



2026:DHC:5184



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on* : 12<sup>th</sup> May 2026  
*Pronounced on* : 01<sup>st</sup> July 2026  
*Uploaded on* : 02<sup>nd</sup> July 2026

+ MAC.APP. 530/2017

E NEETA DEVI & ORS

.....Appellants

Through: Mr. Pukhrambam Ramesh Kumar  
& Ms. Rajkumari Divyasana,  
Advs.

versus

ASHWANI KUMAR & ORS (BHARTI AXA GENERAL  
INSURANCE CO LTD)

.....Respondents

Through: Mr. Rajeev M. Roy and Mr. P.  
Srinivasan, Advs. for R-3.  
Ms. Suman Bagga and Ms. Mouli  
Sharma, Advs. for R-5.

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT**

**ANISH DAYAL, J.**

1. This appeal has been filed by the legal representatives of deceased/*E. Suraj Singh* (hereinafter, '*claimants*') seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal [*MACT/Tribunal*], East District, Karkardooma Courts by judgment dated 17<sup>th</sup> January 2017 at Rs.29,85,000/- along with 9% interest per annum.
2. The cross appeal filed by respondent no.3/Insurance Company being *MAC.APP. 403/2017* was dismissed by this Court *vide* order dated 5<sup>th</sup> September 2018 on account of non-appearance.



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3. Moreover, an application being, **CM.APPL. 73634/2025** was filed by appellants/claimants, seeking release of amounts in the cross appeal, which was allowed by the Court *vide* order dated 27<sup>th</sup> November 2025.

### **The Accident**

4. Deceased/*E. Suraj Singh* was a member of Manipur Legislative Assembly and passed away in an accident which occurred in the intervening night of 17<sup>th</sup> and 18<sup>th</sup> August 2011 in Delhi. Deceased/*E. Suraj Singh* was returning from *Manipur Bhawan* to *Mayur Vihar* in Delhi with his friend *Sh. Reginal John Sinclair*, in a Santro Car, and a collision occurred with a Jeep bearing no. DL-12CA-1412 (hereinafter, '**offending vehicle**'), driven by respondent no.1.

5. Deceased/*E. Suraj Singh* sustained grievous injuries and was taken to LBS Hospital by a PCR Van; however, he was declared as '*brought dead*' at the hospital. His friend, *Sh. Reginal John Sinclair*, on the other hand, suffered multiple fractures. FIR No. 242/11 under section 279/338/304A IPC was registered at P.S. Pandav Nagar against respondent no.1.

### **Submissions on behalf of appellants/claimants**

6. The fundamental issue raised by *Mr. Pukhrambam Ramesh Kumar*, counsel for appellants/claimants, relates to the assessment of benchmark income of deceased/*E. Suraj Singh* for calculating loss of dependency. The dominant submission is that benchmark income ought to be based on the Pay Certificate (*Ex. PW-2/2*), which has the following components:



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S.No.	Particulars	Amount
1.	Salary	Rs. 18,500/-
2.	Entertainment Allowance	Rs. 6,500/-
3.	Constituency Allowance	Rs. 12,000/-
4.	Contingency Allowance	Rs. 8,000/-
5.	Telephone Allowance	Rs. 10,000/-
6.	Compensatory Allowance	Rs. 7,000/-
7.	Secretariat Allowance	Rs. 15,000/-
<b>Total</b>		<b>Rs. 77,000/-</b>

7. Counsel for appellants/claimants stated that the salary of deceased/*E. Suraj Singh* was considered by MACT as Rs. 18,500/- by considering only the salary component at *serial no. (1)* and excluding all other allowances from *serial no. (2) to (7)*.

8. In support of his submission, counsel for appellants/claimants relied upon various judgments, *inter alia*, ***National Insurance Co. Ltd. v. Indira Srivastava & Ors.*** (2008) 2 SCC 763 and extant rules that apply to members of Manipur Legislative Assembly under the provisions of *Salaries & Allowances of Members of the Legislative Assembly (Manipur) Act, 1972 [as amended by 18<sup>th</sup> Amendment Act, 2014]*.

9. Counsel, therefore, contended that these allowances ought to have been included. Further, pension stipulated for an MLA is Rs.40,000/- per



month, that deceased would have received had he been alive, which would have increased over a period of time. However, at present, the family is only receiving 60% of the applicable amount as family pension.

10. Counsel for appellants/claimants relied on testimony of two witnesses- **PW-1**, wife of deceased/**E. Suraj Singh** and **PW-2**, Officer on *Special Duty (Accounts and Establishments)* of the Manipur Legislative Assembly Secretariat.

11. Reliance was also placed on decisions of the Supreme Court in **Vijay Kumar Rastogi v. Uttar Pradesh State Road Transport Co.** 2018 SCC OnLine SC 193, **Meenakshi v. Oriental Insurance Co. Ltd.** 2024 SCC OnLine SC 1872 and **Manorma Sinha v. Divisional Manager Oriental Insurance Ltd.** 2025 SCC OnLine SC 2241.

12. Counsel submitted that all pecuniary advantages, which would have been available to the family, must be considered and allowances forming part of the salary must be included.

13. Further reliance was placed upon **Priti Singh v. Reliance General Insurance** 2025 SCC OnLine Kar 1568, where the High Court of Karnataka stated that “*while allowances may be separated from the basic salary, they nonetheless remain part of composite earnings of the employee/deceased.*”

14. As regards what is termed as ‘salary’ and what forms a part of allowances, perks and other facilities, to which the deceased was entitled to, reliance was placed upon *The Salaries and Allowances of Members of the Legislative Assembly (Manipur) (18<sup>th</sup> Amendment) Act, 1972* (hereinafter, ‘**the Act**’) read with *Entitlement of Member/Ex-Member*



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*under the Provisions of Salaries and Allowances Act*, issued by the Manipur Legislative Assembly through the Secretary.

15. These include *daily allowance, constituency allowance, contingency allowance, secretarial allowance, entertainment allowance, travelling allowance, allowance for personal staff, housing facility/compensatory allowance, telephone allowance, water and electricity allowance*, other facilities like *petrol* and *S. K. Oil*, as detailed in the submissions.

16. Counsel also submitted that no deduction should be made on account of pension for computation of future prospects and income, as per the decision of Supreme Court in ***Helen C. Rebello v. Maharashtra SRTC***, (1999) 1 SCC 90 and ***Sebastiani Lakra & Ors. v. National Insurance Company Ltd.***, (2019) 17 SCC 465.

17. Reliance was also placed on the decision of Supreme Court in ***Triveni Kodkany v. Air India Ltd.*** (2021) 19 SCC 214 and ***National Insurance Company Ltd. v. Nalini*** 2024 SCC OnLine SC 2252 where it was held that emoluments and benefits accruing to the deceased under various heads ought to be included, irrespective of whether they are taxable or not.

18. Relying on these decisions, counsel for appellants/claimants, submitted that bifurcation of salary into diverse heads may be made by an employer for a variety of reasons, however, in a claim for compensation arising out of death of the employee, income has to be assessed on the basis of the entitlement of the employee.



**Submissions on behalf of respondent no.3/Insurance Company**

19. Mr. Rajeev M. Roy, counsel for respondent no.3/Insurance Company contended that the decisions relied upon by counsel for appellants/claimants were in the domain of private employment or at best employment with the concerned government. However, the deceased was a legislator, who was holding the post for a limited period of time and there was no guarantee that he would have continued to be part of the Legislative Assembly.

20. The said post would not amount to continuous employment, since his tenure would be dependent on being elected/nominated during further tenures of the Legislative Assembly. Moreover, allowances would not be permanent in hands of a legislator and therefore cannot be included for calculation of dependency.

**Analysis**

21. There is no doubt that on the date of the accident, the intervening night of 17<sup>th</sup>/18<sup>th</sup> August 2011, deceased/E. Suraj Singh was a Member of the Manipur Legislative Assembly. As regards the issue of negligence, MACT decided the same in favour of appellants/claimants, holding that fatal injuries suffered by deceased/ E. Suraj Singh were due to the involvement of the offending vehicle driven by respondent no.1 and owned by respondent no.2, insured by respondent no.3/Insurance Company.

22. In order to award just and reasonable compensation in accordance with Section 168 of Motor Vehicles Act, 1988 ('MV Act') and as reiterated



by the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680 and *Sarla Verma v. DTC*, (2009) 6 SCC 121, loss of dependency of the family would have to be considered on the basis of monthly income of deceased at that point of time.

23. The assertion made by *Mr. Roy*, counsel for respondent no.3/Insurance Company that the allowance accrued would not form part of the monthly income or be considered for dependency, was a ground which ought to have been taken in the cross appeal, which otherwise stood dismissed by this Court.

24. Further, this argument was not raised by respondent no.3/Insurance Company before the MACT in their written statement. Therefore, the submission made by counsel for respondent no.3/Insurance Company objecting to dependency being calculated on the basis of monthly income, by including allowances received as a legislator, cannot be accepted.

25. Issue that is germane and requires consideration is which components of allowances be included in the calculation of monthly income.

26. Since the accident occurred in 2011, salary and allowances shall be calculated as per the 18<sup>th</sup> Amendment of the Act in 2010. According to this, salary of deceased/*E. Suraj Singh* was Rs.18,500/- along with various allowances.

27. As regards various other components of allowances, at the very outset one must assess the opinion of various Courts and the Supreme Court in this regard.

28. In this context, the decision of Supreme Court in *National Insurance Co. Ltd. v. Indira Srivastava & Ors.* (2008) 2 SCC 763 is



noted. While computing income, the Supreme Court upheld the finding of the High Court to the extent of not including the element of conveyance allowance in the purview of income, however, declined to deduct medical reimbursement and tax on the entire income. Relying on the term ‘income’ in *P. Ramanatha Ayyer’s Advanced Law Lexicon, 3<sup>rd</sup> Edition*, the Court noted that income has different connotations for different purposes and is not limited to the pay packet carried home by an employee. It includes other perks and benefits which may be beneficial to the members of the entire family. Relevant observations of the Court are extracted as under:

*“19. The amounts, therefore, which were required to be paid to the deceased by his employer by way of perks, should be included for computation of his monthly income as that would have been added to his monthly income by way of contribution to the family as contradistinguished to the ones which were for his benefit. We may, however, hasten to add that from the said amount of income, the statutory amount of tax payable thereupon must be deducted.*

*20. The term “income” in P. Ramanatha Aiyar’s Advanced Law Lexicon (3rd Edn.) has been defined as under:*

*“The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or a person who has substantial interest in the company, and any sum paid by such company in respect of any obligation, which but for such payment would have been payable by the director or other person aforesaid, occurring or arising to a person within the State from any profession, trade or calling other than agriculture.”*



*It has also been stated:*

“‘Income’ signifies ‘what comes in’ (per Selborne, C., Jones v. Ogle [(1861-73) All ER Rep 918 : 42 LJ Ch 334]). ‘It is as large a word as can be used’ to denote a person's receipts (per Jessel, M.R., Re Huggins [ Huggins, ex p., Re, 51 LJ Ch 935] ). Income is not confined to receipts from business only and means periodical receipts from one's work, lands, investments, etc. Secy. to the Board of Revenue, Income Tax v. Al. Ar. Rm. Arunachalam Chettiar & Brothers [AIR 1921 Mad 427] . Ref. Vulcun Insurance Co. Ltd. v. Corpn. of Madras [AIR 1930 Mad 626 (2) : 58 MLJ 337 : 1930 MWN 29 : 124 IC 511 : 31 MLW 438] .”

21. If the dictionary meaning of the word “income” is taken to its logical conclusion, it should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax although some elements thereof may or may not be taxable or would have been otherwise taxable but for the exemption conferred thereupon under the statute.”

(emphasis added)

29. In *Vijay Kumar Rastogi v. Uttar Pradesh State Road Transport Co.* 2018 SCC OnLine SC 193, the point raised was whether income earned from other sources would form a part of the benchmark income. While the Tribunal disregarded income from other sources such as bank interest and commission, the High Court upheld the finding of Tribunal by stating that net income has been rightly considered after deduction of tax from total income. Setting aside this finding, the Supreme Court held as under:

“11. Strikingly, the High Court noted the taxable income disclosed in tax return of the appellant for the



*relevant period as Rs. 77,480/- (rounded off) and tax deduction of Rs. 4,496/-, yet proceeded to hold that the net income of the appellant has been rightly taken into consideration by the Tribunal. It is unfathomable that the High Court, despite having accepted the claim of the appellant founded on his tax return for the relevant period, disclosing the taxable income of the appellant as Rs. 77,480/- (rounded off) and deduction of tax of Rs. 4,496/-, could have affirmed the conclusion of the Tribunal that the net annual income of the appellant was Rs. 44,511/-. It ought to have reckoned the taxable income for computing the head towards loss of income. This, in our opinion, is the manifest error committed by the High Court. The appellant is justified in relying upon the decisions of this Court which have taken the view that loss of taxable earning should be reckoned for the purpose of determining just compensation as enunciated in National Insurance Co. Ltd. v. Indira Srivastava, which has been followed in Oriental Insurance Company Limited v. Jashuben, and Kavita v. Deepak. It has been held that the “income” should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may or may not be taxable due to the exemption conferred thereupon under the statute.*

(emphasis added)

30. In **Meenakshi v. Oriental Insurance Co. Ltd.** 2024 SCC OnLine SC 1872, an appeal was preferred against the decision of the High Court, where loss of dependency was calculated by deducting professional tax and income tax from the total income. As regards allowances, High Court was of the opinion that the components of House Rent Allowance (**HRA**), Flexible Benefit Plan and contribution of Provident Fund, etc.



could not be accounted for. Including the said allowances to be a part of the income, the Supreme Court held as under:

*“6. Having heard and considered the submissions advanced by learned counsel for the parties and after going through the impugned judgments and the record, we are of the opinion that the reasoning assigned by the High Court, that the perquisites/allowances in the nature of house rent, flexible benefit plan and Company contribution to provident fund would have to be excluded from the gross income for the purpose of applying future prospects, is erroneous on the face of record. There cannot be any two views on the aspect that these perquisites/allowances admissible to a salaried employee do not remain static and continue to rise generally proportionate to the length of the service of the employee. These allowances are generally fixed on a pro rata basis with reference to the basic salary.*

...

*10. Therefore, components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income by future prospects to determine the dependency factor. The Accident Claims Tribunal was justified in factoring these components into the salary of the deceased, before applying 50% rise by future prospects due to future prospects, while calculating the total compensation payable to the appellant.”*

(emphasis added)

31. In ***Manorma Sinha v. Divisional Manager Oriental Insurance Ltd.*** 2025 SCC OnLine SC 2241, the Supreme Court was dealing with an award where allowances as payable from the last pay slip had been excluded by the High Court, while computing compensation. Further, income tax had been deducted at 30%. In this regard, the Supreme Court noted as under:



“12. Now, the next question is whether allowances are to be added to the salary for determining the multiplicand. In National Insurance Co. Ltd. v. Indira Srivastava, it was held that “the term income has different connotations for different purposes. A court of law, having regard to the change in societal conditions consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family”. In Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation, a three-Judge Bench of this court noticing earlier decisions on the point observed that “the income should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may not be taxable due to exemption conferred thereupon under the statute.” Following the decision in Vijay Kumar Rastogi (supra) in National Insurance Company Ltd. v. Nalini, it was held by this Court that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, ought to be included irrespective of whether they are taxable or not. Thus, in our view, the High Court erred in excluding the allowances from the computation to arrive at the multiplicand. Hence, the total monthly income was rightly computed by the Tribunal at Rs. 53,367.

13. As regards deduction towards income tax is concerned, same is permissible in view of the decision of this Court in Ranjana Prakash (supra). However, in our view, deduction towards income tax should be at such rate which the annual income may be subjected to in the relevant year. It is not demonstrated that the allowances received were exempt from income tax. Even the nature of allowances has not been disclosed to enable us to determine whether they are exempt from tax. Therefore, we include them in the annual income



*and compute the annual income as Rs. 6,40,400 (approximately) for the purposes of tax. The tax payable in the relevant year (i.e., with reference to the date of death) would be Rs. 62,080 (Tax: Nil up to Rs. 1.60 lacs; Rs. 34,000 @ 10% up to Rs. 5.00 lacs; and Rs. 28,080 @ 20% up to Rs. 6,40,400). Thus, net annual income from salary after deduction of income tax, with the allowances, would be Rs. 5,78,324.”*

(emphasis added)

32. In *Triveni Kodkany v. Air India Ltd.* (2021) 19 SCC 214, the question before the Supreme Court was regarding calculation of compensation awarded to the legal heirs of a deceased/expat who was employed in the Middle-East and suffered fatal injuries in an air crash. His income was determined on the basis of costs to company ('CTC') per annum, which included basic pay, HRA, transport allowance, telephone allowance, LTA, medical aid and gratuity. Holding that deductions ought not to be made from the income of deceased, the Supreme Court considered this issue and noted as under:

*“9. Both the sides have prefaced their submissions by relying on the principles which have been evolved by the court in determining compensation under the Motor Vehicles Act, where an accident has resulted in death. The table which we have reproduced in the earlier part of the judgment would indicate that the total CTC per annum, on account of the employment of the deceased, to his employer was AED 4,82,395. This comprises of the basic pay, house rent allowance, transport allowance, telephone allowance, LTA, medical aid and gratuity. The bifurcation which has been made by the employer in the salary of the deceased is, in our view, no reason to make any deductions from the total CTC of AED 4,82,395. The consolidated amount is the amount annually borne by the employer on account of the*



employment of the deceased. Hence, we are unable to accept the reasons which weighed with Ncdrc in making a deduction of AED 30,000 from the total CTC. Similarly and for the same reason, we are unable to accept the submission of Air India that the transport allowance should be excluded. The bifurcation of the salary into diverse heads may be made by the employer for a variety of reasons. However, in a claim for compensation arising out of the death of the employee, the income has to be assessed on the basis of the entitlement of the employee. We, therefore, proceed for the purpose of computation on the basis of the annual income of AED 4,82,395.”

(emphasis added)

33. In ***Sebastiani Lakra & Ors. v. National Insurance Company Ltd.***, (2019) 17 SCC 465, the Supreme Court observed that deductions on account of pensionary benefits or gratuity cannot be made from the compensation granted. Relevant observations of the Court are extracted as under:

“12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependants or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependants are entitled to “just compensation” under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependants as a result of some contract or act which the deceased performed in



his lifetime cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependants only after his death.

*13. As far as any amount paid under any insurance policy is concerned whatever is added to the estate of the deceased or his dependants is not because of the death of the deceased but because of the contract entered into between the deceased and the insurance company from where he took out the policy. The deceased paid premium on such life insurance and this amount would have accrued to the estate of the deceased either on maturity of the policy or on his death, whatever be the manner of his death. These amounts are paid because the deceased has wisely invested his savings. Similar would be the position in case of other investments like bank deposits, share, debentures, etc. The tortfeasor cannot take advantage of the foresight and wise financial investments made by the deceased.”*

(emphasis added)

34. This was further reiterated in a recent decision of ***Pramod Kumar Tiwari v. Premlal Gautam & Ors.*** SLP(C) No. 26620/2023, where the Supreme Court noted the observations made in ***Sebastiani Lakra*** (*supra*), and confirmed the finding regarding deduction of pensionary benefits, gratuity and amount paid towards insurance.

35. The Supreme Court in ***National Insurance Company Ltd. v. Nalini*** 2024 SCC OnLine SC 2252 relied upon the decision of the Court in ***Vijay Kumar Rastogi*** (*supra*) and held that allowances under the heads of transport allowance, HRA, provident fund loan, provident fund and special allowance ought to be added while considering the basic salary. Relevant finding of the Court is extracted as under:



*“3. It is apparent from the observations made in the aforesaid decision that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, which are described by learned counsel for the petitioner-Insurance Company as personal to him to arrive at the dependency factor, ought to be included irrespective of whether they are taxable or not.”*

(emphasis added)

36. Principles which can be culled out from the above decisions are enunciated as under:

- (i) Income is not limited to the pay packet carried home by an employee, but also allowances which are beneficial to the members of the entire family shall be considered as part of the pay packet.
- (ii) Allowances such as transport allowance/conveyance allowance, house rent allowance, provident fund contribution and special allowances which are fixed *pro-rata* with reference to the basic salary will be included before assessment of future prospects.
- (iii) Income should include those benefits which are taken into consideration for purposes of payment of income tax or professional tax. Whereas, some of these elements may not be taxable due to the exemption conferred upon them, however, benefits received by the employee must be included irrespective of whether they are taxable or not.



- (iv) Perquisites/allowances paid to a salaried employee are not static and gradually rise in proportion with the duration of the service of the employee.
- (v) Statutory amount of tax payable must be deducted at the rate applicable to the annual income for the relevant year after including perks and benefits available to the employee.
- (vi) Salary may be bifurcated by employer into diverse heads, however, while calculating compensation arising out of the death of the employee, various entitlements received by the employee have to be considered.
- (vii) Deductions on account of insurance, pensionary benefits and gratuity cannot be made from the income, since these amounts are earned by the deceased during his lifetime and are separate from the compensation granted to dependents under the MV Act.

Needless to say, these are merely illustrative and not exhaustive. However, there is no denying that individual cases would turn on its own peculiar facts.

### **The Present Case**

37. Various components of allowances which form a part of the pay certificate have been pleaded by *Mr. Kumar*, counsel for appellants/claimants are, therefore, considered as under:

- (i) ***Entertainment Allowance*** – As per the last salary pay certificate, Rs.6,500/- was granted as part of entertainment allowance. In this regard, counsel for appellants/claimants



submitted that this was granted to meet expenses towards entertainment and hospitality, forming part of the income and accruing to benefit of the family, covering costs such as food, hospitality, cultural or social outings and holidays. As per the principles enunciated by the Supreme Court, this would be considered as part of the income accruing to the benefit of the household and is therefore, included.

- (ii) **Constituency Allowances** – Counsel for appellants/claimants pointed out that this provision was inserted by the 18<sup>th</sup> Amendment. While this has not been defined in the Act, reliance was placed upon Section 2(1)(aa) of *Rajasthan Legislative Assembly (Officers and Members Emoluments and Pension) Act, 1956* which defines Constituency Allowance as an allowance to meet office expenses incurred by the member in the performance of duties. However, the Court is not inclined to include this allowance, since these expenses would have been incurred by deceased/*E. Suraj Singh* while on duty and are provided for running a personal office.
- (iii) **Contingency Allowance** – As per the last salary certificate, deceased was receiving contingency allowance at Rs. 8,000/- He stated that this allowance was intended to meet unforeseen expenses which may arise and same would contribute to the financial security, stability and overall welfare of the family, including, medical needs, children’s education, travel exigencies and other household requirements. The Court is,



therefore, inclined to accept this as part of the allowances which may form a part of the monthly income, since it accrues to the benefit of the family.

- (iv) **Telephone Allowance** – This component has been granted at Rs.10,000/- per month as per the last salary pay certificate. Considering that it would be used for telephone connections at the residence of the Member's house, which would accrue to benefit of the family, therefore, it will be considered as part of income of deceased/*E. Suraj Singh*.
- (v) **Housing/Compensatory Allowance**– This compensation has been granted at Rs.7,000/- per month as per the last salary pay certificate, for the purposes of accommodation. Since this would accrue to benefit of the family, this would be included akin to House Rent Allowance, which has been accepted by the Supreme Court in various decisions.
- (vi) **Secretarial Allowance** – This allowance was intended to be used for expenses for clerical assistance such as, secretarial help, documentation and administrative support, which will not be included, considering that it does not accrue to the benefit of the family.

38. Further, *Mr. Kumar*, counsel for appellants/claimants has pleaded certain allowances which the deceased was entitled to under the Act, which are dealt with as under:

- (i) **Daily Allowance** – As per Section 3 of the Act, deceased was entitled to Daily Allowance of Rs.700/- within the State and



Rs.1,500/- outside the State per month. This component was to be paid when the legislator was on duty during the Assembly Session. Considering that this particular allowance is personal to the attendance of legislator, the Court is not inclined to consider it to form a part of the benchmark income.

- (ii) ***Travelling Allowance*** – Counsel for appellants/claimants relied on the decision in *Nalini (supra)* and *Triveni Kodkani (supra)* to submit that this aspect should be included. As per Section 5 of the Act, an amount of Rs.1,00,000/- had been prescribed for travelling allowance for journeys performed for attending sessions of the Assembly, meetings of Committee or any other business connected with the duties of a member from the usual place of residence to the place of business. Considering that this allowance was granted for the journeys undertaken by the deceased for the purpose of duties performed as a member and the same were not being used for the benefit of family, this Court is not inclined to grant travelling allowance.
- (iii) ***Service of Computer Assistant, PRO and Drivers*** – Counsel for appellants/claimants have claimed Rs.8,000/- per month for personal staff by placing reliance upon Section 5(4) of the Act. *Mr. Kumar*, submitted that this would be used for benefit of the family. This Court is inclined to include salary of one driver for benefit of the family to be a fair amount.



- (iv) **Medical Treatment and Reimbursement** – This is an allowance for reimbursement and, therefore, cannot be awarded in the regular income.
- (v) **Water and Electricity Facilities** – As per Section 11-F of the Act, Rs.5,000/- per month has been granted, which would yet again be used for the benefit of inhabitants of the residence and would be available to the family.
- (vi) Other facilities like Petrol, SK Oil and MLA Local Area Development Fund will be personal to the deceased/*E. Suraj Singh* and were given only on reimbursement or otherwise was an allocation for development in the constituency, which will not accrue to the benefit of the family.
- (vii) **Pension** – As per the Act, this was granted at Rs.25,000/- per month to every person who has served for a period not less than 5 years, whether being a continuous or not continuous member of the Assembly. As per the testimony of **PW-2**, an MLA is entitled to Rs. 40,000/- towards pension, even in cases where the member is not re-elected, however, it was also stated that in cases of death of an MLA, the family of deceased is entitled to 60% of Rs. 40,000/- *i.e.* Rs. 24,000/-. It is quite clear from the decisions of Supreme Court that there will be no deduction of pension awarded and, therefore, any contention by the Insurance Company would stand rejected.

39. Accordingly, in view of the above discussion, monthly income of deceased shall be considered at Rs. 63,000/- after including the components of salary (Rs. 18,500/-), contingency allowance (Rs. 8,000/-),



entertainment allowance (Rs. 6,500/-), salary of driver (Rs. 8,000/-), house rent allowance (Rs. 7,000/-), telephone allowance (Rs. 10,000/-), water and electricity allowance (Rs. 5,000/-). Annual income of deceased will be considered at Rs. 7,56,000/- [Rs. 63,000/- x 12].

40. Further, an amount of Rs. 83,200/- shall be deducted towards income tax for the financial year 2011-12, as per the relevant income tax rates. Therefore, annual income of deceased comes up to Rs. 6,72,800/-.

41. Further alignments shall be made as per the principles enunciated in *Pranay Sethi (supra)*. Therefore, *loss of love and affection* shall not be awarded, since it has been subsumed under the head of *loss of consortium*. *Loss of consortium* shall be awarded at Rs. 1,60,000/-, since there are 4 claimants and mother of deceased passed away during the pendency of proceedings. *Loss of estate and funeral expenses* shall be awarded at Rs. 15,000/- each.

42. Accordingly, the revised compensation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by the Court
1.	Income of the deceased (A) Less: Income Tax*	Rs. 2,22,000/-	Rs. 6,72,800
2.	Add-Future Prospects @ 30% (B)	Rs. 66,600/-	Rs. 2,01,840/-
4.	Less: Personal expenses of the deceased (C)	Rs. 93,600/-	Rs. 2,18,660/-
4.	Annual loss of dependency [(A+B) – C] = (D)	Rs. 1,95,000/-	Rs. 6,55,980/-
5.	Multiplier (E)	13	13
7.	Total loss of dependency (D x E) = (F)	Rs. 25,35,000/-	Rs. 85,27,740/-
8.	Compensation for loss of love and affection (H)	Rs. 3,00,000/-	Nil
9.	Compensation for loss of consortium (I)	Rs. 1,00,000/-	Rs. 1,60,000/-



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10.	Compensation for loss of estate (J)	Rs. 25,000/-	Rs. 15,000/-
11.	Compensation towards funeral expenses (K)	Rs. 25,000/-	Rs. 15,000/-
12.	Total Compensation (G+H+I+J+K = L)	Rs. 29,85,000/-	Rs. 87,17,740/-
13.	Interest Awarded	9%	9%
14.	Enhanced Compensation	<b>Rs. 57,32,740/-</b>	

\* MACT has wrongly deducted Income tax after adding future prospects.

### Directions

43. For the aforesaid reasons, compensation has been enhanced by Rs.57,32,740/- [“*enhanced amount*”].

44. Enhanced amount along with 9% interest per annum from the date of filing the petition shall be deposited before Registrar General of this Court within a period of eight weeks. It is directed that a lump sum amount of Rs. 10,00,000/- be released to appellants/claimants from the deposit of enhanced amount within a period of two weeks thereafter with 50% in favour of wife of deceased/*E. Suraj Singh* and the balance 50% equally in favour of the children of deceased/*E. Suraj Singh*.

45. Remaining enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (FDRs) of Rs. 1,00,000/- each for periods of 3 month, 6 months, 9 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimants. The amount of FDRs on maturity would be released to the Savings Bank Account of claimants upon due verification.



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46. By order dated, 27<sup>th</sup> November 2025, this Court directed that release of the entire original compensation deposited, therefore, no further directions are required in that regard.
47. The appeal is accordingly disposed of in the above directions.
48. Pending applications, if any, are rendered infructuous.
49. Judgment be uploaded on the website of this Court.

**ANISH DAYAL  
(JUDGE)**

**JULY 1, 2026/mk/sp**