2025:AHC:192232

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 3197 of 2016

Smt. Anju Verma And 2 Others

.....Appellant(s)

Versus

Sameer Sharma And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Mohan Srivastava
Counsel for Respondent(s)	:	Pawan Kumar Singh

AFR

Court No. - 38

HON'BLE SANDEEP JAIN, J.

1. The instant appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the claimants for enhancement of compensation against the impugned judgment and award dated 29.07.2016 passed by Babita Rani, Motor Accident Claims Tribunal/Additional District Judge, Court No.3, Saharanpur in M.A.C.P. No.159 of 2014 (Smt. Anju Verma and others vs. Sameer Sharma and others), whereby in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, for the untimely death of Himanshu Verma on 26.06.2014, in a motor accident that occurred on 16.06.2014, a compensation of Rs.21,93,216/- alongwith interest @ 7% per annum has been awarded to claimants, which has been ordered to be indemnified by the insurer of the offending Bus No.UP-11-AT-0178.

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

3. Learned counsel for the claimants submitted that the tribunal has awarded less amount of compensation because the deceased was working as a Recovery Executive in MF Process & Solution Private Ltd. Dehradun and was drawing annual salary of Rs.2,62,404/- but the tribunal has assessed the compensation by taking monthly salary of Rs.16,845/-. It was further submitted that since the deceased was aged below 40 years on the date of accident, as such, the claimants were entitled to get compensation for future prospects at the rate of 50% in accordance with

Rule 220-A of the U.P. Motor Vehicle Rules 1998 but the tribunal has not awarded any compensation towards the future prospects. He further submitted that the tribunal has awarded less amount of compensation towards loss of consortium, loss of estate and funeral expenses. It was further submitted that the average salary of the deceased preceding six months from the date of accident be taken for assessing the compensation.

4. Per contra, learned counsel for the respondent insurance company submitted that the tribunal has awarded the right amount of compensation to the claimants. It was further submitted that the tribunal has not deducted any amount towards the income tax paid by the deceased. It was further submitted that the deceased was not in a fixed income job, as such, the tribunal has rightly not awarded future prospect to the claimants.

5. I have heard learned counsel for the parties and perused the impugned judgment and documents submitted with the appeal.

6. It is apparent that at the time of the accident the deceased was working on the post of Recovery Executive in MF Process & Solution Private Ltd. Dehradun and letter of offer of appointment of the above company was filed by the claimants, according to which he was offered annual salary of Rs.2,62,404/-. The claimants also examined PW3 Krishanpal Singh, who has proved the profession and income of the deceased. The claimants also filed the bank statement of the deceased according to which salary drawn by the deceased from 17.12.2013 till his death on 26.06.2014 was directly credited to his bank account, which was as under:-

"*Salary for the month of January 2014-Rs.19,601/-, February 2014-Rs.15,660/-, March 2014 Rs.11,872/-, From 01.04.2014 to 26.06.2014 - Rs.82,186/-"*

7. In this way the deceased was paid total salary of Rs.1,29,319/- from 01.01.2014 till 26.06.2014 which amounts to approximately Rs.22,000/- per month. The tribunal has only assessed his income at Rs.16,845/- per month which is erroneous. Further, since the annual income of the deceased was falling within the taxable bracket as such, an amount of 10% was deductible towards income tax, from income above Rs.2.50 lac. If that amount is taken into consideration, the annual income of the deceased after making appropriate deduction towards the income tax amounts to Rs.22,000 x 12= Rs.2,64,000 minus Rs.1,442(income

tax+education cess) Rs.2,62,558/- per annum.

8. 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.

9. 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.

10. As per ***Rule 220-A of the UP Motor Vehicle Rules,1998*** if the deceased was below 40 years, he was entitled to compensation on the future prospect @ 50%. The tribunal has not awarded any compensation on this account, which is erroneous.

11. In the light of the above statutory provisions and the precedent laid down by the Apex Court, the compensation payable is redetermined as under:-

S.No.	**Compensation Heads**	**Amount Awarded(in Rs.)**	**In Accordance with.**
1.	Annual Income of deceased after income tax deduction	2,62,558/-	-
2.	Less 1/3rd deduction towards self expenses	87,519/-	***Pranay Sethi****(supra)*
3.	Net annual income on which claimants were dependent	1,75,039/-	***Pranay Sethi****(supra)*
4.	Add future prospects @50% age of deceased was below 40 years	87,519/-	***UP Motor Vehicle Rules,1998***
5.	Total annual dependency of claimants on deceased	2,62,558/-	***Pranay Sethi****(supra)*

6.	Multiplier applied since age of deceased was about 38 years	15	***Pranay Sethi****(supra)*
7.	Total loss of dependency to the claimants	2,62,558x15=39,38,370/-	***Pranay Sethi****(supra)*
8.	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)*
9.	Loss of estate @ Rs.15,000/- increased by 10% after every 3 years.	18,150/-	***Pranay Sethi****(supra)*
10.	Funeral Expenses@ Rs.15,000/- increased by 10% after every 3 years.	18,150/-	***Pranay Sethi****(supra)*
11.	Treatment expenses of the deceased (awarded by the tribunal)	14,056/-	-
12.	Transport expenses of the deceased (awarded by the tribunal)	3,000/-	-
13.	Total compensation	41,36,926/-	

12. In this way, the claimants are entitled to total compensation of Rs.41, 36,926/- alongwith interest @ 7% per annum from the date of filing of the claim petition till it's actual payment, which is to be indemnified by the insurer of the offending Bus No.UP-11-AT-0178.

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

14. The tribunal has erroneously awarded Rs.1 lac compensation to the mother of the deceased, Smt. Kaso Devi, who was not a party to the claim petition, as such, no additional amount of compensation is to be awarded to her out of the enhanced amount of compensation awarded by this

Court.

15. 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 one month. The tribunal will be at liberty to proportionally award the enhanced amount of compensation to the claimants, keeping in view their age and dependency.

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

(Sandeep Jain,J.)

October 31, 2025
Himanshu

Digitally signed by :-
HIMANSHU YADAV
High Court of Judicature at Allahabad