



2026:AHC:8542

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 3821 of 2011

Smt. Jyoti And Others

.....Appellant(s)

Versus

Neha Khatri And Others

.....Respondent(s)

Counsel for Appellant(s)	: Rajiv Sisodia, Santosh Kumar Singh, Shashank Kumar
Counsel for Respondent(s)	: Arun Prakash, Harbansh Prasad Pandey

A.F.R.

Court No. - 38

HON'BLE SANDEEP JAIN, J.

1. The instant appeal has been filed by the claimants for enhancement of compensation under Section 173 of the Motor Vehicles Act, 1988, against the impugned judgment and award dated 30.7.2011 passed by the Motor Accident Claims Tribunal/ Additional District Judge, Court No. 7, Muzaffarnagar in MACP No. 74 of 2010 (Smt. Jyoti and others Vs. Neha Khatri and others), whereby for the untimely death of Sachin Kumar on 30.12.2009 due to injuries suffered in a motor accident that occurred on 23.12.2009, a compensation of Rs.14,74,445/- along with interest @ 6% per annum has been awarded to the claimants, 80% of which has been ordered to be indemnified by the insurer of offending Car No. UA 07 G 1313.

2. Since no cross appeal has been preferred by the owner, driver, and insurer of the offending car, the factum of accident and negligence of the offending driver is not disputed by the respondents.

3. Learned counsel for the claimants-appellants submitted that Sachin Kumar (deceased) was driving his motorcycle number UP-11-S-2228 cautiously on his side of the road, which was hit by the offending Car No.UA-07-G-1313, which was being driven rashly and negligently, which was proved by eye witness PW-2 Satish Kumar. Still, the tribunal held there was 20% contributory negligence of the deceased, which is against the evidence on record. It was further submitted that the offending car crossed the divider and came to the wrong side of the road, causing the accident.

4. In view of the above, the tribunal erred in concluding that there was 20% negligence of the deceased. It was further submitted that the gross salary of the deceased was Rs.13,049/- per month, but the tribunal assessed compensation on a salary of Rs.11,659/- per month, which is erroneous, because all allowances being paid to the deceased were to be considered for assessing compensation.

5. It was further submitted that on the ground that a compassionate appointment was offered to the wife of the deceased, Jyoti, the tribunal has not awarded any compensation towards future prospects of the deceased, which is erroneous. It was submitted that in light of the decision of the Apex Court in the case of **Vimal Kanwar and others Vs. Kishore Dan and others (2013) 7 SCC 476**, the fact of compassionate appointment of the wife of the deceased should not have been considered while assessing compensation. It was submitted that claimants were entitled to get compensation towards future prospects of the deceased @ 50% of the income of the deceased, keeping in view **Rule 220-A of the U.P. Motor Vehicle Rules, 1998**.

6. It was further submitted that the tribunal awarded inadequate compensation under non-pecuniary heads and also awarded less interest @ 6% per annum instead of 7% per annum.

7. With these submissions, it was prayed that the appeal preferred by the claimants be allowed and compensation payable to them be enhanced.

8. Per contra, learned counsel for the respondent-Insurance Company submitted that the deceased was driving his motorcycle at the time of accident rashly and negligently, who contributed to the accident as proved by the evidence of the offending car's driver Neha Khatri, who was examined as DW-1 before the tribunal. Hence, the tribunal rightly assessed 20% contributory negligence on the part of the deceased. It was further submitted that since the wife of the deceased was offered compassionate appointment and was getting a salary of Rs.7,100/- and family pension of Rs.4,690/- per month, the tribunal has rightly not awarded any compensation towards future prospects of the deceased. It was also submitted that the deceased was getting house rent allowance of Rs.760/-, vehicle allowance of Rs.50/-, special diet allowance of Rs.550/-, and washing allowance of Rs.30/- per month, which were personal allowances for his benefit, which are not to be considered for assessing compensation. The tribunal rightly excluded these allowances while

assessing compensation. With these submissions, it was prayed that the appeal has no merit and is liable to be dismissed.

9. I have heard learned counsel for both parties and perused the impugned judgment and the documents submitted with the appeal.

10. The Apex Court in the case of ***Jiju Kuruvila & Ors. vs. Kunjujamma Mohan & Ors. (2013) 9 SCC 166***, held as under:-

“20.5. The mere position of the vehicles after accident, as shown in a scene mahazar, cannot give a substantial proof as to the rash and negligent driving on the part of one or the other. When two vehicles coming from opposite directions collide, the position of the vehicles and its direction, etc. depends on a number of factors like the speed of vehicles, intensity of collision, reason for collision, place at which one vehicle hit the other, etc. From the scene of the accident, one may suggest or presume the manner in which the accident was caused, but in the absence of any direct or corroborative evidence, no conclusion can be drawn as to whether there was negligence on the part of the driver. In absence of such direct or corroborative evidence, the Court cannot give any specific finding about negligence on the part of any individual.

20.6. The post-mortem report, Ext. A-5 shows the condition of the deceased at the time of death. The said report reflects that the deceased had already taken meal as his stomach was half-full and contained rice, vegetables and meat pieces in a fluid with strong smell of spirit. The aforesaid evidence, Ext. A-5 clearly suggests that the deceased had taken liquor but on the basis of the same, no definite finding can be given that the deceased was driving the car rashly and negligently at the time of accident. The mere suspicion based on Ext. B-2 “scene mahazar” and Ext. A-5 post-mortem report cannot take the place of evidence, particularly, when the direct evidence like PW 3 (independent eyewitness), Ext. A-1 (FIR), Ext. A-4 (charge-sheet) and Ext. B-1 (FI statement) are on record.”

11. The Apex Court in the case of ***Prabhavati & Ors. vs. Managing Director, Bangalore Metropolitan, Transport Corporation 2025 SCC OnLine SC 455***, held as under:-

“10. We are unable to agree with the view taken by the High Court on the 25% contributory negligence of the deceased and 75% upon the driver of

the bus. We find ourselves to agree with the view taken by the Tribunal on this issue. The Tribunal rightly, after considering the evidence on record and on perusal of the Ex. P3 Spot Mahazar, came to the conclusion that there wasn't any sufficient evidence on record, indicating that the accident occurred due to negligent driving on the part of the deceased, and after considering the oral evidence of P.W.1, held the cause of the accident to be rash and negligent on the part only of the offending vehicle.

11. Thus, in our considered view, the contributory negligence taken by the High Court at 25% of the deceased is erroneous. We advert to the principles laid down in Jiju Kuruvila v. Kunjujamma(supra) where it was held that in the absence of any direct or corroborative evidence on record, it cannot be assumed that the accident occurred due to the rash and negligent driving of both the vehicles. This exposition came to be followed in Kumari Kiran v. Sajjan Singh (2015) 1 SCC 539. In the present case, therefore, on an allegation simpliciter, it cannot be presumed that the accident occurred due to rash and negligent driving of both vehicles, for having driven at high speed.”

12. Before the tribunal the claimants have examined the wife of the deceased Smt. Jyoti as PW-1, eye witness Satish Kumar Latiyan as PW-2. Whereas, the offending car driver Smt. Neha Khatri has examined herself as DW-1.

13. Smt. Jyoti PW-1 has very fairly accepted that she was not an eye witness of the accident. PW-2 Satish Kumar Latiyan deposed that the accident occurred on 23.12.2009 at about 09.00 PM, when his brother in law Sachin Kumar (deceased) was going by his motorcycle from Vikas Nagar, Dehradun to police Station Kalsi and when the deceased reached near petrol pump in Vikas Nagar, then his motorcycle was hit head- on by the offending Car No. UA07-G-1313, which was being driven in a rash and negligent manner, which came towards the wrong side of the road, due to which the deceased suffered grievous injuries, who was taken to Herbertpur Christian Hospital from where he was referred to Joly Grant Hospital, Dehradun, where he died during treatment on 30.12.2009. He further deposed that the car fled after the accident and the accident was witnessed by him and deceased's cousin brother Amit, who were getting their vehicle refilled at the petrol pump. He further deposed that in the accident the deceased suffered grievous injuries in his head.

14. In the cross-examination he deposed that the offending car hit the motorcycle of the deceased head on. He further deposed that the car was being driven on the wrong side of the divider. He denied the suggestion that the accident was caused due to the rashness and negligence of the deceased who was driving the motorcycle at that time.

15. The offending car driver Smt. Neha Khatri DW-1 deposed that at the time of the accident, the deceased was driving his motorcycle rashly and negligently, due to which his motorcycle skidded and his head collided with the divider, due to which his head was got severely injured, but the tribunal has disbelieved the above testimony. She admitted that the deceased was driving his motorcycle at the time of the accident, which collided with her car, which was being driven slowly and cautiously, due to which the bumper, radiator, headlight of the front left side and front wind screen of the car were damaged. She further admitted that the police seized her car which was subsequently released by the Court.

16. The tribunal has also considered the site plan prepared in the criminal case, which disclosed that the offending car crossed the divider and came towards the wrong side of the road and then it hit the motorcycle of the deceased head on and due to this, the tribunal concluded that the offending car driver contributed 80% towards the accident whereas, the deceased contributed only 20%, which is a perverse finding. It was proved from the evidence of PW-2 that the offending car crossed the divider, came to the wrong side of the road and then collided head-on with the motorcycle of the deceased, which proved that the accident occurred due to the sole negligence of the offending car driver.

17. Accordingly, the finding of the tribunal regarding the contributory negligence of the deceased in the accident is set aside and it is held that the accident occurred due to the sole rashness and negligence of the offending car driver Smt. Neha Khatri.

18. The Apex Court in the case of ***National Insurance Company Ltd vs Indira Srivastava & Ors (2008) 2 SCC 763*** has held that the amount 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 and from the said amount of income, the statutory amount of tax payable thereupon must be deducted. It was further held that net income would ordinarily

mean gross income minus the statutory deductions.

19. The Apex Court in the case of ***Shyamwati Sharma & Ors vs Karam Singh & Ors (2010) 12 SCC 378*** and ***Manasvi Jain Vs. Delhi Transport Corporation Ltd. & Ors. (2014) 13 SCC 22 (By 3 Judges)*** has held that while ascertaining the income of the deceased, any deductions shown in the salary certificate as deductions towards GPF, life insurance premium, repayments of loans etc., should not be excluded from the income. The deduction towards income tax/surcharge alone should be considered to arrive at the net income of the deceased.

20. The Apex Court in the case of ***Kavita Devi and others vs Sunil Kumar and another 2025 SCC OnLine SC 1639*** and ***Manorma Sinha and another vs The Divisional Manager, Oriental Insurance Co. Ltd. and another 2025 SCC OnLine SC 2241*** has held that the allowances paid to the deceased, which are included in the salary, whether taxable or not, should be included while assessing loss of income as they are used for supporting the family, if the allowances were regularly received and used for the family's benefit.

21. In view of the above law laid down by the Apex Court, it is clear that all the allowances being paid to the deceased by his employer should be considered while assessing the compensation in a claim case and only the amount deducted towards income tax and surcharge should be considered to arrive at the net income of the deceased.

22. It is apparent that the gross salary of the deceased was Rs.13,049/- per month but the tribunal has ignored HRA of Rs.760/-, conveyance allowance of Rs.50/-, special diet allowance of Rs.550/- and washing allowance of Rs.30/- per month, which comes to Rs.1,390/- per month, and the tribunal after deducting the above allowances, has assessed the compensation by taking the salary of the deceased at only Rs.11,659/- per month. It is well settled that all the allowances being paid to a salaried employee are required to be considered for assessing compensation and only the income tax paid on the salary is required to be deducted. It is further apparent that if the above allowances have not been given to the deceased then certainly he would have spent it from his salary which would have reduced the resources available to the family and affected their dependency, as such, the compensation is to be determined on the basis of gross salary of the deceased, which was Rs.13,049/- per month, on which no income tax was payable at that time, because the exemption

limit was Rs. 1,60,000/- per annum.

23. **Rule 220-A of the UP Motor Vehicle Rules, 1998** w.e.f. 26.09.2011, mandates that when the deceased was aged below 40 years on the date of accident, the claimants are also entitled to compensation on future prospects @50% of his income.

24. The Constitution Bench of the Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi & Ors. (2017) 16 SCC 680** has awarded loss of consortium of Rs.40,000/- and Rs.15,000/- each towards loss of estate and funeral expenses, which is to be enhanced at the rate of 10% after every three years.

25. The Apex Court in the case of **Magma General Insurance Company Ltd. Vs. Nanu Ram @ Chuhru Ram & others, (2018) 18 SCC 130**, has awarded Rs.40,000/- each towards spousal consortium, parental consortium and filial consortium.

26. Further, the Apex Court in the case of **Rahul Ganpatrao Sable vs Laxman Maruti Jadhav (Dead) through LRS and Others (2023) 13 SCC 334**, held as under:-

*"32. In the present case, MACT had granted a meagre amount of Rs 5000 towards loss of consortium. However, the High Court granted a total amount of Rs 70,000 as consolidated amount under all conventional heads, which included loss of consortium, loss of estate and funeral expenses. In **Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205]**, the Constitution Bench of this Court had provided that all dependents should be separately awarded towards loss of consortium and had actually awarded Rs 40,000 to each of the dependents. Considering the same, an amount of Rs 40,000 each is awarded to each of the four dependents towards loss of consortium."*

(emphasis supplied)

27. A Division Bench of this Court in **FAFO No.2581 of 2011, Sushil Kumar & Another vs. M/S Sampark Lojastic Pvt. Ltd. & Another**, decided on 26.04.2017 has held that even if the accident occurred prior to 26.09.2011, the claimants are entitled to compensation on future prospects as per amended Rule 220-A of the UP Motor Vehicle Rules, 1998, since it is a beneficial legislation.

28. It is further apparent that as per the decision of the Apex Court in the case of **Pranay Sethi** (supra) read with **Rule 220-A of the UP Motor Vehicle Rules, 1998**, the claimants were entitled to get compensation towards future prospect of the deceased at the rate of 50% of his income, but the tribunal has not awarded any amount towards it, which is erroneous. It is further apparent that as per the above Rule, the claimants were entitled to get interest on the compensation at the rate of 7% per annum but the tribunal has awarded it at the rate of 6% per annum, which requires enhancement. It is further apparent that the claimants are entitled to enhanced compensation under non-pecuniary heads keeping in view of the judgment of the Apex Court in **Pranay Sethi** (supra), **Magma General Insurance Co. Ltd.** (supra) and **Rahul Ganpatrao Sable** (supra).

29. The Apex Court in the case of **Sebastiani Lakra and others vs. National Insurance Company Limited and another**, (2019) 17 SCC 465, (By 3 Judges), while discussing the amount which are to be deducted for assessment of compensation has held 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.

14. As far as the amounts of pension and gratuity are concerned, these are paid on account of the service rendered by the deceased to his employer. It is now an established principle of service jurisprudence that pension and gratuity are the property of the deceased. They are more in the nature of deferred wages. The deceased employee works throughout his life expecting that on his retirement he will get substantial amount as pension and gratuity. These amounts are also payable on death, whatever be the cause of death. Therefore, applying the same principles, the said amount cannot be deducted.

15. As held by the House of Lords in Parry v. Cleaver [Parry v. Cleaver, 1970 AC 1 : (1969) 2 WLR 821 : 1969 ACJ 363 (HL)] the insurance amount is the fruit of premium paid in the past, pension is the fruit of services already rendered and the wrongdoer should not be given benefit of the same by deducting it from the damages assessed.

16. Deduction can be ordered only where the tortfeasor satisfies the court that the amount has accrued to the claimants only on account of death of the deceased in a motor vehicle accident."

*30. The Apex Court in the case of **Hanumantharaju B. through LR vs. M. Akram Pasha and another**, 2025 SCC Online SC 1106, while discussing whether the pension payable to the claimant can be deducted for computing his income, has held as under:*

"19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.

For this proposition of law, we may refer to the decision in Vimal Kanwar v. Kishore Dan (2013) 7 SCC 476, wherein this Court, by referring to the earlier decision in Helen C. Rebello v. Maharashtra SRTC (1999) 1 SCC 90, held as follows:—

“19. The aforesaid issue fell for consideration before this Court in Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90 : 1999 SCC (Cri) 197]. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a “pecuniary advantage” receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as “pecuniary advantage” liable for deduction. The following was the observation and finding of this Court : (SCC pp. 111-12, para 35)

“35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co-relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the

periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any co-relation. The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."

Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in Reliance General Insurance Co. Ltd. v. Shashi Sharma (2016) 9 SCC 627 and National Insurance Company Ltd. v. Birender (2020) 11 SCC 356."

31. The Apex Court in the case of **National Insurance Co. Ltd. vs Rekhaben and others (2017) 13 SCC 547**, held as under:-

"22. In the present cases, the claimants were offered compassionate employment. The claimants were not offered any sum of money equal to the income of the deceased. In fact, they were not offered any sum of money at all. They were offered employment and the money they receive in the form of their salary, would be earned from such employment. The loss of income in such cases cannot be said to be set off because the claimants would be earning their living. Therefore, we are of the view that the amount earned by the claimants from compassionate appointments cannot be deducted from the quantum of compensation receivable by them under the Act.

23. In the cases before us, compensation is claimed from the owner of the offending vehicle who is different from the employer who has offered employment on compassionate grounds to the dependants of the deceased/injured. The source from which compensation on account of the

accident is claimed and the source from which the compassionate employment is offered, are completely separate and there is no correlation between these two sources. Since the tortfeasor has not offered the compassionate appointment, we are of the view that an amount which a claimant earns by his labour or by offering his services, whether by reason of compassionate appointment or otherwise is not liable to be deducted from the compensation which the claimant is entitled to receive from a tortfeasor under the Act. In such a situation, we are of the view that the financial benefit of the compassionate employment is not liable to be deducted at all from the compensation amount which is liable to be paid either by the owner/the driver of the offending vehicle or the insurer."

32. It is further apparent that since Smt. Jyoti, the wife of the deceased was offered compassionate appointment after the death of her husband as Constable, who was getting a salary of Rs.7,100/- per month and also family pension of Rs.4,690/- per month, the tribunal has not awarded any compensation towards the future prospect of the deceased, which is erroneous. It is well settled that the compassionate appointment offered to legal heirs as well as the amount of family pension, awarded to them, is not to be considered while assessing compensation in a claims case. In view of this, the claimants are entitled to get compensation towards future prospect of the deceased @50% of the income of the deceased.

33. In view of the above statutory law and precedents of the Apex Court, the compensation payable to the claimants is redetermined as under:-

S.No.	Compensation Heads	Amount Awarded(in Rs.)	In Accordance with.
1.	Monthly income of deceased	13,049/-	<i>Salary certificate of the deceased</i>
2.	Annual Income of deceased	13,049X12=1,56,588/-	<i>Salary certificate of the deceased</i>
3.	Less 1/4th deduction towards self expenses(4 dependents)	39,147/-	<i>Pranay Sethi(supra)</i>
4.	Net annual income on which claimants were dependent	1,17,441/-	<i>Pranay Sethi(supra)</i>

5.	Add future prospects @50% since deceased was aged about 29 years	58,720/-	UP Motor Vehicle Rules, 1998
6.	Total annual dependency of claimants on deceased	1,76,161/-	Pranay Sethi (supra)
7.	Multiplier applied since age of deceased was about 29 years at the time of accident	17	Pranay Sethi (supra)
8.	Total loss of dependency to the claimants	1,76,161X17=29,94,737/-	Pranay Sethi (supra)
9.	Loss of consortium @Rs.40,000/-each, increased by 10% after every 3 years (4 claimants)	48,400X4=1,93,600/-	Pranay Sethi (supra) , Magma General Insurance Co. Ltd. (supra) and Rahul Ganpatrao Sable (supra)
10.	Loss of estate @ Rs.15,000/- increased by 10% after every 3 years.	18,150/-	Pranay Sethi (supra)
11.	Funeral Expenses@ Rs.15,000/- increased by 10% after every 3 years.	18,150/-	Pranay Sethi (supra)
12.	Treatment expenses	49,730/-	As awarded by the tribunal
13.	Total compensation	32,74,367/-	

34. In this way, the claimants are entitled to total compensation of Rs.32,74,367/- alongwith interest @ 7% per annum from the date of filing of the claim petition till it's actual payment, which is to be indemnified by the insurer of the offending car No. UA-07-G-1313.

35. Accordingly, the appeal is allowed. The award of the tribunal dated 30.07.2011 is modified to the above extent.

36. If any amount has been paid by the insurance company previously, then the insurance company is entitled to adjust it accordingly. The

insurance company is directed to deposit the enhanced amount of compensation before the concerned tribunal within two months. The tribunal will be at liberty to proportionally award the enhanced amount of compensation to the claimants keeping in view their age and dependency.

(Sandeep Jain,J.)

January 12, 2026
Himanshu