

Important Judgments for MACT Cases

Inquiry & Summary procedure	Only an inquiry into the claim is to be held by following suitable summary procedure	Jai Prakash Vs National Insurance Co. Ltd. & Ors. (2010) 2 SCC 607
Not a regular Civil Suit	Not to be conducted like regular Civil Suits	Jai Prakash Vs National Insurance Co. Ltd. & Ors. (2010) 2 SCC 607
Active Role of Tribunal	Tribunal shall take an active role in deciding and expeditious disposal of the applications for compensation	Jai Prakash Vs National Insurance Co. Ltd. & Ors. (2010) 2 SCC 607
Not an adversarial adjudication	Not an adversarial adjudication	Sunita & Ors. Versus: Rajasthan State Road Transport Corporation & Anr., (2020) 13 SCC 486
Effective use of Section 165 of the Evidence Act	Tribunal shall make effective use of Section 165 of the Evidence Act, 1872, to determine the just compensation	Jai Prakash Vs National Insurance Co. Ltd. & Ors. (2010) 2 SCC 607
Disbursement	Compensation amount disbursement Principles	General Manager, Kerala S.R.T.C vs Susamma Thomas (1994) 2 SCC 176
Use of E-mail	<ul style="list-style-type: none"> • AIR by Police • Application by Claimants • Summons by Tribunal • Offer by Insurance 	Bajaj Allianz General Insurance Company Private Ltd. Versus Union of India and Others Writ Petition(s) (Civil) No(s). 534/2020: DOO 16.03.2021
Bank account of Tribunal	Tribunal shall maintain a bank account and Insurer shall deposit the awarded amount by RTGS or NEFT	Bajaj Allianz General Insurance Company Private Ltd. Versus Union of India and Others Writ Petition(s) (Civil) No(s). 534/2020: DOO 16.03.2021
Email IDs	<ul style="list-style-type: none"> • Each tribunal shall create an email ID for receiving the emails. • Insurance Companies shall also create an email ID. • Would be prominently displayed. 	Bajaj Allianz General Insurance Company Private Ltd. Versus Union of India and Others Writ Petition(s) (Civil) No(s). 534/2020: DOO 16.03.2021
Nodal Officers by Insurance Companies	Insurance Companies shall appoint Nodal Officers for each Tribunal. Provide their contact details /phone numbers /email address. To Director Generals of State Police and Tribunals	Bajaj Allianz General Insurance Company Private Ltd. Versus Union of India and Others Writ Petition(s) (Civil) No(s). 534/2020: DOO 16.03.2021
Format for payment	Format for payment advised for remittance of compensation as devised in <i>The Divisional Manager, The Oriental Insurance Company Ltd., Kannur vs. Rajesh & others, 2016 SCC OnLine Mad 1913</i>	Bajaj Allianz General Insurance Company Private Ltd. Versus Union of India and Others Writ Petition(s) (Civil) No(s). 534/2020: DOO 16.11.2021

Accrued interest	Accrued interest to be paid to Claimants	Bajaj Allianz General Insurance Company Private Ltd. <i>Versus</i> Union of India and Others Writ Petition(s) (Civil) No(s). 534/2020: DOO 16.11.2021
Disability Certificate	Regarding issuance of Disability Certificate guidelines laid down in <i>Raj Kumar v. Ajay Kumar and Anr., (2011) 1 SCC 343</i> mandatorily must be followed by the Tribunals	Bajaj Allianz General Insurance Company Private Ltd. <i>Versus</i> Union of India and Others Writ Petition(s) (Civil) No(s). 534/2020: DOO 16.11.2021
Saving of TDS	Legal Services Authority be asked to assist the Claimant for obtaining a Pan Card to save TDS	Bajaj Allianz General Insurance Company Private Ltd. <i>Versus</i> Union of India and Others Writ Petition(s) (Civil) No(s). 534/2020: DOO 16.11.2021
DEATH CASES		
Computation	<p style="text-align: center;">Steps</p> <ol style="list-style-type: none"> 1. (Ascertaining the multiplicand) <ul style="list-style-type: none"> • The income of the deceased per annum should be determined • Out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of personal and living expenses • The balance, which is considered to be the contribution to the dependant family, constitutes the multiplicand. 2. (Ascertaining the multiplier) <ul style="list-style-type: none"> • Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected • The multiplier should be chosen from the table with reference to the age of the deceased 3. (Actual calculation) <ul style="list-style-type: none"> • The annual contribution to the family (multiplicand) when multiplied by such multiplier gives the 'loss of dependency' to the family 4. Other Additions <ul style="list-style-type: none"> • Estate - a conventional amount in the range of rupees 5,000/- to 10,000/- • Loss of Consortium - Where the deceased is survived by his widow, another conventional amount in the range of 5,000/- to 10,000/- • The funeral expenses • Cost of transportation of the body (if incurred) • Cost of any medical treatment of the deceased before death (if incurred) 5. Addition to income for Future Prospects <ul style="list-style-type: none"> • As a rule of thumb an addition of 50% of actual salary (less Tax) to the actual salary 	Sarla Verma and others Vs Delhi Transport Corporation and another (2009) 6 SCC 121

	<p>income of the deceased towards future prospects</p> <ul style="list-style-type: none"> • Where the deceased had a permanent job and was below 40 years the addition should be only 30% if the age of the deceased was 40 to 50 years • There should be no addition, where the age of deceased is more than 50 years <p>6. Addition to income for Future Prospects</p> <ul style="list-style-type: none"> • As per <i>National Insurance Co. Ltd vs Pranay Sethi & others (2017) 16 SCC 680</i> <p>7. Deduction for personal and living expenses</p> <ul style="list-style-type: none"> • (1/3rd) deceased married and dependent family members is 2 to 3 • (1/4th) deceased married and dependent family members is 4 to 6 • (1/5th) deceased married and dependent family members exceed 6 • (1/2) deceased un-married and dependent family members exceed are parents • (1/3rd) deceased un-married and dependent family members exceed are parents and non-earning sisters or brothers) <p>8. Selection of multiplier</p> <ul style="list-style-type: none"> • M-18 for (15 to 25 years) • M-17 for (26 to 30 years) • M-16 for (31 to 35 years) • M-15 for (36 to 40 years) • M-14 for (41 to 45 years) • M-13 for (46 to 50 years) • M-11 for (51 to 55 years) • M-9 for (56 to 60 years) • M-7 for (61 to 65 years) • M-5 for (66 to 70 years) 	
Deductions	<p>Deductions Excludable</p> <ul style="list-style-type: none"> • Income tax/surcharge <p>Deductions Not Excludable</p> <ul style="list-style-type: none"> • GPF • life insurance premium • repayments of loans etc. 	Shyamvati Sharma & others vs Karam Singh & others (2010) 12 SCC 378
Future prospects & Conventional Heads	<p>Future prospects</p> <p>1. permanent job</p> <ul style="list-style-type: none"> • 50% addition of actual salary in less than 40 years age • 30% addition of actual salary in age in-between 40 to 50 years • 15% addition of actual salary in age in-between 50 to 60 years 	National Insurance Co. Ltd vs Pranay Sethi & others (2017) 16 SCC 680 (DOD: 31.10.2017)

	<p>2. Self-employed/ fixed salary</p> <ul style="list-style-type: none"> • 40% addition of actual salary in less than 40 years age • 25% addition of actual salary in age in-between 40 to 50 years • 10% addition of actual salary in age in-between 50 to 60 years <p>3. The established income means the income minus the tax component. 4. The age of the deceased should be the basis for applying the multiplier 5. Reasonable figures on conventional heads</p> <ul style="list-style-type: none"> • loss of estate - rupees 15,000/-(now 16,500) • loss of consortium - rupees 40,000/-(now 44,000) • funeral expenses - rupees 15,000/-(now 16,500) <p>6. The aforesaid amounts should be enhanced at the rate of 10% in every three years</p>	
Future Interest	Interest @ 9%	R. Valli vs Tamil Nadu State Transport Corporation Ltd., (2022) 5 SCC 107; Sumathy and Others Versus Babu and Another, (2022) 9 SCC 702; Rahul Sharma vs National Insurance Company Ltd., (2021) 6 SCC 188; Parminder Singh vs New India Assurance Company Ltd., (2019) 7 SCC 217
Head : “love and affection” not permissible	<ul style="list-style-type: none"> • Compensation under the head of ‘love and affection’ not permissible • Only compensations for ‘loss of spousal consortium to wife and ‘loss of parental consortium to children’ are admissible. 	Raj Bala and Others <i>Versus</i> Rakeja Begam and Others, 2022 SCC OnLine SC 1453
INJURY CASES		
Entitlement	<p>A victim who suffers a permanent or temporary disability is entitled to the award of compensation covering among others, the following aspects:</p> <ul style="list-style-type: none"> • Pain, suffering and trauma resulting from the accident • Loss of income including future income • The inability of the victim to lead a normal life together with its amenities • Medical expenses including those that the victim may be required to undertake in future • Loss of expectation of life 	Jagdish vs Mohan and others (2018) 4 SCC 571
Heads & Principles	<p>The heads under which compensation is awarded in personal injury cases are the following :</p> <p style="text-align: center;">Pecuniary damages (Special Damages)</p> <p>1. Expenses relating to treatment</p> <ul style="list-style-type: none"> • Hospitalization • Medicines 	Raj Kumar vs Ajay Kumar and another (2011) 1 SCC 343

	<ul style="list-style-type: none"> • Transportation • nourishing food • miscellaneous expenditure <p>2. Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :</p> <ul style="list-style-type: none"> • Loss of earning during the period of treatment • Loss of future earnings on account of permanent disability • Future medical expenses <p>The heads under which compensation is awarded in personal injury cases are the following :</p> <p style="text-align: center;">Non-pecuniary damages (General Damages)</p> <ul style="list-style-type: none"> • Damages for pain, suffering and trauma as a consequence of the injuries • Loss of amenities (and/or loss of prospects of marriage) • Loss of expectation of life (shortening of normal longevity) <p>Principles</p> <ul style="list-style-type: none"> • All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity • The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity • The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability • The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors • Tribunal does not function as a neutral umpire as in a civil suit, but as an active explorer and seeker of truth who is required to `hold an enquiry into the claim' for determining the `just compensation' • The Tribunal should therefore take an active role to ascertain the true and correct position so that it can assess the `just compensation' • The Tribunal may also keep in view the First Schedule to the Workmen's Compensation Act, 1923 which gives some indication about the extent of permanent disability in different types of injuries, in the case of workmen 	
Multiplier system for attendant charges	The multiplier system should be followed also for determining the attendant charges etc.	Kajal v. Jagdish Chand, (2020) 4 SCC 413

etc.		
Child	Child of 12 years <ul style="list-style-type: none"> • minimum wages payable to a skilled workman • 40% for the future prospects • multiplier of 18 • Transportation rupees 50,000/- • Attendant monthly charges rupees 5,000/- • Pain and suffering rupees 15,00,000/- • Loss of marriage prospects rupees 3,00,000/- • Future medical expenses rupees 5,00,000/- 	Kajal v. Jagdish Chand, (2020) 4 SCC 413
Loss of marriage prospects	Loss of marriage prospects rupees 3,00,000/-	Kajal v. Jagdish Chand, (2020) 4 SCC 413; Divya Versus National Insurance Co. Ltd. and Another, 2022 SCC OnLine SC 1488
Multiplier below the age of 15	Below the age of 15 multiplier of 18 shall be applicable	Abhimanyu Partap Singh Vs Namita Sekhon & Another, 2022 SCC OnLine SC 793
Multiplier system for physiotherapist	The multiplier system should be followed also for determining the physiotherapist	Abhimanyu Partap Singh Vs Namita Sekhon & Another, 2022 SCC OnLine SC 793
Motorized wheel chair	Motorized wheel chair lump-sum rupees 2,50,000/-	Abhimanyu Partap Singh Vs Namita Sekhon & Another, 2022 SCC OnLine SC 793
Loss of amenities of life	Loss of amenities of life and marital bliss, pain and sufferings, loss of enjoyment and loss of expectancy rupees 4,00,000/-	Abhimanyu Partap Singh Vs Namita Sekhon & Another, 2022 SCC OnLine SC 793
Special diet	Special diet rupees 1,00,000/-	Abhimanyu Partap Singh Vs Namita Sekhon & Another, 2022 SCC OnLine SC 793
Future transportation	Future transportation rupees 2,50,000/-	Abhimanyu Partap Singh Vs Namita Sekhon & Another, 2022 SCC OnLine SC 793
Assistant device	Assistant device rupees 10,00,000/-	Master Ayush Vs. The Branch Manager, Reliance General Insurance Co. Ltd. & Anr., (2022) 7 SCC 738
Taxi expenses/ conveyance charges	Taxi expenses/ conveyance charges (without Bill)	Master Ayush Vs. The Branch Manager, Reliance General Insurance Co. Ltd. & Anr., (2022) 7 SCC 738
Pain and suffering & Loss of amenities	Pain and suffering & Loss of amenities rupees 6,00,000/-	Divya Versus National Insurance Co. Ltd. and Another, 2022 SCC OnLine SC 1488
Functional disability	Impact of injuries on functional disability is to be seen	M. R. Krishna Murthi vs The New India Assurance Co. Ltd. (2020) 15 SCC 493
OTHER IMPORTANT JUDGEMENTS		
	If the driver of the offending vehicle does not possess a valid driving license, the principle of	Shamanna & Ors. v. The Divisional Manager, The

Pay and recover	'pay and recover' can be ordered to direct the insurance company to the pay the victim, and then recover the amount from the owner of the offending vehicle	Oriental Insurance Co. Ltd. & Ors., (2018) 9 SCC 650; Rani and others vs National Insurance Company Ltd. And others (2018) 8 SCC 492; Parminder Singh vs New India Assurance Company Ltd., (2019) 7 SCC 217
Standard of proof	Strict proof of an accident not required. Preponderance of probability. Beyond reasonable doubt not applicable.	Parmeshwari v. Amir Chand, (2011) 11 SCC 635; Anita Sharma and others Vs. The New India Assurance Co. Ltd. and another (2021) 1 SCC 171
Broad -based approach	While computing compensation the approach of the Tribunal or a court has to be broad-based	Suresh v. New India Assurance Co. Ltd. (2012) 12 SCC 274
Consortium	<p>“Consortium” includes:</p> <ul style="list-style-type: none"> • Spousal consortium • Parental consortium • Filial consortium <p>The right to consortium would include</p> <ul style="list-style-type: none"> • the company • Care • Help • Comfort • Guidance • solace • affection of the deceased, which is a loss to his family <p>Loss of Consortium – rupees 40,000/- each claimant</p>	Magma General Insurance Company Limited versus Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130
Major married and earning sons	Major married and earning sons of the deceased have a right to apply for compensation, whether fully dependant on the deceased or not	National Insurance Company Ltd. vs Birender and others (2020) 11 SCC 356
Beneficial piece of legislation	The MV Act is a beneficial piece of legislation enacted to give solace to the victims of the motor accident who suffer bodily injury or die. untimely The strict compliance applicable to the suits and other proceedings not required.	Vimla Devi vs The National Insurance Company (2019) 2 SCC 186
Exhibiting documents	Exhibiting the referred documents not necessary	Vimla Devi vs The National Insurance Company (2019) 2 SCC 186
Deductions not allowed	Deductions cannot be allowed from the amount of compensation <ul style="list-style-type: none"> • Insurance • pensionary benefits • bank deposits, share, debentures etc. 	Sebastiani Lakra vs National Insurance Company Ltd. (2019) 17 SCC 465

	<ul style="list-style-type: none"> • Gratuity • grant of employment to a kin of the deceased • (EPF) payment 	
Deduction not permissible	<p>Following deductions not permissible in calculation of the income of the deceased</p> <ul style="list-style-type: none"> • HRA • CCA • medical allowance • EPF • GIS 	Sunil Sharma & Ors vs Bachitar Singh & Ors (2011) 11 SCC 425
Duty of owner for hiring Driver	The owner cannot be expected to verify the genuineness of the driving licence with the licensing authority before hiring the services of the driver, unless required by Insurance	Pepsu Road Transport Corp vs National Insurance Co (2013) 10 SCC 217
Delay in lodging the FIR	Delay in lodging the FIR not fatal, for cogent reasons	Ravi vs Badrinarayan & Ors (2011) 4 SCC 693
Change of owner	Change of the name of the owner in the certificate of registration of the vehicle is must	Pushpa @ Leela & Ors vs Shakuntala & Ors (2011) 2 SCC 240; Prakash Chand Daga vs Saveta Sharma, (2019) 2 SCC 747
Compensation for loss of love and affection is not permissible	<p>Compensation under the head on account of loss of love and affection is not permissible but compensation on account of spousal consortium for wife and for the parental consortium for children is admissible.</p> <p>Loss of love and affection is comprehended in loss of consortium.</p> <p>Only three recognised conventional heads under which compensation can be awarded viz. loss of estate, loss of consortium and funeral expenses.</p>	Janabai and Others Vs I.C.I.C.I. Lambord Insurance Company Ltd., 2022 SCC OnLine SC 994
Absence of salary certificate	<p>In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased.</p> <p>In absence of documentary evidence on record some amount of guesswork is required to be done.</p>	Chandra @ Chnada @ Chandram vs Mukesh Kumar Yadav, (2022) 1 SCC 198
Pillion rider - contributory negligence	Pillion rider on a motor cycle along with the driver and one more person on the pillion, may be a violation of the law, but by itself cannot lead to a finding of contributory negligence.	Mohammed Siddique vs National Insurance Company Ltd., (2020) 3 SCC 57
Parking of truck trailer	Parking of truck trailer on the road at night without any reflectors not a contributory negligence.	Jumani Begum vs Ram Narayan, (2020) 5 SCC 807
Gratuitous passengers in a goods vehicle	Principle of "pay and recover" invoked in the case of gratuitous passengers in a goods vehicle	Anu Bhanvara Vs. Iffco Tokio General Insurance Company Ltd., (2020) 20 SCC 632

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