were major and earning, by itself, would not render them ineligible to claim compensation. The Court was considering the issue whether the major sons of the deceased, who were married and gainfully employed, could claim compensation. The Court considered Section 166 of the Motor Vehicles Act, which provides that an application for compensation may be made by the person who sustained the injury, the owner of the property or, where death has resulted from the accident, "*by all or any of the legal representatives of the deceased*". Therefore, a major married son would be entitled to maintain an application for compensation under Section 166 of the Motor Vehicles Act as a "*legal representative*". The Court, on the basis of the evidence, found that the claimants were substantially dependent upon the deceased. Relying upon ***Manjuri Bera*** (*supra*), the Court further observed that even in the absence of a loss of dependency, legal representatives would nevertheless be entitled to compensation. The Tribunal must, however, examine whether the claimants were *wholly* or *partially* dependent upon the deceased.

A.3. In ***Seema Rani v. Oriental Insurance Company Ltd***. 2025 INSC 192, the Supreme Court considered a claim petition filed by the wife, daughter and two sons of the deceased. The High Court had accepted the contention of the Insurance Company that the major sons and the married daughter were not dependants and, therefore, a deduction of 50% was required to be made. The Supreme Court relied upon ***Birinder*** (*supra*) and, having regard to the facts of the case, noted that both sons

were residing with the deceased and, in such circumstances, could not be said to be self-sufficient or independent of the deceased. Applying the principle in ***Birinder*** (*supra*), the Supreme Court further held that "*there was no reason to exclude a married daughter from compensation*".

A.4. In ***Ram Charan v. New India Assurance Co. Ltd***. 2022 SCC OnLine Del 5146, this Court was dealing with a claim filed by one major son and four married daughters. The court noted that claimants could suffer the loss of emotional, physical and social support of the deceased, apart from the financial benefit which they might have derived from his income.

A.5. In ***Tata AIG General Insurance Co. Ltd. v. Sarita & Ors.*** 2023:DHC:5892, this Court, while assessing the dependency of a married daughter on the deceased (father), observed that the savings of the deceased form part of his estate and are inheritable by his legal representatives, irrespective of their dependency upon him. Compensation was awarded under the head of *loss of estate*. The Insurance Company, relying upon ***Manjuri Bera*** (*supra*), contended that since the claimant was a married daughter, she was not entitled to compensation towards loss of estate. The contention was rejected. Relying upon Section 166 of the MV Act, the Court held that the "*savings of the deceased become part of his estate that is inheritable by its legal representatives irrespective of whether they are dependant or not*".

A.6. In ***IFFCO Tokio General Insurance Co. Ltd. v. Ramwati & Ors.*** 2025:DHC:11191, a Coordinate Bench of this Court was dealing with claims filed by the wife, son and two daughters of the deceased. The Tribunal had held that the deceased was married and had left behind his widow, one major son and two major married daughters. Accordingly, the children could not be said to be dependent. Since the married daughters were having disputes with their in-laws and were residing in their parental home, the claimants were considered entitled to compensation. The Court again noted the decision of this Court in ***Ram Charan*** (*supra*) and ***Jagdish*** (*supra*), wherein it had been held that married daughters could also be entitled to compensation under the head of loss of dependency, relying upon the decision of the Supreme Court in ***Birinder*** (*supra*).

B. <u>Claim by sibling(s)</u>

B.1. In ***Gujarat State Road Transport Corporation, Ahmedabad v. Ramanbhai Prabhatbhai and Anr.*** (1987) 3 SCC 234, issue under consideration was whether the brother of a person who was killed in a motor accident can claim compensation. The Court stated, "*We should remember that in an Indian family brothers, sisters and brothers' children and sometimes foster children live together and they are dependent upon the breadwinner of the family and if the breadwinner is killed on account of a motor vehicle accident, there is no justification to deny their compensation relying upon the provisions of Fatal Accident Act, 1985*". The Court, therefore, held that the brother of a person who died in a motor accident is entitled to maintain a petition if he is a legal representative of the deceased.

B.2. In ***New India Assurance Co. Ltd. v. Anand Pal & Ors***., SLP (C) No. 7805/2022, decided on 04th December 2023, the Supreme Court considered the contention raised by the Insurance Company that the brothers of the deceased could not be considered dependants upon the earnings of the deceased as the three brothers were older, had families of their own, and could have received only occasional financial assistance from the deceased. Accordingly, it was contended that they could not be considered dependants. Reliance was placed on *paragraph 31* of ***Sarla Verma*** (*supra*) 6 SCC 121, wherein the Supreme Court observed that, in the absence of evidence to the contrary, the father is unlikely to have an income of his own and, therefore, would not be considered a dependent, while the mother alone would be considered a dependent. In the absence of evidence to the contrary, brothers and sisters would also not be considered dependants, as they would either be independent, married, or dependent upon their father. The Court noted that the deceased was residing separately, while his siblings were residing with their respective families. Accordingly, the Supreme Court held that the High Court ought not to have treated the three siblings as dependants of the deceased.

B.3. In ***Sadhana Tomar & Ors. v. Ashok Kushwaha & Ors.*** Civil Appeal No. 3763 of 2025, the Supreme Court, in a decision dated 24th January 2025, considered the issue of the Tribunal having not treated the father and younger sister of the deceased as dependants, on the ground that the father was not dependent upon the income of the deceased and that the younger sister was also not dependent. The Court noted the principle laid down in ***Ramanbhai Prabhatbhai*** (*supra*) and observed

that *legal representatives* are the persons who suffer on account of the death of a person in a motor vehicle accident and that they need not necessarily be the wife, husband, parent or child of the deceased. Accordingly, the Supreme Court held that the father and younger sister, though not financially dependent, would fall within the definition of "*legal representatives*".

B.4. In ***Gangaraju Sowmini (Dr.) v. Alavala Sudhakar Reddy*** 2016 SCC OnLine Hyd 430, the Telangana High Court, while considering a claim filed by a non-dependent brother, held that dependency is a relevant consideration in determining the quantum of compensation, but the absence of dependency is not, by itself, a ground for rejecting a claim under the MV Act. The Court further observed that non-dependency does not necessarily imply the absence of financial contribution or support, since family members may incur substantial expenses towards the treatment of the injured or deceased person.

B.5. In ***New India Assurance Co. Ltd. v. Sindhu K. & Ors***. 2024:KER:98358, the Kerala High Court, while considering a claim by the sole legal heir and sibling of the deceased, held that the claimant was not entitled to compensation towards loss of dependency in the absence of proof of financial dependency. However, the claimant remained entitled to compensation towards loss of estate. The Court followed ***Joseph v. Giji Varghese*** and ***Elamma v. ICICI Lombard General Insurance Co. Ltd***. and held that loss of estate could be computed in the same manner as loss of dependency.

B.6. In ***National Insurance Company Ltd. v. George Menezes*** NC:2025:KHC:41454, the Karnataka High Court, while considering the claim of married daughters, held that the right to claim compensation cannot be denied merely on the basis of marital status. The Court also observed that it is not uncommon for married daughters and sisters to maintain close relationships with their parental families.

C. Claim by earning spouse

C.1. The Madras High Court in ***Oriental Insurance Co. Ltd. v. Minor Jayapriya*** 2010 SCC OnLine Mad 2232 (DB), while considering the claim of a separated wife and an adopted daughter, held that MV Act does not require exclusive or sole dependency. Proof of *partial* dependency is sufficient to sustain a claim for compensation towards loss of dependency.

C.2. In ***Sarayu v. Surendra Vithal Nazare*** 2010 SCC OnLine Mad 4192, the Madras High Court was dealing with a question whether a remarried widow and the parents of the deceased can claim compensation. The Court held that remarriage does not deprive a widow of her status as a legal representative or disentitle her from claiming compensation. The Court relied upon Section 2(11) of the Code of Civil Procedure, which defines a legal representative.

C.3. In ***Jagdish v. Om Pal Singh & Ors.*** 2024:DHC:9806, the Delhi High Court, while considering a claim involving the husband and a major child, observed that the role of a mother extends beyond financial

considerations and includes emotional, physical and other forms of support.

C.4. In ***Oriental Insurance Co. Ltd. v. Vinay Jain & Ors***. 2026:DHC:5198, this Court, while considering the question of dependency in a family comprising earning members, held that a non-earning family member may contribute to the upkeep of the family through gratuitous services. The Court further observed that an earning husband is not necessarily independent of his deceased wife. Where the household is sustained by joint income, the surviving spouse's dependency may extend to the loss caused by the deceased spouse's contribution to the household corpus, whether through pecuniary earnings or non-pecuniary contributions.

C.5. In ***Biswajit Chowdhury v. Aklesh Sah*** 2022 SCC OnLine Gau 2227, the Gauhati High Court, while considering the claim of a husband, held that partial dependency is sufficient to sustain a claim for loss of dependency. The mere fact that a legal representative has an independent source of income does not, by itself, defeat such a claim.

C.6. Madhya Pradesh High Court in ***Ayshabe v. Mohinder*** 2023 SCC OnLine MP 4295, held that the widow's earning capacity does not, by itself, defeat dependency. Where both spouses were earning, the contribution of the deceased spouse towards household expenses could still justify an award of compensation for loss of dependency.

D. <u>Claim by non-family and other members</u>

D.1. In ***Montford Brothers of St. Gabriel v. United India Insurance Co. Ltd.*** (2014) 3 SCC 394, the Supreme Court was considering a claim

filed by a charitable religious society. The Court held that such a society could be treated as the legal representative of a deceased member, even though the deceased had no actual dependants.

D.2. While considering the claim of a mother-in-law, in ***N. Jayasree v. Cholamandalam MS General Insurance Co. Ltd.*** (2022) 14 SCC 712, the Supreme Court held that she could be treated as a dependant where she was residing with the deceased and was dependent upon her son-in-law for maintenance. The Court observed that, in Indian society, it is not uncommon for an aged mother-in-law to reside with her daughter and son-in-law and depend upon them for her maintenance.

D.3. In ***Basavaraj Shivappa Sangalad v. Shanta*** 2024 SCC OnLine Kar 27198, the Karnataka High Court, while considering the claim of a daughter-in-law whose husband had died during the pendency of the proceedings, discussed the concept of dependency and held that legal representatives may be entitled to compensation even without proof of actual financial dependency, where the law otherwise recognises their entitlement. The Court emphasised that the MV Act, being beneficial legislation, requires a liberal and wider interpretation.

D.4. In ***Joseph v. Giji Varghese*** (2010) 1 TN MAC 62 (Ker) (DB), the Kerala High Court, while considering a claim by persons who were not dependants of the deceased, held that no amount could be awarded under the head of loss of dependency in the absence of proof of dependency. However, the legal heirs remained entitled to compensation towards loss of estate.

IV. ***Standardisation and uniformity in compensation assessment***

19. Initially, the computation of compensation in case of death was guided by the principle of *loss* and *gain*. This aspect of computation of *loss* and *gain* was followed in a series of English judgments starting from ***Davies v. Powell Duffryn Associated Collieries Ltd.,*** [1942] 1 All ER 657 (HL). In this case, the House of Lords explained that damages payable to a dependant had to be assessed by determining the balance between the loss suffered by the dependant and the pecuniary benefits accruing to the dependant as a consequence of the death.

19.1. The assessment was further developed in ***Mallett v. McMonagle*** [1970] AC 166 (HL), where *Lord Diplock* explained a structured method for determining damages. The assessment required consideration of the material benefits which the deceased would have provided to the dependants had he survived, the benefits which the dependants would receive by reason of the death, and the manner in which the dependency could reasonably be expected to change over the future period. Thereby, future annual dependency was calculated by applying an appropriate number of years' purchase.

19.2. This approach has also been recognised in India in ***M.P.S.R.T.C. v. Sudhakar*** (1977) 3 SCC 64, wherein the Supreme Court adopted this approach to assess dependency.

19.3. In ***General Manager, Kerala State Road Transport Corporation v. Susamma Thomas (Mrs.)*** (1994) 2 SCC 176, the Supreme Court laid down a more structured formula to compute compensation. The Court held that the annual dependency, after making the appropriate deduction

towards the personal and living expenses of the deceased, is to be multiplied by an appropriate multiplier to assess loss of dependency. Thus, the *multiplicand-multiplier* method emerged as the basic mechanism for converting the future annual dependency into a lump-sum award.

19.4. In ***U.P. State Road Transport Corporation v. Trilok Chandra***, (1996) 4 SCC 362, the Supreme Court laid down the '*unit method'* for computation of the compensation. The Court held that where there is no definite evidence regarding how much the deceased actually spent upon himself, the "rough and ready" unit method could be used. Each adult was considered to be two units and a minor as one unit. The Court also noted that compounding dependency on various factors like remarriage, premature death etc. was complicated.

19.5. Thereafter, in ***Fakeerappa v. Karnataka Cement Pipe Factory***, (2004) 2 SCC 47, the Court reiterated that the percentage of deduction towards personal expenses could not be treated as an inflexible rule applicable irrespective of the circumstances of each case.

19.6. The principle for determination of loss of dependency was further evolved in the judgment of the Supreme Court in ***Smt. Sarla Verma & Ors v. Delhi Transport Corporation & Anr.*** (2009) 5 SCC 121. It was held that once the notional income is established, the next question is the percentage which ought notionally to be deducted towards the personal expenses of the deceased. This, too, has been broadly categorised on the basis of the number of dependants. ***Sarla Verma*** (*supra*), while prescribing standardised factions for such deduction, has nevertheless left some room for the Courts to consider the nature and circumstances

of the dependants, as noticed in *paragraphs 30-32* of the said judgment. Relevant paragraphs of ***Sarla Verma*** (*supra*) are extracted as under:

> ***"Re Question (ii) - Deduction for personal and living expenses"***
> *25. We have already noticed that the personal and living expenses of the deceased should be deducted from the income, to arrive at the contribution to the dependants. No evidence need be led to show the actual expenses of the deceased. In fact, any evidence in that behalf will be wholly unverifiable and likely to be unreliable. The claimants will obviously tend to claim that the deceased was very frugal and did not have any expensive habits and was spending virtually the entire income on the family. In some cases, it may be so. No claimant would admit that the deceased was a spendthrift, even if he was one.*
> *26. It is also very difficult for the respondents in a claim petition to produce evidence to show that the deceased was spending a considerable part of the income on himself or that he was contributing only a small part of the income on his family. Therefore, it became necessary to standardise the deductions to be made under the head of personal and living expenses of the deceased. This lead to the practice of deducting towards personal and living expenses of the deceased, one-third of the income if the deceased was married, and one-half (50%) of the income if the deceased was a bachelor. This practice was evolved out of experience, logic and convenience. In fact one-third deduction got statutory recognition under the Second Schedule to the Act, in respect of claims under Section 163-A of the Motor Vehicles Act, 1988 ("the MV Act", for short). But, such percentage of deduction is not an inflexible rule and offers merely a guideline.*
> *27. In Susamma Thomas [(1994) 2 SCC 176 : 1994 SCC (Cri) 335] it was observed that in the absence*

of evidence, it is not unusual to deduct one-third of the gross income towards the personal living expenses of the deceased and treat the balance as the amount likely to have been spent on the members of the family/dependants.

28. In U.P. SRTC v. Trilok Chandra [(1996) 4 SCC 362] this Court held that if the number of dependants in the family of the deceased was large, in the absence of specific evidence in regard to contribution to the family, the court may adopt the unit method for arriving at the contribution of the deceased to his family. By this method, two units are allotted to each adult and one unit is allotted to each minor, and total number of units are determined. Then the income is divided by the total number of units. The quotient is multiplied by two to arrive at the personal living expenses of the deceased. This Court gave the following illustration: (Trilok Chandra case [(1996) 4 SCC 362] , SCC p. 370, para 15)

> *"15. ... X, male, aged about 35 years, dies in an accident. He leaves behind his widow and 3 minor children. His monthly income was Rs 3500. First, deduct the amount spent on X every month. The rough and ready method hitherto adopted where no definite evidence was forthcoming, was to break up the family into units, taking two units for an adult and one unit for a minor. Thus X and his wife make 2 + 2 = 4 units and each minor one unit i.e. 3 units in all, totalling 7 units. Thus the share per unit works out to Rs 3500 ÷ 7 = Rs 500 per month. It can thus be assumed that Rs 1000 was spent on X. Since he was a working member some provision for his transport and out-of-pocket expenses has to be estimated. In the present case we estimate the out-of-pocket expense at Rs 250. Thus the amount spent on the deceased X works out to Rs 1250 per month*

leaving a balance of Rs 3500-1250 = Rs 2250 per month. This amount can be taken as the monthly loss to X's dependants."

29. In Fakeerappa v. Karnataka Cement Pipe Factory [(2004) 2 SCC 473 : 2004 SCC (Cri) 577] while considering the appropriateness of 50% deduction towards personal and living expenses of the deceased made by the High Court, this Court observed: (SCC p. 475, para 7)

"7. What would be the percentage of deduction for personal expenditure cannot be governed by any rigid rule or formula of universal application. It would depend upon circumstances of each case. The deceased undisputedly was a bachelor. Stand of the insurer is that after marriage, the contribution to the parents would have been lesser and, therefore, taking an overall view the Tribunal and the High Court were justified in fixing the deduction."

In view of the special features of the case, this Court however restricted the deduction towards personal and living expenses to one-third of the income.

30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra [(1996) 4 SCC 362] , the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a

different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

(emphasis added)

19.7. The four important elements which emerge from ***Sarla Verma*** (*supra*) are:

i. determination of the notional income as on the date of death;

ii. addition towards future prospects at the prescribed percentage;

iii. deduction towards personal expenses; and

iv. application of the appropriate multiplier having regard to the age of the deceased.

19.8. In ***Sarla Verma*** (*supra*), as pointed out in *paragraph no. 19.6* above, the Supreme Court, while dealing with the issue of deduction towards personal and living expenses, noted the different methods which had been used, *inter alia*, in ***Trilok Chand*** (*supra*) (*unit-based method*). The Court preferred the general practice of applying standardised deductions and, therefore, provided a matrix.

19.9. In ***Sarla Verma*** (*supra*), the Court noted that "*the lack of uniformity and consistency in awarding compensation has been a matter of grave concern. Every district has one or more Motor Accident Claims Tribunal/s. If different Tribunals calculate compensation differently on the same facts, the claimant, the litigant, the common man will be confused, perplexed and bewildered. If there is significant divergence among Tribunals in determining the quantum of compensation on similar facts, it will lead to dissatisfaction and distrust in the system*".

19.10. Further, while discussing general principles, the Supreme Court highlighted the following:

(a) Just compensation is adequate compensation which is fair and equitable on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do

(b) It is not intended to be a bonanza, largesse or source of profit. Assessment of compensation, though involving certain

hypothetical considerations, should nevertheless be objective. Justice and justness emanate from equality in treatment, consistency and thoroughness in adjudication, and fairness and uniformity in the decision-making process and the decisions.

(c) While it may not be possible to have mathematical precision or identical awards, in assessing compensation, the same or similar facts should lead to awards within the same range. When the factors/inputs are the same, and the formula/legal principles are the same, consistency and uniformity, and not divergence or freakishness, should be the result of adjudication in arriving at just compensation.

(d) If these determinants are standardised, there will be uniformity and consistency in the decisions. There will be less need for detailed evidence. It will also be easier for the insurance companies to settle accident claims without delay.

19.11. The Court then went on to state that basically there were only three facts which need to be established for assessing compensation in case of death; (a) age of the deceased;(b) income of the deceased; and (c) number of dependants.

19.12. On deduction from personal expenses, the Court in ***Sarla Verma*** (*supra*) stated that standardisation would be the norm, "*but such percentage of deduction is not an inflexible rule and offers merely a guideline*". In relation to dependency, the Court noted:

> "*In the absence of evidence to the contrary, brothers and sisters will not be considered as*

> *dependents, because they will either be independent and earning, or married or be dependent on the father. Thus, even if the deceased is survived by parents and siblings, only the mother would be considered to be dependent, and 50% would be treated as personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependent on the income of the deceased as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one third*".

19.13. This aspect resonated with the Constitution Bench in ***Pranay Sethi*** (*supra*), which extensively referred to the decision in ***Sarla Varma*** (*supra*). On reduction towards personal living expenses, the Constitution Bench held that the Tribunals and Courts should be guided by conclusion in *paragraph 43.6* of ***Reshma Kumari*** (*supra*) and that "*we concur with the same as we have no hesitation in approving the method provided herein*".

19.14. In *paragraph 43.6* of ***Reshma Kumari*** (*supra*), the Court had directed that Tribunals shall follow the standards prescribed in ***Sarla Verma*** (*supra*) subject to observations made in *paragraph 41* of ***Reshma Kumari*** (*supra*).

19.15. The Supreme Court in ***Reshma Kumari*** (*supra*), noted that the standards fixed in ***Sarla Verma*** (*supra*) may be followed "*unless a case of departure from the circumstances noted in the preceding paragraph is made out*". Finally, the Constitution Bench stated that: "*having bestowed anxious consideration, we are disposed to think when we accept the*

principle of standardization, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary." Yet again for other elements also the Constitution Bench indicated that "*the application of principle of standardization would avoid the perceived lack of certainty*".

19.16. From the above discussion, the following principles which revolve around the fulcrum and anchor of motor accident claims jurisprudence can be culled out, namely, providing uniformity, certainty and standardisation in the computation of compensation, in order to avoid excessive subjectivity and importation of new principles on a case-to-case

V. ***Dependency compensation - Deduction of personal and living expenses***

20. It is not unusual to have cases where the deceased has left behind a family comprising *dependents* and those *who are not dependents*. However, in terms of what has been discussed in *paragraph 16 to 16.4* above, all legal representatives who have suffered loss on account of death are entitled to file their claim for compensation under Section 166 of the MV Act and not only the legal heirs.

20.1. It is then for the Tribunal to determine the *loss of dependency* based on the standardized method provided in ***Sarla Verma*** (*supra*). After the notional income is assessed, the next step is to add the relevant percentage for *future prospects* and then to assess the deduction on account of personal and living expenses. It is at this stage that the element of determining who was dependent on the deceased comes into

play. This will naturally depend on the facts of each case and involves an assessment "*to arrive at the contribution to the dependents*".

20.2. As noted in ***Sarla Verma*** (*supra*), any evidence in this regard would be unverifiable, since claimants would claim that the deceased was very frugal, did not have expensive habits and was spending virtually the entire income on the family, or, on the other hand, that the deceased was spending a huge amount on himself or herself and contributing only a small part. Therefore, the necessity to standardise the process led to the evolution of the parameters given by the Supreme Court, based on experience, logic and convenience.

20.3. However, it was stated that such a deduction was *not inflexible* and offers merely a guideline. Nevertheless, at this stage, the Tribunal has to assess as to how many persons would be actually dependent, or even partly dependent, or would be in a situation where they were deriving some benefit of the family income.

20.4. While ***Keith Rowe*** (*supra*) approaches the issue from the perspective of savings and a claim through the *estate of the deceased*, it seeks to adopt a different method which tears away from the principle of standardisation that the Supreme Court has not only crystallised but reiterated, endorsed and sustained over some period of time.

20.5. It is only for this reason that the Court is of the view that adopting the method enunciated in ***Keith Rowe*** (*supra*) may, though, have been an appropriate method to determine the loss to a *partly dependent* or *not dependent* family member, going ahead, it creates a sense of uncertainty

and instability in computation of compensation and steers the Tribunal to veer off in a different direction.

20.6. In the opinion of this Court, the better method is to apply the standardised framework and not introduce or apply another method. Accordingly, the Court first considers the nature of the dependents for whom the deceased would have provided and choose a level of deduction from discrete fractions of 1/2, 1/3, 1/4 or 1/5. This gives sufficient range to a Court to determine the number of dependants and, therefore, the deduction towards personal and living expenses.

20.7. This deduction is critical to assess the extent to which the claimant would have a pecuniary gain from the deceased's income, had the deceased been alive. After the notional deduction, the portion of income left can be loosely termed as '*family contribution*'. This contribution would be spent on persons who may be living with the deceased or, even if living elsewhere, whom the deceased would possibly have supported.

20.8. Essentially, the idea is to deduct personal expenses with an eye on who would be dependant on the family contribution once a broad assessment is made of the need of the claimants to dip into the family contribution, based on evidence led, it can be worked out as to how many real '*dependants'* are there. Then the appropriate fraction can be chosen for deduction of personal expenses.

20.9. For example, if a sibling is living independently but is not in a good economic position and may not be part of an independent family unit, the sibling could possibly be supported financially out of the

family contribution. There could also be a situation where a sibling is married but is nevertheless of a low economic status and unable to sustain himself or herself, in which case the deceased may have provided for the sibling, at least partially. Determination of these issues will depend on a case-to-case basis, and Tribunals/Courts will have to make an assessment on the basis of the facts before them.

20.10. The wide variety of family situations cannot possibly be boxed into pre-determined silos. What is standardised is certain slabs on which the deductions can be assessed and maintained. Once the notional income is assessed in order to provide for future inflation, possible increases due to progress in life and future prospects are added, then the deductions are assessed. After this, one arrives at a multiplicand, and then the multiplier is applied.

20.11. Once the final compensation is arrived at, the next question arises of apportionment. This is where the Tribunal again needs to be careful and determine the varied aspects of "*dependency*". At this point, it is to be noted that a claimant can be a *legal representative* but not necessarily a *full dependent,* and could be *partly dependent*, or only *slightly dependent*. Therefore, at the stage of apportionment, which is really the amount that would provide an annuity to the family, the compensation would have to be apportioned in terms of *practical dependency* of each claimant.

VI. ***Dependency compensation - Apportionment and distribution of compensation***

21. The question is as to how the compensation, once the persons entitled to claim it have been identified, is to be apportioned amongst

them. Section 168 of MV Act specifically requires the Tribunal, while making an award, to specify the person or persons to whom the compensation is to be paid.

21.1. However, this does not mean that the Tribunal is required to adjudicate upon questions of succession or determine the shares of the deceased's estate as a civil court exercising testamentary or succession jurisdiction. In ***Rukhsana and Ors. v. Nazrunnisa*** (2000) 9 SCC 240, the Supreme Court held that succession certificate is not required for MACT compensation, as compensation does not form part of the deceased's estate or constitute a debt/security owed to him. The Court observed that civil court may determine who the legal representatives are and their respective shares under the applicable personal law.

21.2. Therefore, what is relevant is to determine the *corpus* of compensation which is available for distribution amongst the legal representatives. The manner in which such amount is to be distributed/apportioned is a separate question which has to be assessed having regard to the circumstances of the individual claimants.

21.3. In this regard again the nature of dependency would have to be considered in order for purposes of apportionment. Apportionment is a very important exercise which the Tribunal and Courts must undertake carefully.

21.4. Naturally, the actual dependants, such as minor children, major children living with the deceased, the widow, dependent parents, including aged parents, or even a brother or sister living with and dependent upon the deceased, would ordinarily be entitled to a larger

share. On the other hand, married and well-settled daughters and sons, or siblings who have established separate family units and are not practically dependent upon the deceased, may, even though they are legal heirs, be entitled to a comparatively lesser share. Such apportionment is critical to ensure that the compensation awarded remains just and reasonable.

21.5. In ***V.S. Sujatha*** (*supra*), the Kerala High Court considered a case where the widow and two major sons of the deceased were all legal representatives, but the sons were found not to be dependants. The Court held that while dependency could not be made the basis for denying a legal representative the right to claim compensation, it could determine the compensation. Taking into consideration, *inter alia*, the widow's dependency, her age and absence of future earnings prospects, and the position of the major sons who were not dependent upon the deceased, the Court upheld apportionment in the ratio of 3:1:1.

21.6. Another hypothetical example could be that if *Rs.1,00,000/-* is determined as the *loss of dependency*, taking into account three claimants, namely, the wife, a married daughter and a married son, the apportionment must have regard to the nature and extent of their respective practical dependency. The wife, being the major dependent, may receive 50% of the loss of dependency, while the married daughter and married son may receive 25% each (lesser percentage), or such other proportion as may be deemed appropriate having regard to the facts and circumstances of the case.

21.7. Likewise, in a case where a widow and a married daughter are left behind, the apportionment could be 75% and 25% respectively, in order to accommodate the livelihood of the wife, whereas the married daughter also has the possibility of financial support from her married household. This, in the opinion of this Court, is a possible apportionment of amount awarded towards loss of dependency/total compensation, which would serve the ends of justice for those who may not be completely 'dependent', but 'partially dependent' or family members who may claim moral right to have some share in the family income.

21.8. Therefore, the claim of dependency has to be seen through the prism of nature of dependency and cannot be put into discrete slots, as has been done in some decisions. A person cannot be straightway shunted out as not being dependent merely because they are married and earning. The facts and circumstances of each case have to be considered as may have been pleaded.

21.9. Shunting out those which are seemingly not dependant, because, say they are married and living separately. Just because somebody is not dependent on a daily basis on somebody, it cannot be that there is no loss which is incurred and for which they ought to be compensated. It cannot be that the insurance company or the driver/owner who is held liable, are completely absolved from paying any money, only because the family structure of the deceased is of a particular nature where dependency can be excluded at the very threshold.

21.10. Such an approach would not be consistent with the realities of Indian family structures. The mere fact that a person was not financially dependent on the deceased on a day-to-day basis does not necessarily mean that the death resulted in no financial loss to that person or that the person ought to receive no compensation. The insurance company, driver or owner, who is otherwise liable, cannot be completely absolved from payment merely because the family structure of the deceased does not fit within a conventional category of dependency.

21.11. Indian households are large family units with multiple minor or major stakes moral or financial right on the family income/household income. Therefore, even though there is a standardized matrix which is objective in character, subjectivity must be applied by the Tribunal or Court, in order to meets the ends of justice for awarding just and reasonable compensation.

21.12. There could be situations where the daughter, even though married, is floundering for financial support and adequate livelihood on account of either a low-earning or a non-earning spouse, or other difficulties which her marital household is going through.

21.13. For instance, the deceased may have been paying the EMI of a loan taken by the married son or daughter for purchase of a house, making contributions towards the rent or household expenses, paying school or educational expenses of the claimant's children, meeting medical or other substantial expenses, or providing financial assistance for other significant family commitments.

21.14. The same consideration may arise in the case of a sibling. A sibling may be an adult, employed and financially independent, and yet receive financial assistance from the deceased for specific purposes, such as education, medical treatment, housing, repayment of a loan, marriage-related expenses, or other substantial financial commitments. In such circumstances, the question is not whether the sibling was wholly dependent upon the deceased, but whether the deceased was making a financial contribution which the sibling would have continued to receive had the deceased survived.

21.15. For instance, where a deceased father leaves behind a wife and a married daughter, the question would arise whether the two surviving family members are to be treated as two dependents or whether the wife is to be treated as a dependent and the married daughter as a partial dependent. Seeing from that prism of what would be a family income from which both the wife and the married daughter could have derived benefit, and the father who would have spent less on himself in order to save up for the family income, the dependents could be considered as '2' and therefore, deduction would be taken as 1/3rd.

21.16. However, where the deceased had no children and left behind only a wife, the deduction may appropriately be 50%.

21.17. Similarly, where a deceased bachelor leaves behind two unmarried siblings, it may not necessarily follow that the deceased, merely because he was a bachelor, was supporting no one. The two unmarried siblings could reasonably have been expected to draw upon

or benefit from the family income and therefore the dependency of two people would be taken and a deduction of 1/3rd.

21.18. These are only illustrations, not set in stone. The Tribunals or the Courts may have to consider the circumstances or the nature of the dependency in order to select the standardised slab of deduction towards personal and living expenses, as given by ***Sarla Verma*** (*supra*) in order to determine the fraction to be applied.

21.19. Such situations of siblings, married children, earning fathers, earning spouse and other non-family members have been considered in decisions of various courts, and have been listed above in *paragraph* 18.

VII. ***Dependency - Principles summarized***

22. This process would, therefore, help the Tribunal to gravitate towards a just and reasonable estimation of compensation, which, though, cannot be perfect. Various tools and methods employed / adopted for computation are a combination of mathematical rigour on one hand and subjective assessment of facts and circumstances on the other.

22.1. Compensation assessment is truly an artful combination of both the objective and the subjective, and neither can be lost sight of. Each of these aspects have their own play in the calculation and computation of compensation. While there is standardisation in the multiplicand and multiplier system, and the prescribed parameters for deduction, future prospects, and the multiplier table which forms part of a matrix in which the computation can be done, Tribunals/Courts would still have to

employ some subjective assessment, depending on the facts and circumstances of each case.

22.2. Arguments raised by insurance companies or by the driver/owner who is liable for payment of compensation, with regard to the dependency of the claimant, have to be considered at three distinct stages.

22.3. ***Firstly***, dependency is not determinative of the right to institute a claim as a legal representative under Section 166 of the MV Act, as discussed above in *paragraphs 16 to 16.4*.

22.4. ***Secondly***, while determining the deduction towards personal and living expenses, the circumstances of the family have to be considered to assess how much the deceased would have spent upon himself or herself, had the deceased been alive, and how much of the remaining income would have been available for the family or household. The residual amount may, in this context, be regarded as contributing to a common family income pot.

22.5. To assess deduction on account of personal and living expenses, the *nature of dependency* of the claimant may have to be considered. This will have to be seen from the lens of whether the claimant, as a dependent or a partial dependent, would have dipped into the family savings and therefore would have relied on it for their own financial support.

22.6. ***Thirdly***, once *loss of dependency* has been computed by the above method, one reaches an amount which would be available for the

claimants to be used to purchase an annuity in order that they would get some amount every month, for their upkeep and as a contribution from the family income. This has to be apportioned, yet again, taking into account the nature of dependency.

Guideposts

23. From the above discussion, the following guideposts can be culled out:

I. All legal representatives can maintain a claim under Section 166 of MV Act even without proving financial dependency. (discussed in Sr. I above *paragraph nos. 16 to 16.4*)

II. The aim behind awarding compensation is to put the victim/claimants in the same position as they would have been before the accident had occurred. (discussed in Sr. II above *paragraph nos. 17 to 17.10*)

III. A married and earning daughter, son, spouse or sibling cannot be excluded from compensation *per se* merely because they are married, employed or residing separately. (discussed in Sr. III above *paragraph nos. 18)*

IV. There is no doubt that ***Sarla Verma*** (*supra*), as affirmed in ***Pranay Sethi*** (supra), laid the standardised principles for assessment of compensation. However, deduction towards personal and living expenses is not inflexible. The applicable deduction must be applied after considering the circumstances of those who would have benefited from the deceased's income. Calculating loss of estate as done in ***Keith Rowe*** (*supra*) may not be relevant as it is

not in consonance with the principles laid down in ***Sarla Verma*** (*supra*) and ***Pranay Sethi*** (*supra*). (discussed in Sr. IV above *paragraph nos. 19 to 19.16*)

V. Dependency is required to be assessed on the basis of facts and circumstances of each case. Tribunals/courts should examine the nature of dependency of the claimant rather than applying a rigid classification of dependents and non-dependents. (discussed in Sr. V above *paragraph nos. 20-20.11*)

VI. What is important is apportionment of such awarded amount. A wholly dependent claimant ought to get a greater share than a partially dependent or financially independent legal representative. (discussed in Sr. VI above *paragraph nos. 21 to 21.6*)

In the present case

24. To put the essential facts in perspective with respect to each of these claims, in relation to the death of *Meenu*, sister of the claimant, and *Chamanlal*, father of the claimant, it is noteworthy that the deceased *Meenu* was single and had not married. The mother of the deceased had predeceased her father, *Chamanlal*, had also died in the accident. The father's mother had predeceased the father. The deceased had no other legal heirs.

25. The MACT has awarded compensation to *Savita*, the claimant, on account of both the sister's death as well as father's death. In both these cases, the MACT has considered that since she was strictly not a dependent, she would be entitled, as the legal representative, to 1/3rd of the income of each deceased, in line with the decision in ***Keith Rowe***

(*supra*).

26. The view however taken by the Court is that compensation ought to be aligned with the standardised principles for calculation of *loss of dependency* and not on the basis of the view which was taken in ***Keith Rowe*** (*supra*).

27. The fact that *Savita* was a legal representative cannot be questioned and therefore is entitled to maintain a claim under Section 166 of the MV Act. Once she is entitled to be a claimant, it is her case to prove the *nature of dependency*.

28. Even if she was not practically a dependent, considering that she was married and living separately, the practical and factual aspects of an Indian family household have to be considered. Both the deceased, *Chamanlal*, and his daughter, the deceased *Meenu*, were residing together. *Meenu* was 23 years of age at the time of the accident. Accordingly, the notional income of *Chamanlal* was taken at *Rs.31,415/-* per month, with an addition of *15%* towards future prospects. In the case of *Meenu*, her notional income was taken at the minimum wages applicable to an unskilled worker, i.e. *Rs.9,048/-* per month, with an addition of 40% towards future prospects.

29. Both *Chamanlal* and *Meenu* would, notionally, have contributed to what may be described as the '*family income pot*'. *Chamanlal,* being a father of her 23-year-old Meenu and another daughter, *Savita*, who was married, would at best be assumed to have been spending 50% of his income on his personal and living expenses and saving up, contributing the rest of the 50% to the *family pot*; whereas, notionally,

Meenu, who was apparently taking tuitions, though there was no evidence, would also come in the same bracket since she was living with her father and was unmarried. Therefore, her deduction would also be considered at 50%, with the balance being treated as contribution towards the *family income pot*.

30. It may be argued that since there were two daughters, *Chamanlal* could have been taking care of two dependents. However, since *Meenu* also passed away in the same accident, there would be strictly no dependent on the date of the accident, for the purposes of assessment of deduction of *personal and living expenses*. Accordingly, 50% would be reasonable to be deducted on account of *personal and living expenses* for both *Meenu* and *Chamanlal*.

31. As noted above, the deduction towards personal and living expenses has to be viewed in the context of the extent to which the claimant could reasonably have had access to, or could have dipped into, the family savings or family income.

32. *Savita*, though married, could have continued to rely on the family income in order to get some monetary support out of it from time to time. Therefore, it cannot be said that she was completely not dependent, but in fact, partially dependent. At the same time, her dependency cannot be equated with that of a wholly dependent surviving spouse or minor child. She may, therefore, be regarded as partially dependent on the income of her father and sister. Accordingly, the contribution to the family income which would have been available for the benefit of *Savita* would be calculated by taking into account the

income of both *Chamanlal* and *Meenu*, after deduction of 50% towards their respective personal and living expenses.

33. In case of *Meenu,* with *future prospects* of 40%, a multiplier of '18' has been applied, and in case of *Chamanlal*, with a *future prospect* of 15%, a multiplier of '9' has been applied.

34. *Savita* would be entitled to compensation towards *loss of consortium* of *Rs.40,000/-* in respect of the death of *Meenu*, as loss of a sister, and *Rs.40,000/-* in respect of the death of *Chamanlal*, as parental consortium.

35. *Funeral expenses* and *loss of estate* would be assessed at *Rs.15,000/-* each in respect of each deceased.

MAC. APP. 586/2019 and MAC.APP.47/2023

36. Accordingly, the revised computation of compensation, towards the death of ***Meenu,*** is as under:

Sr. No.	**Heads**	**Awarded by the Tribunal**	**Awarded by the Court**
1.	Annual income of the deceased (A)	Rs. 1,08,576/-	Rs. 1,08,576/-
2.	Add-Future Prospects (B)	40%	40%
3.	Less-personal expenses of the deceased (C)	NIL	1/2 of Rs. 1,52,006/- = Rs. 76,003/-
4.	Annual loss of dependency [(A+B) - C] = D]	Rs. 1,52,006/-	Rs. 76,003/-
5.	Multiplier (E)	18	18
6.	Total loss of dependency (D x E) = (F)	Rs. 27,36,108/-	Rs. 13,68,054/-

7.	Compensation for loss of consortium (H)	NIL	Rs. 40,000/-
8.	Compensation for loss of estate (I)	1/3 of Rs. 27,36,108/- = Rs. 9,12,100/-	Rs. 15,000/-
9.	Compensation towards funeral expenses (J)	Rs. 15,000/-	Rs. 15,000/-
10.	Total Compensation (F+G+H+I+J = K)	Rs. 9,27,100/-	Rs. 14,38,054/-
11.	Interest Awarded	9% per annum	9% per annum
12.	Enhanced Compensation	**Rs. 5,10,954/-**	

37. Accordingly, the compensation is enhanced by *Rs. 5,10,954/-*.

38. Enhanced amount along with interest at 9% per annum from the date of filing the petition shall be deposited before MACT within a period of four weeks. It is directed that the said enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (FDRs) of *Rs. 25,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

MAC.APP. 588/2019 and MAC.APP.48/2023

39. Accordingly, the revised computation of compensation towards the death of ***Chamanlal*** is as under:

Sr. No.	**Heads**	**Awarded by the Tribunal**	**Awarded by the Court**
1.	Annual income of the deceased (A)	Rs. 3,76,980/-	Rs. 3,76,980/-

2.	Add-Future Prospects (B)	15%	15%
3.	Less-personal expenses of the deceased (C)	NIL	1/2 of Rs.4,33,527/- = Rs. 2,16,763.50/-
4.	Annual loss of dependency [(A+B) - C] = D]	Rs.4,33,527/-	Rs. 2,16,763.50/-
5.	Multiplier (E)	9	9
6.	Total loss of dependency (D x E) = (F)	NIL	Rs. 19,50,871.50/-
7.	Compensation for loss of consortium (H)	NIL	Rs. 40,000/-
8.	Compensation for loss of estate (I)	1/3 of Rs. 39,01,743/- = Rs.13,00,581/-	Rs. 15,000/-
9.	Compensation towards funeral expenses (J)	Rs. 15,000/-	Rs. 15,000/-
10.	Total Compensation (F+G+H+I+J = K)	Rs. 13,15,600/-	Rs. 20,20,871.50/-
11.	Interest Awarded	9% per annum	9% per annum
12.	Enhanced Compensation	**Rs. 7,05,271.50/-**	

40. Accordingly, the compensation is enhanced by *Rs. 7,05,271.50/-*.

41. Enhanced amount, along with interest at 9% per annum from the date of filing the petition, shall be deposited before MACT within a period of four weeks. It is directed that the said remaining enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (FDRs) of *Rs. 25,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account

of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

MAC.APP. 588/2019, MAC.APP.48/2023, MAC. APP. 586/2019 and MAC.APP.47/2023

42. *Vide* order dated 22nd May 2019, this Court had directed the insurance company to deposit the entire compensation, barring *Rs. 4 lacs*, the entire amount i.e. *Rs 9,25,100/- + 13,15,600/- = 22,40,700/-* minus *Rs. 4 lacs* with the Tribunal, to be disbursed to the beneficiary of the Award, in terms of the scheme of disbursement specified therein.

43. Accordingly, balance compensation, i.e. *Rs. 4 lacs* along with 9% per annum, be deposited with the MACT within a period of 4 weeks. The same be released to the claimant in a lump sum within 2 weeks thereafter.

44. Appeals stand disposed of in the above terms. Pending applications are rendered infructuous.

45. Order of deposit and release as noted in *paragraph 38 and 41* shall be complied with. Statutory deposit, if any, be refunded to the Insurance Company only if the order of deposit has been complied with.

46. Copy of this judgment be sent to the concerned MACT/bank for information and necessary compliance.

47. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

NOVEMBER 06, 2026/sm/bp