2026:BHC-AS:24062

LAXMI SUBHASH SONTAKKE

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1699 OF 2025

National Insurance Co. Ltd. ...Appellant

Versus

Nagma Hujefa Usmani & Ors. ...Respondents

Mr. Amol Gatne for the Appellant.

Mr. Rajan Pawar for the Respondents.

CORAM: AARTI SATHE, J.

Reserved on : 10 JUNE 2026

Pronounced on: 16 JUNE 2026

JUDGMENT:-

1. This Appeal challenges the Judgment and Award dated 9th July 2024 (hereinafter referred to as 'the impugned judgment and award') passed by the Motor Accident Claims Tribunal (MACT), Nashik, whereby the Applicants/Petitioner Nos. 1 to 4 (Respondents Nos. 1 to 4 herein) have been awarded an amount of Rs. 77,27,864/- along with interest @ 6% p.a., inclusive of No-Fault Liability (NFL) from the date of filing of the MACT Petition/Application till realization.

2. Briefly, the facts are as follows:-

i. Respondent Nos. 1 to 4 are related to the deceased Hujefa Ejaj Anjum Usmani (hereinafter referred to as "the Deceased"), who died on account of a motor vehicular accident at the age of 31 years. Respondent No. 1 is the wife of the

Deceased, Respondent No. 2 is the daughter of the Deceased, and Respondent Nos. 3 and 4 are the parents of the Deceased.

ii. On 21st July 2021, the Deceased was traveling by Skoda car from Mumbai to Nashik. At that time, the driver of Primpur Bombay Roadways, i.e.. Respondent No. 5, drove truck No. NL-01-AA-1248 from Nashik to Mumbai on Mumbai Agra Road, Wadivarhe Shivar (hereinafter referred to as 'the offending truck') in a rash and negligent manner, and dashed into the car of the Deceased, which resulted in the death of the Deceased.

iii. CR No. 338/2021 under Sections 304(A), 279, 338 of the Indian Penal Code, 1860 (IPC) and Section 184 of the Motor Vehicles Act, 1988 (MV Act) was registered against the driver of the offending truck. The offending truck was owned by Respondent No. 5, and had been insured with the Appellant.

iv. On 18th October 2021, Respondent Nos. 1 to 4 filed MACP No. 865/2021 before the MACT under Section 166 of the MV Act, claiming compensation on account of the death of the Deceased, from the date of the application till realization.

v. The impugned judgment and award was passed on the aforesaid MACP No. 865 of 2021 in favour of Respondent Nos. 1 to 4, awarding a sum of Rs. 77,27,864/- inclusive of NFL amount along with interest @ 6% p.a., from the date of filing of the application/petition till realization of the entire awarded amount, to be jointly and severally payable by the Appellant and Respondent No. 5 in the present Appeal.

3. It is in the backdrop of the above facts that I proceed to decide the present Appeal.

4. Heard learned Counsel for the parties.

5. Mr. Gatne, learned Counsel for the Appellant, has vehemently submitted that the impugned judgment and award has been passed without appreciating the facts of the case and the law, and therefore the quantum of compensation which has been awarded by way of the aforesaid impugned judgment and award is excessive and arbitrary. He has further submitted that the amount of Rs. 4,50,000/-, which had been taken as the income of the Deceased on the basis of the income tax return (ITR) filed for the Assessment Year (AY) 2018-19, is an erroneous basis on which MACT has awarded the compensation to the heirs of the Deceased, i.e., Respondent Nos. 1 to 4. He has vehemently submitted that through a series of judgments rendered in the context of MACT proceedings, it is an accepted legal position that when it comes to evaluating a person's business income, the same has to be taken on an average basis, based on at least the preceding three years' income, and only a solitary ITR cannot be made the basis to determine the gross income of the Deceased. Mr. Gatne has also challenged the impugned judgment and award on the ground that interest on future income has been wrongly granted to the heirs of the Deceased. In support of the above submission, he has sought to place reliance on the decision of this court in ***Smt. Kalpana Gavali vs. MSRTC***[1].

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1 2023 SCC OnLiine Bom 2040

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6. Mr. Gatne further submitted that unlike salaried income, which can be determined with reasonable certainty on the basis of fixed and ascertainable parameters, business income is inherently variable and fluctuates depending upon the performance of the business. He contended that such income is susceptible to market conditions, commercial uncertainties, and other vagaries associated with the particular line of business and therefore cannot be assessed on the same footing as salaried income. He further submitted that in the facts of the present case, the MACT has solely relied on the ITR for AY 2018-19, and no other documentary evidence was placed on record to prove the income earned by the Deceased at the time of his death. It is further his submission that the death of the Deceased occurred on 21st July 2021, which falls in Financial Year (FY) 2020-21 relevant to AY 2021-22, and an ITR which is as distant as AY 2018-19 could not be construed as a document which is close to the death of the Deceased. He also submitted that only the father of the Deceased was examined to hold that the ITR for AY 2018-19 was sufficient to determine the compensation due and payable to the heirs of the Deceased, i.e., Respondent Nos. 1 to 4. He further submitted that the Goods and Services Tax (GST) Registration Certificate dated 14th December 2018 produced before the MACT clearly indicates that the Deceased was engaged in the business of trading.

7. Mr. Gatne also pointed out that in the cross-examination of the father of the Deceased, he categorically deposed that the Deceased had been carrying on trading business and had been regularly filing ITRs for the preceding eight years. He therefore submitted that in the absence of ITRs pertaining to the preceding

years immediately prior to the death of the Deceased, the MACT committed a grave error in assessing the income of the Deceased at Rs. 4,50,000/- per annum solely on the basis of a single ITR. He further buttressed his submissions by placing reliance on a series of judgements, which shall be discussed at a later stage, to contend that, for the purpose of determining the average income of a Deceased engaged in business, ITRs for atleast the preceding three years from the death of the Deceased ought to be produced. According to him, in the absence of such material, the assessment of income made by the learned MACT is bad in law. He therefore prayed that the award of compensation passed by the MACT be held to be legally untenable and be quashed and set aside.

8. Mr. Gatne further submitted that the MACT erred in awarding interest on the component of future prospects/future income, which, according to him, was impermissible in law. He contended that such an award has resulted in an unwarranted enhancement of the compensation payable to Respondent Nos. 1 to 4. While contending that the provisions of the MV Act constitute a benevolent piece of legislation intended to provide just compensation to victims and their dependents, he submitted that the same cannot be construed so as to confer a windfall or a bonanza upon the Deceased or his legal heirs.

9. *Per contra*, Mr. Pawar, learned Counsel for Respondent Nos. 1 to 4 submitted that the impugned judgment and award passed by the MACT was a well-reasoned judgment and award and did not suffer from any infirmity, and therefore had to be upheld. It was his submission that the claim amount awarded

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by the MACT was the correct amount and was justifiable in the facts of the present case. He further submitted that even a single solitary ITR, as was submitted in the facts of the present case, was sufficient to establish the income of the Deceased, and in fact did not amount to any error of judgment on the part of the MACT while relying on the aforesaid ITR. He further submitted that the MACT could determine the notional income only if no document was considered, however, in the facts of the present case, the presence of the ITR of AY 2018-19 itself was sufficient to prove that the income which was ascertained by the MACT was a correct figure. He further submitted that the theory of consideration of average income of ITR will apply in cases where there are more than one ITR on record, however, in the facts of the present case there was only one ITR that the Respondents produced, and hence the same was sufficient for the MACT to consider for computation of income of the Deceased.

10. He also sought to place reliance on the decision of ***Malarvizhi v. United India Insurance Co. Ltd.***[2] to submit that in the facts of that case, the Supreme Court had taken the higher figure as reflected in the earlier ITR and not the lower figure of income as disclosed in last ITR, thereby seeking to canvass that the average income need not to be determined on the basis of last 3 years' ITRs but could be determined on the basis of one solitary ITR. He further sought to place reliance on the following decisions, which will be discussed later, to support his contention that only one ITR, as rightly relied upon by the MACT, would be sufficient to determine the income of the Deceased-

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2 (2020) 4 SCC 228

i. *Sangita Arya and Others Vs. Oriental Insurance Company Limited and Others*[3]

ii. *New India Assurance Co. Ltd. vs. Alpa Rajesh*[4]

iii. *IFFCO Tokio General Insurance Co. Ltd. vs. Manisha Tanaji Bhoir and Others*[5]

iv. Anjali and Others vs. Lokendra Rathod and Others[6]

v. A. Aravind and Others vs. R. Alagu Sundaram and Ors.[7]

11. I have gone through the records and the impugned judgment and award, and also considered the submissions made by the learned counsel on behalf of the Appellant and Respondents, and I am of the view that the impugned judgement and award is a well-reasoned award, passed after taking into consideration all the facts and evidence led before the MACT. The undisputed facts in the present case are that the Deceased died on 21st July 2021, and that the offending truck was insured with the Appellant. The sole legal issue on which the Appellant has challenged the impugned judgment and award is that the compensation granted to the Deceased is on the higher side, and that the MACT has failed to take into consideration the ITR for 3 years to find out the average income of the Deceased, and has only relied upon the ITR for AY 2018-19, which

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3 (2020) 5 SCC 327
4 2014(2) Mh.L.J.
5 2023 SCC OnLine Bom 1583
6 2022 SCC OnLine SC 1683
7 2023(2)TAC20

cannot determine the average income of the Deceased. I am however, inclined to reject this argument canvassed by the counsel on behalf of the Appellant, and the following discussion will aid the conclusion I have reached:-

i. At first blush the submission as canvassed by the learned counsel on behalf of the Appellant seemed attractive, inasmuch as he has contended that to determine the income of the Deceased the average income has to be taken into consideration, and the same can only be determined if ITRs for the preceding 3 years from the date of the death of the Deceased are on record. Since in the facts of the present case, the ITR of the AY 2018-19 was on record, and the MACT on the basis of the aforesaid ITR determined the income of the Deceased, his contention was that the average income has not been properly determined, and hence he has calculated notional income at Rs. 15,000/- and submitted that the total award be reduced from a figure of Rs. 77,27,864/- to Rs. 32,31,800/-. This submission in my view deserves to be rejected, considering that the MACT legislation is a benevolent legislation and is compensatory in nature. It has been enacted to provide relief and succor to the Deceased and his family members post the death of the Deceased.

ii. Though the MACT did not have the benefit of the last ITR prior to the death of the Deceased, which would be the ITR for AY 2020-21, yet the MACT, on the basis of the ITR available closest to the death of the Deceased, i.e. AY 2018-19, has determined the income of the Deceased at a figure of Rs. 4,52,310/-. This method followed by the MACT in my view is the correct approach adopted by the MACT, inasmuch as the concept of income on the date of the death of the

Deceased does not mean exactly on the date of the death, but a piece of evidence reasonably close to the date of the death. In the present case, the ITR for AY 2018-19 was the only piece of evidence which was closest to the date of the death of Deceased, and hence, the same has been rightly used as the basis to determine the income of the Deceased.

iii. Further, the contention of the Appellant that the average income needs to be taken into consideration for the purpose of determining the income of the Deceased while awarding compensation needs to be rejected, inasmuch as the Supreme Court in the case of Malarvizhi (supra) has categorically, on an analysis of the ITRs filed by the Deceased in that case for various financial years, approved the decision of the High Court which had taken into consideration that the AY in which the ITR declaring the highest income of the Deceased was there, the same should be considered to award compensation to the Deceased. This view of the Supreme Court has been consistently followed in the following decisions relied upon by learned counsel on behalf of the Respondents, the relevant paragraphs of which are reproduced below: -

a. IFFCO Tokio General Insurance Co. Ltd. vs. Manisha Tanaji Bhoir and Others:

18. Learned Counsel for the appellant has referred to and relied upon the decision in the case of ICICI Lombard General Insurance Co. Ltd. v. Ajay Kumar Mohanty (supra) to submit that average of the three years income tax returns ought to have been considered by the Tribunal. In hy view, the ratio of the said decision is distinguishable in as much as in that case it was the Tribunal who had on the basis of income tax returns for the years 2007, 2008 and 2009 arrived at an average income but after doing that it had taken the annual income on the basis of testimony of the claimant. It is in that context that the Hon'ble Supreme Court had recorded the computation of average income by the Tribunal. In the case at hand as well as in the Supreme Court

decision in the case of Malarvizhi v. United India Insurance Co. Ltd. (supra), it was the Tribunal that had considered income of the years in which the deceased had declared a lesser income and the High Court had referred to an assessment year in which the deceased had declared the highest income, which approach the Hon'ble Supreme Court has approved as the same was for the benefit of the claimant. In my view, it has been a consistent approach not to disturb or interfere with an approach which is more beneficial to the claimant unless the same is manifestly perverse. Once the Tribunal, in its wisdom has, after considering the facts, taken an approach which is beneficial to the claimant, in my view, the same ought not to be interfered or faulted with, as the provision for compensation's under section 166 of the M.V. Act is a beneficial piece of legislation to provide solace of just compensation to the family of the victim.

19. For the same reason, the decision of the Gujarat High Court in the case of Rajeshwariben wd/o Kalpeshbhai Shah v. Yunusbhai Isabbhai Sipai (supra) relying upon the decision of the Hon'ble Supreme Court in the case of ICICI Lombard General Insurance Co. Ltd. v. Ajay Kumar Mohanty (supra), in my view, is distinguishable, in as much as in the said decision also the Hon'ble Gujarat High Court found no error with the findings of the Tribunal where it considered an average of three years income of the deceased prior to his death.

(emphasis supplied)

b. Sangita Arya and Others Vs. Oriental Insurance Company Limited and Others:

12.2. Second, the High Court determined the income of the deceased by taking the average of the ITRs filed for the years 2002-03 at Rs 54,000 p.a., 2003-04 at Rs 52,405 p.a., and 2004-05 at Rs 51,500 p.a. The learned Single Judge disregarded the ITR for the year 2006-07, wherein the income of the deceased was shown as Rs 98,500 p.a. on the ground that it was allegedly filed almost one year after the death of the deceased. This finding also is factually incorrect.

13. A photocopy of the original ITR for the year 2006-07 was filed before this Court, bearing the rubber stamp of the Income Tax Department. It shows that the date of filing the IT was 20-4-2007, which is prior to the death of the deceased which occurred on 18-6-2007. Hence, the High Court was not justified in disregarding the IT for the year 2006-07, while assessing the income of the deceased. The appellants have also placed on record a copy of the ITRforthe year 2005-06, which bears the rubber stamp of the Income Tax Department, and reveals the income of the deceased at Rs 98,100 p.a. during the previous assessment year. As a consequence, the impugned judgment dated 22-7-2016 passed by the High Court is hereby set aside.

14. On a perusal of the documentary evidence on record i.e. the ITRs for Assessment Years 2005-06 and 2006-07, filed prior to the death of the

> deceased, which reflect the income of approximately Rs 1,00,000 p.a. (as assessed by MACT in its award dated 22-12-2009), we make this the basis for computing the compensation payable to the claimants. We find that the courts below have not awarded any amount towards future prospects, as mandated by the judgment of the Constitution Bench in National Insurance Co. Ltd. v. Pranay Sethi.
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> (emphasis supplied)

c. Rukmani Jethani v. Gopal Singh: In the aforesaid case, multiple ITRs had been filed on behalf of the Appellants in this case, wherein the MACT and the High Court had failed to take into consideration the ITR for AY 2004-05, which reflected the highest income. The Supreme Court in this context held as hereunder:-

> 9. After careful consideration of the submissions made on behalf of the parties, we are of the opinion that the MACT committed an error in not taking into account the ITR filed on behalf of the deceased for the Financial Year 2004-2005. Taking into account the ITR filed on behalf of the deceased for the Financial Year 2004-2005, we hold that the appellants are entitled for an amount of Rs. 8,40,735/- towards compensation on the basis of yearly income of the deceased applying the multiplier of 15. Insofar as loss of future prospects is concerned, we are in agreement with the learned counsel for Respondent No. 3 that the calculation should be based on 25% of the established income and not 30%. The appellants are entitled to Rs. 2,52,213/- towards 'loss of future prospects'. In respect of compensation to the family members for 'loss of love and affection, deprivation of protection, social security etc.', we are of the opinion that the appellants are entitled to Rs. 90,000/- (Rs. 15,000/- each to six members of the family). The widow of the deceased is entitled to Rs. 40,000/- towards compensation for loss of love and affection, pains and sufferings, loss of consortium, deprivation of protection, social security etc.' Further, the appellants are also entitled to Rs. 25,000/- towards funeral and ritual expenses. In all, the appellants are entitled for payment of compensation amounting to Rs. 12,47,948/- (Rupees twelve lakh forty-seven thousand nine hundred forty-eight only).
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> (emphasis supplied)

iv. The other two decisions relied upon by learned Counsel on behalf of the Respondents, i.e., Anjali and Others vs. Lokendra Rathod and Others (supra) and A. Aravind and Others vs. R. Alagu Sundaram and Ors. (supra) also support the facts of the present case, inasmuch as they hold that ITRs are statutory documents, on which reliance can be placed where available, for computation of

income, and even if ITR for only one year is filed by the Deceased, it is to be considered for arriving at the compensation.

v. I am therefore of the view that the reliance place by learned counsel on behalf of the Respondents on the aforesaid decisions is apposite to the facts of the present case. Hence, once the law is settled that even if ITRs are filed for multiple years, the ITR which reflects the highest income of the Deceased needs to be considered while awarding compensation to the Deceased, then the concept of considering the average income on the basis of multiple ITRs does not hold good. In my view therefore, the MACT has rightfully proceeded on the basis of the ITR filed by the Deceased's father for AY 2018-19 to determine the income of the Deceased at the figure of Rs. Rs. 4,52,310/-. Further, the reliance by learned counsel on behalf of the Respondents on **New India Assurance Co. Ltd. vs. Alpa Rajesh** (supra) would also aid in giving credence to the view that the average income of 3 years cannot be taken into consideration while calculating the compensation payable to the Deceased. In the case of **New India Assurance Co. Ltd. vs. Alpa Rajesh** (supra), this Court has held that the income on the date of the death ought to have been taken into consideration after deducting the income tax payable. Since in the facts of the present case the ITR for AY 2019-20 and AY 2020-21 were not available with the Deceased's father, ITR for AY 2018-19 has been rightly considered by the MACT as being the document which is closest to the date of death of the Deceased. Relevant paragraph of the decision in **New India Assurance Co. Ltd. vs. Alpa Rajesh** (supra) is reproduced below-

> 9. The learned Member of the Tribunal while calculating the multiplicand has deducted the tax payable from the net income for the said three years and has taken the average of the income of three years. Thus, he has taken the yearly income of the deceased at 1,60,000/- for the purposes of computing multiplicand. We find that the learned Member has committed an error by taking the average of the income for last three years. The income on the date of death ought to have been taken into consideration after deducting the income tax payable.
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> (Emphasis supplied)

vi. Considering the aforesaid judicial pronouncements, this court is of the view that the MACT has not erred in determining the compensation on the basis of the ITR filed by the Deceased for AY 2018-19. Further, the MACT has also borne in mind that the Deceased at the time of the accident was survived by his wife, minor daughter, and his parents, and all of them were dependent on him. The MACT therefore has rightly apportioned the compensation amount among the Respondents and has also rightly deducted 1/4th amount as personal expenses. The MACT has also rightly applied the formula as envisaged by the Supreme Court in the decision of **National Insurance Co. Ltd. v. Pranay Sethi**[8] to hold that an addition of 40% for future prospects is required to be made in the event the Deceased was below the age of 40 years. The MACT also rightly applied the multiplier of 16 as stipulated by the Supreme Court in **Sarla Verma v. DTC**[9] to come to a figure of Rs. 75,18,864/- under the head "loss of dependency". Further, the MACT has rightly granted Rs. 1,76,000/- to Respondents Nos. 1 to 4 under the head "Loss of consortium- 4 x 40,000/- (as per spousal and filial consortium),

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8 (2017) 16 SCC 680

9 (2009) 6 SCC 121

including 10% enhance", following the decision of the Supreme Court in **Anjali and Others Vs. Lokendra Rathod and Others**[10], wherein the Court has relied on the decision rendered in the case of **United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur**[11]. The relevant paragraph of the decision of the Supreme Court in the case of **Anjali and Others Vs. Lokendra Rathod and Others** (supra) is reproduced below:-

> "*A three-Judge Bench of this Court in United India Insurance Co.Ltd. v. Satinder Kaur @ Satwinder Kaur after considering Pranay Sethi (Supra), has awarded spousal consortium at the rate of Rs. 40,000/-(Rupees forty thousand only) and towards loss of parental consortium to each child at the rate of Rs. 40,000/- (Rupees forty thousand only). The compensation under these heads also needs to be increased by 10%. Thus, the spousal consortium is awarded at Rs. 44,000/- (Forty-four thousand only, and towards parental consortium at the rate of Rs. 44,000/- each (Total Rs. 1,32,000/) is awarded to the three children."*

vii. The MACT has also come to a correct conclusion in respect of the other figures and has rightly awarded a compensation of Rs. 77,27,864/- inclusive of NFL amount along with interest at the rate of 6% per annum from date of the petition/application till realization. I am therefore of the view that the argument as canvassed by learned counsel on behalf of the Appellant that the average income needs to be determined on the basis of ITRs for last 3 years deserves to be rejected, and a just and fair compensation, which is the intent of the MV Act, has been rightly followed by the MACT, and that the findings rendered by the MACT do not warrant interreference.

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10 2022 SCC OnLine 1683

11 (2021) 11 SCC 780

12. Further, the decisions as relied upon by Mr. Gatne will not help advance his case further, inasmuch as they did not have the benefit of the law as laid down by the Supreme Court in Malarvizhi (supra), and hence the issue regarding average income to be taken on the basis of three years' ITR, which has been upheld by the aforesaid decisions will no longer be good law and be applicable to the facts of the present case.

13. In the decision of **National Insurance Co. Ltd Vs. Rupali Kailas Mamode**[12], this Court had considered the decisions of the Supreme Court **in ICICI Lombard General Insurance Co. Ltd. v. Ajay Kumar Mohanty**[13] and also relied on the decision of **Reliance General Insurance Co. Ltd. v. Shalu Sharma**[14] and held that to determine the compensation payable to the Deceased, the ITRs of the last three years have to be considered, and the average income has to be determined after considering the ITRs of the last three years. Placing reliance on the aforesaid two decisions, this Court came to the view that the MACT had erred in not considering the ITRs of the last three years and in not finding out the average on the basis of the last three years' ITRs, and therefore had modified the order of the MACT to that extent and held that income of the Deceased had to be computed on the basis of ITRs of the preceding three years of the death of the Deceased.

14. I am of the view that this decision would not apply to the facts of the present case, inasmuch as this decision did not have the benefit of the decision of

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12 2019(3) Mh.L.J 645
13 (2018) 3 SCC 686
14 (2018) 2 SCC 753

the Supreme Court in Malarvizhi (supra), wherein it has been held that even if three years' ITRs have been filed by the Deceased, which are prior to his death, even then the ITR in which the highest income has been declared has to be taken into consideration for the purposes of determining the compensation. Therefore, this decision did not consider the view taken by the Supreme Court in Malarvizhi (supra) and the subsequent decisions, thereby not helping the learned counsel on behalf of the Appellant Mr. Gatne to advance his case further insofar as his contention that in the facts of the present case, since the ITR for only AY 2018-19 has been filed and not for the other two years preceding the death of the Deceased, the determination of income by the MACT was erroneous and needs to be modified.

15. The decision of this court in the case **New India Assurance Co.Ltd Vs. Dharmishta Jintendra Mehtalia**[15] also does not help Mr Gatne to advance his submission further in respect of average income to be taken for the purpose of determining the compensation payable to the Deceased, inasmuch as the said decision was rendered in July 2017, which was much prior to the decision rendered by the Supreme Court in Malarvizhi (supra) and the other decisions of the Supreme Court following Malarvizhi (supra), wherein it has been categorically held that even if the ITRs have been filed for three years, the ITR of the highest income has to be considered for the purposes of determining the compensation payable to the Deceased.

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15 2017 SCC Online Bom 6725

16. Therefore, the contention of Mr. Gatne that this Court has taken the view that average income has to be taken into consideration on the basis of ITRs for the last three years is not applicable to the facts of the present case, as none of these decisions had the benefit of the later decisions of the Supreme Court.

17. In so far as the decision in **K. Ramya Vs. National Insurance Co. Ltd**[16], which Mr. Gatne seeks to place reliance upon, in my respectful view, also does not help him, inasmuch, as it only discusses on the reliability of the ITRs and audit reports to determine the loss of income insofar as the Deceased in that case was concerned. The Supreme Court in the said decision has nowhere held that to determine the compensation of the Deceased, the average income needs to be taken into consideration on the basis of ITRs of the last three years. The only proposition which the Supreme Court has upheld is that documents such as ITRs and audit reports are reliable evidence to determine the income of the Deceased. In my respectful opinion, this decision of the Supreme Court does not help the Appellant to further canvas the proposition that the average of the amounts of the last financial years has to be taken into consideration for the purposes of determining the compensation of the Deceased. The Supreme Court has only relied on the ITRs for the last four years to determine the income from business ventures and other investments in the facts of that case to determine the loss of income derived by the Appellants in that case under the head "income from business ventures and other investments".

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16 2022 SCC Online SC 1338

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18. The decision of the Supreme Court in **Syed Basheer Ahamed Vs Mohd. Jameel**[17], on which Mr. Gatne seeks to place reliance, is in a different fact pattern, and the same has only been relied upon by him to canvass his contention that in so far as income from salaries is concerned, the same stands on a different footing as opposed to income from business, where the earnings in business may increase with the buoyancy in business and at the same time may diminish with a recession in trade. These arguments were taken into consideration by the Supreme Court to decide the quantum in that case of compensation to be payable to the Deceased, and the same will not help the learned counsel on behalf of the Appellant to canvass his contention that the average income has to be taken into consideration on the basis of last three years' ITRs.

19. Insofar as the contention of Learned Counsel on behalf of the Appellant that the MACT erred in awarding interest on future prospects/income by relying on the decision of this Court in the case of **Smt. Kalpani Gavali Vs. MSRTC** (supra), the same needs to be rejected, inasmuch as the Supreme Court in the recent decision of **Oriental Insurance Vs. Niru @ Niharika & Ors.**[18] has rejected the aforesaid contention of the Insurance Companies and held that interest on future income/prospect be granted. Relevant paragraphs of the Supreme Court decision are reproduced below: -

> 9. A very relevant issue agitated by the Insurance Company is the illegality in awarding interest for future prospects, which in any event is an amount received in advance, normally inuring to the benefit of the claimants

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17 2009(2) SCC 225

18 2025 INSC 822

only in future. This is the only contention taken in the connected appeal bearing SLP(C) No. 22136 of 2024. We find absolutely no reason to accept this argument. In SLP(C) No. 11340 of 2020, the multiplier applied looking at the life span of the deceased and the claimants is 13. Before the Tribunal itself, the case was pending for 12 years and the only amount received by the claimants was Rs. 50,000/-. Hence though amounts are awarded for future prospects taking the multiplier of 13; in effect, the money is received only after the period for which the multiplier is adopted. Similar is the case in SLP(C) No. 22136 of 2024 where the accident occurred in 2018, the multiplier applied is 17 and we are seven years from the date of accident.

10. We cannot but observe that there was nothing stopping the Insurance Company from settling the claim on a computation, on receipt of intimation of the accident, especially since the determination of compensation for loss of dependency, on death being occasioned in a motor vehicle accident, can be determined as evident from the judicial precedents; at least provisionally

11. In fact, it is due to the repudiation of or refusal to consider the claim that the claimants are driven to the Tribunal. When the matter is pending before the Tribunal or in appeal before the higher forums, the claimants are deprived of the compensation for future prospects. If they are paid in time, it could be utilized by the claimants and on failure, the loss of dependency would force the claimants to source their livelihood trom elsewhere. This is sought to be compensated at least minimally by award of interest, which oftener them ever is nominal also since only simple interest is awarded. If the amounts were disbursed to the claimants on a rough calculation, on intimation of the accident to the Insurance Company, subject to the award of the Tribunal, necessarily there would not have been any interest liability atleast to the extent of the disbursement made. Hence, we reject the contention and direct that the entire award amounts would be paid with interest at the rate of 9% from the date of filing of the claim till the date of disbursement, deducting only Rs. 50,000/- granted as interim compensation, in SLP(C) No. 11340 of 2020 and 6% in SLP(C) No. 22136 of 2024 as awarded by the High Court; deduction to be made for the amounts already paid.

12. We uphold the order of the High Court in both cases and find no reason to interfere with the same. The amounts awarded, if not paid, shall be paid within a period of 3 months and if defaulted shall carry 12% interest on the total amount of award with interest from the date of default.

20. I am therefore of the view that considering the facts and legal position, the MACT has correctly awarded the compensation to the Deceased, and no error can be found in the impugned judgment and award. The concept of average income on the basis of ITRs of the last 3 years prior to the death of the Deceased does not find place in any section of the MV Act and hence, considering the

benevolent nature of the MV Act, the said concept cannot be read into the provisions of the MV Act to deny higher compensation to the Deceased. The aforesaid view finds support in the decision of the Supreme Court in Malarvizhi (supra) and the subsequent decisions following it which have been discussed above, and therefore the appeal filed by the Appellant deserves to be dismissed.

21. Respondent Nos. 1 to 4 are at liberty to withdraw the amount awarded by way of the impugned judgment and award along with interest deposited by the Appellant with the MACT as well as this Court, along with the accrued interest thereon from the date of application till realisation. Further, if the amount has not been deposited with the MACT or this Court, then the Appellant shall pay the amount of award within a period of 3 weeks from the date of uploading of this award, as awarded by the impugned judgment and award along with interest @ 6% p.a. and any further future interest payable from the date of application till realisation.

22. Appeal dismissed. No Costs.

23. At this stage, learned counsel for the Appellant Mr. Gatne prays that this order be stated for a period of three weeks. Considering the relief granted to the Respondents by this judgment, the aforesaid request for stay is rejected.

(AARTI SATHE, J.)