

Sita Rani Lrs Of Deceased Sunil Pawar ... vs Shyam Sunder (Nia) on 24 December, 2024

DLCT010034802020

Presented on : 13-03-2020
Registered on : 16-03-2020
Decided on : 13-12-2024
Duration : 04 Years 09
Months

IN THE TRIBUNAL OF PRESIDING OFFICER-MACT-02,
CENTRAL, TIS HAZARI COURTS DELHI,
PRESIDED OVER BY DR. PANKAJ SHARMA
MACT No.326/20

1. SITA DEVI
W/o Late Sh. Sunil Panwar
2. RADHIKA PANWAR
D/o Late Sh. Sunil Panwar
3. KANIKA PANWAR
D/o Late Sh. Sunil Panwar

All R/o H.No. D-384, Kh. No. 17/13, .
D- Block, Street No. 9, Amrit Vihar,
I.P. Colony, Burari, Delhi-110084.

4. PRABHAKAR SINGH PANWAR
S/o Sh. Bahadur Singh
5. SMT. DEVESHWARI DEVI
W/o Sh. Prabhakar Singh Panwar

Both R/o Village DET, Post Delchaunri,
Patti Rawatsyun, Del Pauri Garwal,
Uttarakhand-246125.Petitioners.

VERSUS

MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 1/24

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PANKAJ PANKAJ SHARMA
SHARMA Date: 2024.12.24

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1. SHYAM SUNDER
S/o Sh. Banarsi Lal
R/o Mohalla Joshayan,
Sakit, Etah, UP-207121.. (DRIVER).
2. SHAILENDER KR. GUPTA
S/o Sh. Ram Prakash Gupta
R/o H.No. 146, Mohalla Rewari,
Kotwali City,
Etah, UP. (OWNER).
3. NEW INDIA ASSURANCE CO. LTD.
Through its Manager:-
At First Floor,
Shriram Market,
93, Aruna Nagar, G.T. Road,
Etah-207001, UP. (INSURER).
(Through Ld. Counsel Sh. Vinay Chaudhary)
....Respondents.

The particulars as per Form-XVII, Central Motor Vehicles (fifth Amendment) Rules, 2022 (Pl. see Rule 150A) are as under:-

1. Date of the accident 09/01/20
2. Date of filing of Form-I - First Accident Report N.A. (FAR)
3. Date of delivery of Form-II to the victim(s) N.A.
4. Date of receipt of Form-III from the Driver N.A.
5. Date of receipt of Form-IV from the Owner N.A.
6. Date of filing of the Form-V-Interim Accident N.A. Report (IAR)
7. Date of receipt of Form-VIA and Form-VIB N.A. from the Victim(s)
8. Date of filing of Form-VII - Detailed Accident N.A. Report (DAR)
9. Whether there was any delay or deficiency on N.A. MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 2/24 PANKAJ by PANKAJ SHARMA SHARMA Date: 2024.12.24 11:28:21 +0530 the part of the Investigating Officer? If so, whether any action/ direction warranted?
10. Date of appointment of the Designated Officer N.A. by the Insurance Company

11. Whether the Designated Officer of the Insurance N.A. Company submitted his report within 30 days of the DAR?
12. Whether there was any delay or deficiency on N.A. the part of the Designated officer of the Insurance Company? If so, whether any action/ direction warranted?
13. Date of response of the claimant(s) to the offer N.A. of the Insurance Company.
14. Date of the award 13/12/24
15. Whether the claimant (s) was/were directed to Yes open savings bank account(s) near their place of residence?
16. Date of order by which claimant(s) was/were 19/11/24 directed to open savings bank account(s) near his place of residence and produce PAN Card and Adhaar Card and the direction to the bank not issue any cheque book/debit card to the claimant(s) and make an endorsement to this effect on the passbook.
17. Date on which the claimant(s) produced the NA passbook of their savings bank account near the place of their residence along with the endorsement, PAN Card and Adhaar Card?
18. Permanent Residential Address of the R/o H.No. Claimant(s). D-384, Kh.

No. 17/13,.

D- Block
Street N
9, A
Vihar,
I.P. Col
Burari,
Delhi-11

MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 3/24 PANKAJ SHARMA
SHARMA Date:

2024.12.24 11:28:25 +0530 Also at:

R/o Village DET, Post Delchaunri, Patti Rawatsyun, Del Pauri Garwal, Uttr
akhand-246

19. Whether the claimant(s) savings bank account(s) NA is near his place of residence?

20. Whether the claimant(s) was/were examined at NA the time of passing of the award to ascertain his/their financial condition?

AWARD/JUDGMENT FACTUAL POSITION & PLEADINGS

1. This petition U/s 166 r/w Section 140 of M.V. Act was filed on 16/03/2020 seeking compensation in respect of the death of one Sh. Sunil Pawar S/o Sh. Prabhakar Singh (hereinafter referred to as "deceased") due to a motor vehicular accident dated 09/01/2020. As per PW-2 (eye witness) that in the night at about 9.30 P.M. after finishing his job at Shri Nath Ji Ispat Ltd, the deceased Sunil Pawar left from his job place for his residence on his own Motor Cycle bearing registration no. DL-2SR-0607, he was also following the deceased on his separate motor cycle on account of some of his personal urgent work. It is further stated that the deceased Sunil Kumar was driving his motor cycle at a very normal speed while observing all the traffic rules at the left corner of the road and at about 10.00 P.M, when the deceased and his friend reached near new MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 4/24 Digitally signed PANKAJ by PANKAJ SHARMA SHARMA Date: 2024.12.24 11:28:28 +0530 bus stand, in front of CNG Pump, then all of a sudden a Truck bearing registration no. UP-82Q-9925 (hereinafter referred to as "offending vehicle") which was being driven by the R-1 at a very high speed in contravention of the traffic rules and hit the motor cycle of the deceased Sunil with great force. It is further stated that due to forceful impact, the deceased died at the spot and he reported the matter to the police and also called the Ambulance at spot. It is further stated that the deceased was removed to hospital, where he was declared brought dead and thereafter his post mortem was conducted at Distt. Mortuary, Ghaziabad, UP vide post mortem examination report No. 36/2020. An FIR no. 16/20 PS Ghaziabad, UP U/s 279/427/304A IPC was registered in respect of the above accident. R-1 is the driver of the offending vehicle. R-2 is the owner of the offending vehicle and R-3 is the insurer of the same. Notice of this petition was issued to all the respondents.

2. No written statement was filed by the respondents and accordingly, their right to file written statement was closed vide order dated 11/10/2023 passed by this Tribunal.

ISSUES

3. Vide order dated 11/10/2023 the following issues were framed by this Tribunal :-

1. Whether the deceased Sh. Sunil Pawar suffered fatal injuries in an accident that took place on 09.01.2020 at about 10.00 PM involving vehicle bearing registration No. UP--82Q-9925 driven by the Respondent No.1 rashly and negligently, owned by the MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 5/24 PANKAJ SHARMA SHARMA Date:

2024.12.24 11:28:32 +0530 Respondent No. 2 and insured with the Respondent No.3?OPP

2. Whether the petitioners are entitled for compensation? If so, to what amount and from whom?

3. Relief.

PETITIONERS' EVIDENCE

4. In support of their contentions, the petitioners examined Petitioner No. 1 Smt. Sita Rani, wife of the deceased, as PW-1. PW-1, vide her affidavit Ex. PW1/A, deposed that the deceased who was her husband lost his life on 09/01/2020 due to an accident involving the offending vehicle. She further deposed that the accident took place due to the rashness and negligence of R-1. She further deposed that the deceased was 42 years old and was doing a private job and was earning a sum of Rs. 29,400/- per month from his vocation. She further deposed that the petitioners, being the wife, children and parents of the deceased, were completely dependent on the earnings of the deceased. She relied upon following documents :-

"Copy of Aadhaar Cards of petitioners are Ex. PW-1/1(OSR); Copy of death certificate of my deceased is Ex. PW-1/2(OSR);

Copy of school receipt is Ex.

PW-1/3."

5.1 PW1 was cross-examined by Ld. Counsel for R-3/ Insurance Company Only. In her cross-examination she deposed that she is not an eye witness of the accident. She further deposed that she got the information about the accident through the complainant who is Mahesh Pawar over voice call. She MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 6/24 PANKAJ by PANKAJ SHARMA SHARMA Date: 2024.12.24 11:28:35 +0530 denied the suggestion that her deceased husband was not earning Rs. 36,750/- as mentioned in Para No. 4 of her affidavit. She further denied the suggestion that she was not dependent upon her husband. She further denied the suggestion the accident had occurred due to the negligence of her deceased husband.

5.2 Petitioners further examined one Sh. Aditya Pratap, eye witness, as PW-2. He deposed vide his affidavit Ex. PW-2/A. He relied upon the copy of his Aadhar Card vide Ex. PW-2/1 (OSR). He deposed that on 09/01/2020 in the night at about 9.30 P.M., after finishing his job at Shri Nath Ji Ispat Ltd, the deceased Sunil Pawar left from his job place for his residence on his own Motor Cycle bearing registration no. DL-2SR-0607, he was also following the deceased on his separate motor cycle on account of some of his personal urgent work. It is further stated that the deceased Sunil Kumar was driving his motor cycle at a very normal speed while observing all the traffic rules at the left corner of the road and at about 10.00 P.M, when the deceased and his friend reached near new bus stand, in front of CNG Pump, then all of a sudden a Truck bearing registration no.

UP-82Q-9925 (hereinafter referred to as "offending vehicle") which was being driven by the R-1 at a very high speed in contravention of the traffic rules and hit the motor cycle of the deceased Sunil with great force. It is further stated that due to forceful impact, the deceased died at the spot and he reported the matter to the police and also called the Ambulance at spot. It is further stated that the deceased was removed to hospital, where he was declared brought dead and thereafter his post mortem MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 7/24 PANKAJ PANKAJ SHARMA SHARMA Date: 2024.12.24 11:28:40 +0530 was conducted at Distt. Mortuary, Ghaziabad, UP vide post mortem examination report No. 36/2020. PW-2 was cross-examined by Ld. Counsel for R-3/ Insurance Company Only. In her cross-examination she deposed that he is the eye witness of the incident but no stated of police official has been taken and no official has called in station for any inquiry and statement till date. He denied the suggestion that he and the deceased friend were travelling in the same motor vehicle. He further denied the suggestion that the deceased died by falling from his motor cycle. He further denied the suggestion that he is not a family friend of the deceased. He further denied the suggestion that he was not present at the spot of the accident.

5.3 Petitioners further examined one Sh. Avanish Sengar, HR Manager, Srinath Ji, Ispat Ltd, UP as PW-3. He relied upon his authority letter vide Ex. PW3/A. He proved the verified salary slip of deceased Sunil vide Ex. PW3/1 and increment letter of deceased vide Ex. PW3/2. PW3 was cross-examined by Ld. Counsel for R-3/ Insurance Company Only. In her cross-examination she deposed that in the firm more than 300 persons are working. He further deposed that their company used to pay salaries to their employees by way of cheques and cash also. He denied the suggestion Sunil Kumar never worked in their company nor their company was paying any salary to him as shown in Ex PW3/1.

5.4 Petitioner's evidence was then closed.

MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 8/24 PANKAJ by PANKAJ SHARMA SHARMA Date: 2024.12.24 11:28:44 +0530

6. Respondents did not lead any evidence in their defence.

FINDINGS

7. Oral submissions were advanced by Ld. Counsel for the parties..

8. I have perused the record and my issue wise findings are as under:-

" Whether the deceased Sh. Sunil Pawar suffered fatal injuries in an accident that took place on 09.01.2020 at about 10.00 PM involving vehicle bearing registration No. UP--82Q-9925 driven by the Respondent No.1 rashly and negligently, owned by the Respondent No. 2 and insured with the Respondent No.3?OPP"

9. It is well settled that the procedure followed for proceedings conducted by an accident tribunal is similar to that followed by a civil court and in civil matters the facts are required to be established by

preponderance of probabilities only and not by strict rules of evidence or beyond reasonable doubts as are required in a criminal prosecution. The burden of proof in a civil case is never as heavy as that is required in a criminal case, but in a claim petition under the Motor Vehicles Act, this burden is infact even lesser than that in a civil case. Reference in this regard can be made to the propositions of law laid down by the Hon'ble Supreme Court in the case of Bimla Devi and others Vs. Himachal Road Transport Corporation and MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 9/24 Digitally signed by PANKAJ PANKAJ SHARMA Date:

SHARMA 2024.12.24 11:28:47 +0530 others, reported in (2009) 13 SC 530, which were reiterated in the subsequent judgment in the case of Parmeshwari Vs. Amir Chand and others 2011 (1) SCR 1096 (Civil Appeal No.1082 of 2011) and also recently in another case Mangla Ram Vs. Oriental Insurance Co. Ltd. & Ors., 2018 Law Suit (SC) 303.

10. In order to prove the present issue, the petitioners have examined PW-2 Sh. Aditiya Pratap, eye witness, as PW-2. He deposed vide his affidavit Ex. PW-2/A, 09/01/2020 in the night at about 9.30 P.M., after finishing his job at Shri Nath Ji Ispat Ltd, the deceased Sunil Pawar left from his job place for his residence on his own Motor Cycle bearing registration no. DL-2SR-0607, he was also following the deceased on his separate motor cycle on account of some of his personal urgent work. It is further stated that the deceased Sunil Kumar was driving his motor cycle at a very normal speed while observing all the traffic rules at the left corner of the road and at about 10.00 P.M, when the deceased and his friend reached near new bus stand, in front of CNG Pump, then all of a sudden a Truck bearing registration no. UP-82Q-9925 (hereinafter referred to as "offending vehicle") which was being driven by the R-1 at a very high speed in contravention of the traffic rules and hit the motor cycle of the deceased Sunil with great force. It is further stated that due to forceful impact, the deceased died at the spot and he reported the matter to the police and also called the Ambulance at spot. It is further stated that the deceased was removed to hospital, where he was declared brought dead and thereafter his post mortem was conducted at Distt. Mortuary, Ghaziabad, UP vide post mortem examination report No. MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 10/24 PANKAJ SHARMA SHARMA Date:

2024.12.24 11:28:50 +0530 36/2020. PW-2 was cross-examined by Ld. Counsel for R-3/ Insurance Company Only. In her cross-examination she deposed that he is the eye witness of the incident but no stated of police official has been taken and no official has called in station for any inquiry and statement till date. He denied the suggestion that he and the deceased friend were travelling in the same motor vehicle. He further denied the suggestion that the deceased died by falling from his motor cycle. He further denied the suggestion that he is not a family friend of the deceased. He further denied the suggestion that he was not present at the spot of the accident.

11. It is not denied that R-1 was charge-sheeted for the offences punishable under Sections 279/427/304A IPC in the above FIR, which in itself is a strong circumstance to support the above oral testimony of PW-1 and the case of petitioners on this issue. The certified copies of FIR, charge-sheet, Mechanical Inspection Report of the offending vehicle, and Postmortem Report of

deceased also corroborate the testimony of PW-2.

12. Besides the above, R-1 himself was the best witness who could have stepped into the witness box to challenge the depositions being made by PW1 regarding the above accident and its manner etc., but he has not done so. Therefore, an adverse inference on this aspect is also required to be drawn against the respondents in view of the law laid down in case of Cholamandalam M.S. General Insurance Company Ltd. Vs. Kamlesh, reported in 2009 (3) AD (Delhi) 310.

MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 11/24 PANKAJ SHARMA SHARMA Date:

2024.12.24 11:28:54 +0530

13. In view of the above, it could be safely assumed that at the relevant time the deceased had died due to the rash and negligent driving of the offending vehicle being driven by R-1.

14. Having ruled so, this Tribunal now proceeds to assess the wrongful act, neglect or default of R-1, if any, in driving the offending vehicle at the relevant time. Admittedly, R-1 has not explained the circumstances under which his vehicle (i.e. the offending vehicle) was hit the deceased at the relevant time. In the absence of any evidence regarding any mechanical defect in the offending vehicle or any material depicting any negligent/sudden act or omission on the part of the deceased, the only inference possible in the given facts and circumstances is that of neglect and default on the part of R-1 in driving the offending vehicle at the relevant time. In view of the above discussion, this Tribunal is constrained to hold R-1 guilty of gross neglect and default in driving the offending vehicle at the relevant time.

15. In view of the contents of the FIR as well as the postmortem report pertaining to the deceased placed on record by the petitioners, no dispute is left regarding the death of the deceased on account of injuries sustained by him in the above accident.

16. In view of the above discussion, this Tribunal holds that the deceased lost his life on account of neglect and default of R-1 while driving the offending vehicle at the relevant time. This issue thus stands decided against the respondents and in MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 12/24 PANKAJ SHARMA Date:

SHARMA 2024.12.24 11:28:58 +0530 favour of the petitioners.

"Whether the petitioners are entitled to any compensation, if so, to what amount and from whom?"

17. As this Tribunal has already held that R1 was responsible for the death of the deceased due to his neglect and default in driving the offending vehicle at the relevant time, therefore, the petitioners have become entitled to be compensated for death of deceased in the above accident, but computation of compensation and liability to pay the same are required to be decided.

COMPENSATION

18. The compensation to which the petitioners are entitled shall be under the following heads:-

(i) LOSS OF DEPENDENCY

19. In this regard, the petitioners have examined Smt. Manju, wife of the deceased as PW-1. PW-1 has deposed that at the relevant time, the deceased was 42 years old and was doing a private job and was earning Rs. 29,400/- per month from his vocation. In order to prove the income of the deceased, the petitioners examined one Sh. Avanish Sengar, HR Manager, Srinathji Ispat Ltd as PW-3. He proved the salary slip of the deceased Ex. PW-3/1. As per which the salary of the deceased is Rs.29,400/-. Accordingly, the income of the deceased is considered as Rs.29,400/- for the purpose of quantification of MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 13 Digitally /24 signed PANKAJ by PANKAJ SHARMA SHARMA Date: 2024.12.24 11:29:02 +0530 compensation amount.

20. Petitioners have placed on record the copy of Aadhar Card of deceased. As per said document the date of birth of deceased was 07/11/1977. The date of accident is 09/01/2020. Apparently, the age of deceased was 42 years as on the date of accident. Hence, in view of the law laid down by the Hon'ble Supreme Court in case of Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121, which has also been upheld by the Constitutional Bench of the Hon'ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Sethi & Ors. SLP (Civil) No. 25590 of 2014, decided on 31.10.2017, the multiplier of '14' is held applicable for calculating the loss of dependency caused to the petitioners on account of death of the deceased.

21. Coming to the dependency of deceased at the time of accident, it may be observed that the deceased is survived by his wife, 02 children and parents. Accordingly, all are considered to be dependent upon the deceased.

22. Irrespective of this, one fourth of the earnings of deceased shall be deducted towards his personal and living expenses in view of the law already discussed above. Further, since this Tribunal has assumed that the age of deceased was 42 years at the time of accident., in view of the law laid down in the case of Pranay Sethi & Ors. (Supra), the petitioners are also held entitled to an addition of 25% of the above amount of his earnings towards future prospects.

MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 14 /24 PANKAJ by PANKAJ SHARMA Date: 2024.12.24 11:29:05 +0530

23. Thus, the loss of dependency qua the deceased in the present case comes to Rs.46,30,500/- (Rs.29,400/- X 125/100 X 3/4 X 12 X 14). This amount is awarded to the petitioners under this head.

(ii) COMPENSATION UNDER NON-PECUNIARY HEADS

24. In terms of propositions laid down by the Hon'ble Supreme Court in the case of Rajwati @ Rajjo & Ors. Vs. United India Insurance Co. Ltd., Civil Appeal No. 8179/2022 decided on 09/12/2022, the petitioners are also held entitled to amounts of Rs. 20,000/- each under the heads of loss of estate and funeral expenses. Further, in view of subsequent judgments of the Hon'ble Supreme Court in the case of United India Insurance Company Ltd Vs Satinder Kaur & Ors MANU/HC/0500/2020 and The New India Assurance Company Ltd & Ors Vs Somwati & Ors MANU/HC/0674/2020, the petitioners are also entitled to compensation under the head "loss of consortium": -

Spousal Consortium : Rs. 44,000/-

Filial Consortium : Rs. 88,000/- (Rs. 44,000/- X 2) Parental Consortium : Rs. 88,000/- (Rs. 44,000/- X 2)

25. Hence, the petitioners are awarded a total sum of Rs. 2,60,000/- (Rs. 20,000/- + 20,000/- + Rs. 2,20,000/-) under this head.

MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 15 Digitally /24 signed PANKAJ by PANKAJ SHARMA SHARMA Date: 2024.12.24 11:29:08 +0530 ISSUE NO.3/RELIEF

26. The petitioners are thus awarded a sum of Rs. 48,90,500/- (Rupees Forty Eight Lakhs Ninety Thousand Five Hundred Only) (Rs. 46,30,500/- + Rs. 2,60,000/-) along with interest @ 8% per annum from the date of filing of petition i.e. 16/03/2020. Since no interim compensation has been awarded, therefore no deduction is applicable.

RELEASE

27. Petitioners did not bother to appear before this Tribunal for recording their statements regarding financial needs and requirements.

27.1 Out of the awarded amount, Petitioner No. 1 is awarded a sum of Rs. 36,00,000/- (Rupees Thirty Six Lakhs Only) and the said amount is directed to be kept with State Bank of India, Branch Tis Hazari Courts, New Delhi in MACAD in the form of 180 monthly fixed deposit receipts (FDRs) payable in equal amounts for a period of 1 to 180 months in succession, as per the scheme formulated by Central Motor Vehicles (fifth Amendment) Rules, 2022 [(Directions at serial no. 35, 36 of Procedure for Investigation of Motor Vehicle Accidents (under Rule 150A)]. The amount of FDRs on maturity would be released in her savings/MACT Claims SB Account as and when she furnishes the details of her bank account which is near the place of her residence to the Bank Manager, State Bank of India, Tis Hazari Courts, New Delhi under intimation to the Civil Nazir of this Tribunal. The remaining amount of Rs. 4,49,334/-

MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 16/24 by PANKAJ PANKAJ SHARMA SHARMA Date:

2024.12.24 11:29:11 +0530 (Rupees Four Lakhs Forty Nine Thousand Three Hundred and Thirty Four Only) is also directed to be released into her above said account, which can be withdrawn and utilized by the Petitioner no. 1.

27.2 Rs.6,74,889/- be kept in FDRs in the name of petitioners No. 3 till she attains majority with cumulative interest.

On attaining majority, the bank shall release the interest portion to petitioner No. 3 by transferring the same to her savings bank accounts as and when she furnishes the details of her bank accounts which is near the place of her residence to the Bank Manager, State Bank of India, Tis Hazari Courts, New Delhi under intimation to the Civil Nazir of this Tribunal and the principal amount of Rs. 6,74,889/- be kept in 67 FDRs of Rs. 10,000/- each for a period of 1 month to 67 months with cumulative interest in the name of Petitioner No. 3.

27.3 Out of the awarded amount, Petitioners No. 2, 4 & 5 are awarded a sum of Rs. 5,00,000/- each (Rupees Five Lakhs Only) and the said amount is directed to be kept with State Bank of India, Branch Tis Hazari Courts, New Delhi in MACAD in the form of 25 monthly fixed deposit receipts (FDRs) payable in equal amounts for a period of 1 to 25 months in succession, as per the scheme formulated by Central Motor Vehicles (fifth Amendment) Rules, 2022 [(Directions at serial no. 35, 36 of Procedure for Investigation of Motor Vehicle Accidents (under Rule 150A)]. The amount of FDRs on maturity would be released in their savings/MACT Claims SB Accounts as and MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 17/24 Digitally by PANKAJ signed PANKAJ SHARMA SHARMA Date:

2024.12.24 11:29:15 +0530 when they furnish the details of their bank accounts which is near the place of their residence to the Bank Manager, State Bank of India, Tis Hazari Courts, New Delhi under intimation to the Civil Nazir of this Tribunal. The remaining amount of Rs.1,74,889/- each (Rupees One Lakh Seventy Four Thousand Eight Hundred and Eighty Nine Only) is also directed to be released into their above said accounts, which can be withdrawn and utilized by the Petitioners no. 2, 4 & 5 respectively.

28. The Bank(s) shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the petitioner(s) i.e. the savings bank account(s) of the petitioner(s) shall be an individual savings bank account(s) and not a joint account(s). The original fixed deposit shall be retained by the SBI, Branch Tis Hazari Courts, Delhi in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by the bank to the petitioner(s). The maturity amounts of the FDR(s) be credit by Electronic Clearing System (ECS) in the savings bank account of the petitioner(s) near the place of their residence. No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of this Tribunal.

LIABILITY

29. As already stated above, R-1 being the driver and principal tortfeasor and R-2 being owner of the offending vehicle, and also being vicariously liable for the acts of R-1, are jointly and severally liable to pay the awarded amount of MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 18/24 PANKAJ SHARMA Date:

SHARMA 2024.12.24 11:29:18 +0530 compensation to petitioner. However, since the offending vehicle was insured with R-3 at the time of accident, therefore, R-3/ Insurance Company is liable to indemnify R-2 in respect of above liability. As such R-3 is directed to deposit the above award amount within 30 days from the date of this Award by way of NEFT or RTGS mode in the account of this Tribunal maintained with SBI, Tis Hazari Courts, Delhi (account holder's name-Motor Accident Claims Tribunal 02 Central, A/C No. 40743576901, IFSC Code SBIN0000726) under intimation to the petitioners and this Tribunal in terms of the format for remittance of compensation as provided in Divisional Manager Vs. Rajesh, 2016 SCC Online Mad. 1913 (and reiterated by Hon'ble Supreme Court in the orders dated 16.03.2021 and 16.11.2021 titled as Bajaj Allianz General Insurance Co. Pvt.

Ltd. Vs. Union of India & Ors) along with interest @ 8% per annum till the deposit of the compensation as awarded, failing which it shall be liable to pay interest at the rate of 12% per annum for the period of delay.

30. A digital copy of this award be forwarded to the parties free of cost. Ahlmad is directed to send the copy of the award to Ld. Metropolitan Magistrate concerned and Delhi Legal Services Authority in view of Central Motor Vehicles (fifth Amendment) Rules, 2022 [(Directions at serial nos. 39, 40 of Procedure for Investigation of Motor Vehicle Accidents (under Rule 150A)]. Further Nazir is directed to maintain the record in Form XVIII in view of Central Motor Vehicles (fifth Amendment) Rules, 2022 [(Directions at serial no. 41 of Procedure for Investigation of Motor Vehicle Accidents (under MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 19/24 PANKAJ PANKAJ SHARMA SHARMA Date: 2024.12.24 11:29:22 +0530 Rule 150A)].

31. Ahlmad is directed to e-mail an authenticated copy of the award to the insurer as directed by the Hon'ble Supreme Court of India in WP (Civil) No. 534/2020 titled as Bajaj Allianz General Insurance Co. Pvt. Ltd. Vs. Union of India & Ors. on 16.03.2021. Ahlmad shall also e-mail an authenticated copy of the award to Branch Manager, SBI, Tis Hazari Courts for information.

32. Ahlmad is further directed to comply with the directions passed by the Hon'ble High Court of Delhi in MAC APP No. 10/2021 titled as New India Assurance Company Ltd. Vs. Sangeeta Vaid & Ors., date of decision : 06.01.2021 regarding digitisation of the records.

File be consigned to Record Room.

A separate file be prepared for compliance report and put up the same on 24.01.2025. PANKAJ Digitally signed by PANKAJ SHARMA SHARMA Date: 2024.12.24 11:29:27 +0530 Announced in the open court (DR. PANKAJ SHARMA On this 24.12.2024 Judge, MACT-02 (CENTRAL)

Delhi/24/12/2024 FORM - XV, Central Motor Vehicles (fifth Amendment) Rules, 2022 (Pl. see Rule 150A) SUMMARY OF COMPUTATION OF AWARD AMOUNT IN DEATH CASES

1. Date of accident. : 09/01/2020

2. Name of the deceased : Sh. Sunil Panwar

3. Age of the deceased : 42 years

4. Occupation of the deceased : Job MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors.
Pages No. 20/24 PANKAJ SHARMA SHARMA Date:

2024.12.24 11:29:30 +0530

5. Income of the deceased : As per salary slip of the deceased at the relevant time

6. Name, age and relationship of legal representative of deceased:-

S. No.	Name	Age	Relation
(1)	Smt. Sita Devi	44 Years	Wife of the deceased
(2)	Radhika Panwar	18 Years	Daughter of the deceased
(3)	Kanika Panwar	15 Years	Daughter of the deceased
(4)	Prabhakar Singh Panwar	68 Years	Father of the deceased
(5)	Deveshwari Devi	67 Years	Mother of the deceased

Computation of Compensation

Sr. No.	Heads	Awarded Tribunal	by	the	C
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MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 21/24 PANKAJ PANKAJ SHARMA SHARMA Date: 2024.12.24 11:29:35 +0530

7. Income of the Rs.29,400/- per month deceased(A)

8. Add-Future Prospects 25% (B)

9. Less-Personal One fourth deduction has been expenses of the done deceased(C)

10. Monthly loss of Rs.27,562.50/-

dependency[(A+B)-

C=D]

11. Annual loss of Rs.3,30,750/-

dependency (Dx12)

12. Multiplier(E) '14'

13. Total loss of Rs.46,30,500/-

dependency (Dx12xE= F)

14. Medical Expenses(G) NIL

15. Compensation for loss Rs.2,20,000/-

of consortium(H) MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 22/24 PANKAJ SHARMA SHARMA Date:

2024.12.24 11:29:38 +0530

16. Compensation for loss NIL of love and affection (I)

17. Compensation for loss Rs. 20,000/-

of estate(J)

18. Compensation Rs. 20,000/-

towards funeral
expenses (K)

19.

TOTAL Rs. 48,90,500/-
COMPENSATION(F
+G+H+I+J+K=L)

20.

RATE OF INTEREST 8%
AWARDED

21.

Interest amount up to Rs.18,58,390/- (rounded off) the date of award(M)

22.

Total amount Rs.67,48,890/-
including interest(L +
M)

23.

Award amount P-1 : Rs.4,49,334/-
released

P-2 : Rs.1,74,889/-

P-4 : Rs.1,74,889/-

MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors. Pages No. 23/24 PANKAJ PANKAJ
SHARMA SHARMA Date: 2024.12.24 11:29:42 +0530 P-5 : Rs.1,74,889/-

24. Award amount kept in As per award FDRs

25. Mode of disbursement Mentioned in the award of the award amount to the petitioner (s)

26.

Next date for 24/01/2025
compliance of the
award

CONCLUSION: -

1. As per award dated 24.12.2024.

2. A separate file was ordered to be prepared by the Nazir with directions to put up the same on 24.01.2025 PANKAJ SHARMA SHARMA Date:

2024.12.24 11:29:45 +0530 (DR. PANKAJ SHARMA) PO MACT-o2 (CENTRAL)
DELHI/24/12/2024 MACT No. 326/20 Sita Devi & Anrs. Vs. Shyam Sunder & Ors.
Pages No. 24/24 PANKAJ SHARMA SHARMA Date:

2024.12.24 11:29:48 +0530