(2025) 10 AH CK 0011

Allahabad HC

Case No: First Appeal From Order No. 2459 Of 2025

New India Assurance Co. Ltd — APPELLANT

Vs

Jyoti And 5 Others — RESPONDENT

Date of Decision: Oct. 27, 2025

Acts Referred:

- Motor Vehicles Act, 1988 — Section 173

Hon'ble Judges: Sandeep Jain, J

Bench: Single Bench

Advocate: Abhinav Shukla

Final Decision: Dismissed

Judgement

Sandeep Jain, J

1. The instant appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the insurer of the offending Maruti Eco car No.UP-25DC-5093 against the impugned judgment and award dated 08.08.2025 passed by the Motor Accident Claims Tribunal, Rampur in Motor Accident Claim Petition No.57 of 2023 (Smt. Jyoti and others vs. Mahesh Pal and others), whereby for the untimely death of Sanjeev Kumar on 18.01.2023 in a motor accident that occurred on 15.01.2023, a compensation of Rs.23,98,774/- alongwith interest @ 7% per annum has been awarded to claimants, which is ordered to be indemnified by the appellant - insurance company.

2. The factual matrix of the case is that on 15.01.2023 at about 6:00 p.m., on the Milak-Bilaspur Road in village Tiraha, within the jurisdiction of Police Station Milak, District Rampur, the deceased Sanjeev

Kumar was driving his motorcycle bearing registration number U.P.-22-AH-0850 from village Dandia towards Milak after delivering goods, then the offending Maruti Eco Car No. UP-25-DC-5093, which was driven in a rash and negligent manner by its driver, came from behind and hit the motorcycle as a result of which the deceased sustained grievous injuries, who was admitted in Navodaya Hospital, Bareilly from 15.01.2023 to 18.01.2023 and during treatment, he died on 18.01.2023. At the time of his death, the deceased was aged about 27 years, who was working as a d elivery boy in Ekam Express Company and was drawing a salary of Rs.11,000/- per month. The Tribunal has assessed his income on the basis of minimum wages paid to unskilled workman for the relevant time, which was Rs.9,743/- per month which comes to Rs.1,16,916/- annually. Since the deceased was below 40 years of age, the Tribunal has awarded 40% future prospects. Since, there were four dependents, the Tribunal has deducted 1/4th amount towards self-expenses, applied multiplier of 17 and has awarded Rs.16,500/- each towards funeral expenses and loss of estate and has granted consortium of Rs. 40,000/- each to the widow, two minor sons and mother of deceased and Rs.1,18,820/- towards treatment expenses. In this way, the Tribunal has awarded a total compensation of Rs.23,98,774/- along with interest @ 7% per annum to the claimants, a ggrieved against which, the Insurance Company has filed this appeal.

3. Learned counsel for the appellant- Insurance Company has submitted that the Tribunal has erred in concluding that there were four dependents of the deceased. Learned counsel submitted that minor dependents of the deceased should be taken as half unit each but the Tribunal has erred in taking them as a single unit. It was further submitted that the Tribunal has awarded consortium of Rs.40,000/- each to every claimant, which is erroneous, keeping in view the judgment of the Apex Court in the case of National Insurance Company Limited vs. Pranay Sethi and others, (2017), 16 SCC 680.

4. I have heard learned counsel for the appellant - Insurance Company, perused the impugned judgment and documents submitted by the appellant.

5. It is true that as per Rule 220-A(2) of the Uttar Pradesh Motor Vehicle Rules, 1998, where there is a minor dependent of the deceased, then it should be counted as half but as per the Constitution Bench judgment of the Apex Court in the case of Pranay Sethi(supra), which has affirmed the previous judgment of the Apex Court in the case of Smt. Sarla Verma (SMT) and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121, each dependent is to be calculated as a single unit irrespective of whether he/she was major or minor. There is no differentiation in the manner, in which the dependency is to be calculated, insofar, as age of the dependents is concerned.

6. The Apex Court in the case of New India Assurance Company Limited vs. Urmila Shukla and others, (2021) 20 SCC 800, has held that if an indicia is made available in the form of a statutory instrument which affords a favourable treatment, the decision in Pranay Sethi's case cannot be taken to have limited the

operation of such statutory provision specially when the validity of the rules was not put under any challenge. It was further held that since the Motor Vehicles Act is a beneficial legislation, the claimants are to be awarded compensation as per the law, which is more advantageous to them, which affords better or greater benefit.

7. Since, in this case, the provisions laid down by the Apex Court in the case of Sarla Verma (supra) as affirmed in the case of Pranay Sethi (supra) are more beneficial than the statutory provisions enacted under Rule 220-A (2)(iii) of the Rules of 1998, as such, the dependency is to be calculated on a single unit basis, irrespective of the age of the dependents.

8. The Apex Court in the case of Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, (2018) 18 SCC 130, has held that claimants are entitled to spousal consortium, parental consortium and filial consortium and the Apex Court has awarded each claimant consortium of Rs.40,000/-.

9. In the instant case, there are four dependents of the deceased Sanjeev Kumar, one is widow Smt. Jyoti, his two minor sons Shreyansh and Shivay Gangwar and his mother Smt. Laxmi Devi. The Tribunal has awarded consortium of Rs.40,000/- each to all the four claimants which cannot be said to be erroneous, keeping in view the law laid down by the Apex Court in the case of Magma General Insurance Company Limited (supra).

10. In view of the aforesaid discussion, this appeal has got no merit and is liable to be dismissed at the admission stage.

11. The appeal is hereby dismissed at the admission stage.

12. The impugned judgment and award of the Tribunal dated 08.08.2025 is affirmed.

13. Office is directed to remit back the statutory deposit made by appellant to the Tribunal concerned, forthwith.