

HEAD OFFICE MOTOR TP DEPARTMENT
2nd FLOOR KANAK BUILDING
41, J.L. NEHRU ROAD, KOLKATA-700 071

To
 DGMs / CRMs
 All ROs

Our Ref. HO/MOTOR/TP/2017-18/02
 Dated: 09.11.2017

Re: National Ins. Co. Ltd. vs. Pranay Shefi & Ors., SLP (CIVIL) NO. 25590 OF 2014, 5 Judge bench decision dt. 31.10.2017

- Reference is invited to HO Circular on the subject "Filing of appeal in MACT Cases" dt. 08.11.2016, wherein on the issue of addition towards future prospects the following guidelines was given :

Addition towards future prospects	
Permanent Job with regular increment	If the ratio of Sarla Verma (Smt.) and Ors. v. Delhi Transport Corporation and Anr. (2009) 6 SCC121 is not followed, file appeal as per trend of local HC & after doing cost-benefit analysis
Self Employed/Fixed Wages	If the ratio of Santosh Devi vs National Insurance Company Limited , (2012)6SCC421 i.e. 30 % increment for aged below 50 Yrs. is not followed, file appeal as per trend of local HC & after doing cost-benefit analysis

- However, divergent views were present on the issue of addition towards future prospects and it lacked an authoritative pronouncement. Therefore, perceiving cleavage of opinion between two 3 Judge Bench decision of Hon'ble Supreme Court in **Reshma Kumari & Ors. Vs. Madaan Mohan & Another, (2013)9SCC65** and **Rajesh & Ors. Vs. Rajbir & Ors. , (2013)9SCC54** , a two-judge bench of Apex Court in **National Insurance Co. Ltd. vs. Pushpa & Ors. , (2015)9SCC166** has referred the matter to a larger bench.
- The Hon'ble Supreme Court constituted a 5 Judge bench and by its Judgment dt. 31.10.2017 , it analysed earlier decisions and proceed to conclude the following :
- i. The two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.
 - ii. As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.

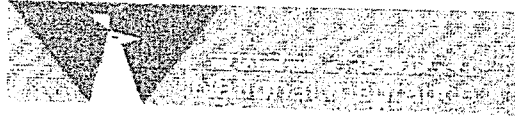


- iii. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.
 - iv. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.
 - v. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.
 - vi. The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.
 - vii. The age of the deceased should be the basis for applying the multiplier.
 - viii. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.
- Henceforth, the calculation for just compensation shall be done as per this landmark Judgment. The above conclusion is summarized in tabular format as below :

Multiplier	
Age Band	Multiplier
15-20	18
21-25	18
26-30	17
31-35	16
36-40	15
41-45	14
46-50	13
51-55	11
56-60	9
61-65	7
66-70	5

Claim No
Suit No
Claimant
Age of deceased
Dependents
Multiplier
Future
Loss of Estate
Loss of Consortium
Funeral Exp
TOTAL =

ncam Age 36000 20 [Multiplier] 18 12/11



Deduction for Personal Expenses			
Bachelor		Married	
Dependants		Dependants	
only parents	½	2 to 3	½
if other like younger siblings also dependant	½	4 to 6	¾
		more than 6	¾

Addition towards Future Prospects			
For Permanent job (salaried)	Add	For Self Employed/Fixed Salary	Add
Below 40 years	50%	Below 40years	40%
40 to 50 years	30%	40 to 50 years	25%
51 to 60 years	15%	51-60 years*	10%

Note: New addition to Sarla Verma case i.e. for age between 50-60 Yrs., from Nil to 15%

Note: For those having Permanent job - actual salary less tax and for Self employed/Fixed Salary-established income less tax .

General & Non Pecuniary Damages		
Head	Amount (Rs.)	
Loss of Estate	15,000	with 10% increase every 3 years
Loss of Consortium	40,000	
Funeral Expenses	15,000	
TOTAL	70,000	

- Further as advised by DFS, ROs' are instructed to ask operating offices for re-calculating the OS provision of pending cases by 30th Nov, 2017 and send us a report on 01st Dec., 2017 ; duly signed by RO-In-Charge , on the actual monetary impact of this judgment on the books of account.

(K Sanath Kumar)
Chairman-cum-Managing Director