2025:AHC:192193

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 1915 of 2019

Suneeta Singh And 2 Others

.....Appellant(s)

Versus

Poonam Gupta And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Jagat Narayan Shukla, Shahnawaz Khan
Counsel for Respondent(s)	:	Avdhesh Chandra Nigam, Shrey Singh, Vipin Chandra Dixit (Elevated)

AFR

Court No. - 38

HON'BLE SANDEEP JAIN, J.

1. Learned counsel for the appellants and Shri Shrey Singh, learned counsel for the respondent insurance company are present.

2. This appeal has been filed by the claimants under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of compensation against the judgment and award dated 30.05.2018 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No.10, Gorakhpur, in Motor Accident Claim Petition No. 51 of 2013 (Sunita Singh and others vs. Smt. Poonam Gupta and others), whereby, for the untimely death of Rajesh Singh(deceased) on 26.03.2012, due to the injuries sustained in a road accident that occurred on 23.03.2012, a compensation of Rs. 4,83,000/- along with interest at the rate of 6% per annum has been awarded to the claimants, which has been order to be indemnified by the insurer of the offending vehicle.

3. Since there is no cross-appeal by owner, driver and insurer of the offending vehicle as such, the factum of accident and negligence of offending driver is not disputed by the respondents.

4. Learned counsel for the claimants-appellants submitted that the Tribunal has awarded inadequate compensation to the claimants because the deceased was working as a Manager in a brick kiln and was drawing salary of Rs.7,000/- per month, but the Tribunal has disbelieved it and has assessed the income on notional basis at Rs.4,500/- per month.

5. Learned counsel further submitted that no compensation towards future prospects has been awarded by the Tribunal, and lesser amounts have been awarded under the heads of loss of estate, funeral expenses, and consortium. It was further submitted that the Tribunal has awarded interest only at the rate of 6% per annum, whereas, as per the mandate of Rule 220-A of the U.P. Motor Vehicle Rules, 1998, the claimants are entitled to interest at the rate of 7% per annum. With these submissions, it was prayed that the appeal be allowed and compensation be enhanced.

6. Per contra, learned counsel for the respondent-National Insurance Company Limited submitted that the Tribunal has awarded the right amount of compensation to the claimants because no documentary proof of profession and income of deceased was submitted by the claimants before the Tribunal.

7. Learned counsel further submitted that the Tribunal has also awarded interest at the rate of 6% per annum, which is just and reasonable.

8. I have heard the learned counsel for both the sides, perused the impugned judgment and record of the lower court.

9. The claimants claimed that the deceased was working as a Manager at a brick kiln and was drawing a salary of Rs.7,000/- per month, and also examined Roopchand as PW-3, the proprietor of Hari Bricks Field, Paniyara, District Maharajganj, in support thereof.

10. The tribunal believed that he was working only as a labourer at the brick kiln of PW-3, who was well educated, who was earning more than a labourer, who had a Tata truck having an agreement to pay Rs.13,000/- per month, but still assessed his income at Rs.4,500/- per month, which is erroneous.

11. PW-3 Roopchand proved that the deceased Rajesh Singh was working at his brick kiln at the post of Manager on salary of Rs.7,000/- per month, from 12.04.2011, who died in an accident on 26.03.2012. PW-3 has proved the salary certificate and attendance of the deceased.

12. The claimants have also filed the original educational certificate of the deceased which prove that he passed the B.A. examination in IInd Division from Gorakhpur University in the year 1985, was owner of Tata truck No.UP53-A-4898, purchased on loan from Motor & General Sales

Ltd., Gorakhpur on 04.01.1991, who had repaid the loan @ Rs.13,000/- per month, which proves the earning of the deceased.

13. Since the deceased was well educated, was having a truck and his profession and salary was proved by PW-3 Roopchand, as such, he could not have been treated as a labourer working at the brick kiln of PW-3. The tribunal has certainly erred in determing the compensation by treating the deceased as a labourer and taking his income @ Rs.4,500/- per month. Even the minimum wages of skilled labour on the date of accident in the State of Uttar Pradesh was Rs.6,284/- per month. In view of this, the claimants are entitled to get compensation on the basis that deceased was working as a Manager in the brick kiln of PW-3 and was drawing salary of Rs.7,000/- per month.

14. The Constitutional 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.

15. 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.

16. It is also apparent that as per the decision of Apex Court in the case of ***Pranay Sethi*** *(supra)*, the claimants are entitled to get compensation for future prospects. In the instant case, Rule 220-A of the U.P. Motor Vehicle Rules, 1998 as amended w.e.f. 26.09.2011, is applicable, which mandates where the age of the deceased was between 40-50 years, then he is entitled to future prospects at the rate of 30%. This rule also mandates that in all claim cases, interest should be awarded at the rate of 7% per annum.

17. 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 as proved by PW-3 Roopchand.	7,000/-	-
2.	Annual Income of deceased	7,000X12=84,000/-	***Pranay Sethi****(supra)*
3.	Less 1/3rd deduction towards self expenses	28,000/-	***Pranay Sethi****(supra)*
4.	Net annual income on which claimants were dependent	56,000/-	***Pranay Sethi****(supra)*
5.	Add future prospects @30% age of deceased was between 40-50 years	16,800/-	***UP Motor Vehicle Rules,1998***
6.	Total annual dependency of claimants on deceased	72,800/-	***Pranay Sethi****(supra)*
7.	Multiplier applied since age of deceased was between 46-50 years	13	***Pranay Sethi****(supra)*
8.	Total loss of dependency to the claimants	72,800X13=9,46,400/-	***Pranay Sethi****(supra)*
9.	Loss of consortium @Rs.40,000/-each, increased by 10% after every 3 years(3 dependents)	48,400X3=1,45,200/-	***Pranay Sethi****(supra)* and ***Magma General Insurance Co. Ltd.*** *(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.	Total compensation	11,27,900/-	

18. In this way, the claimants are entitled to enhanced compensation of Rs.11,27,900/- along with interest at the 7% per annum from the date of filing of the claim petition till its actual payment. The Tribunal has awarded interest at the rate of 6% per annum, which is enhanced to 7% per annum, keeping in view, Rule 220-A of the UP Motor Vehicle Rules,1998.

19. **The appeal is allowed. The award of the tribunal is modified to the above extent.**

20. 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.

21. The original record of the lower court be sent back, forthwith.

(Sandeep Jain,J.)

October 31, 2025
Mayank

Digitally signed by :-
MAYANK KUMAR SHARMA
High Court of Judicature at Allahabad