2025:AHC:191093

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 1523 of 2019

Smt. Geeta Devi And 9 Others

.....Appellant(s)

Versus

Shri Ram General Insurance Company Ltd. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Amit Kumar Sinha, Atul Kumar Dubey
Counsel for Respondent(s)	:	Vijay Prakash Mishra, Vijai Prakash Misra

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AFR

Court No. - 38

HON'BLE SANDEEP JAIN, J.

1. The instant appeal for enhancement of compensation under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the claimants against the impugned judgment and award dated 23.07.2018 as corrected on 01.09.2018 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No.10,Allahabad, in MACP No.412 of 2016, Smt.Geeta Devi & Ors vs. Chintamani Yadav & others, whereby compensation of Rs.14,12,400/- alongwith interest @ 7% per annum has been awarded to the claimants(legal representatives of deceased), for the untimely death of Nathulal Yadav due to injuries suffered by him in an accident which occurred on 28.02.2016, which has been ordered to be indemnified by the insurer(Shri Ram General Insurance Co.Ltd.) of the offending Truck No.UP-70-DT-3749.

2. Learned counsel for the claimant-appellants submitted that the tribunal has awarded less amount of compensation because the deceased was a professional driver who was driving DCM truck No.UP-73A-1763 at the time of the accident as such, his income should have been assessed on the basis of minimum wages of skilled workman prevailing at that time. Learned counsel for the appellants further submitted that the tribunal has awarded less amount of compensation towards the conventional heads whereas, the claimants are entitled to get enhanced compensation under these heads in light of the judgment of the Apex Court in the case of ***National Insurance Co.Ltd. vs Pranay Sethi & Ors.(2017)16 SCC 680***.

3. Per contra, learned counsel for the respondent insurance company submitted that the tribunal has awarded the right amount of compensation to the claimants.

4. I have heard the learned counsel of both the sides and perused the record of the lower court.

5. The Apex Court in the case of ***Gurpreet Kaur & Ors. vs. United India Insurance Co. Ltd. & Ors. 2022 SCC OnLine SC 1778***, held as under:-

"8. Though, there is no evidence on record regarding the income of deceased Pyara Singh, however, from the testimony of P.W.4 - Amar Kumar, Assistant Manager, Kotak Mahindra Bank Limited, it is clear that the deceased - Pyara Singh was regularly making the payment of Rs. 11,550/- as instalment to discharge his loan liability towards the tractor. At this rate, the entire loan was paid back within a year or so. That clearly establishes the earning capacity of the deceased. It is also the case of the appellants-claimants that the deceased was working as a contractor and was earning Rs. 50,000/- per month. The Tribunal adopted a balanced approach and keeping in view factors like : (i) the payment of monthly instalment of Rs. 11,550/- towards loan of the tractor; (ii) Maintaining a family comprising of wife, two minor children and parents; (iii) Affording tractor and motorcycle; (iv) that the deceased was working as a contractor; assessed his income at Rs. 25,000/- per month.

9. In our considered view, the Tribunal's approach is quite justified in law as well as on facts. In the summary proceedings where the approach of the Tribunal's determination must be in conformity with the object of the welfare legislation, it was rightly held that the monthly income of the deceased could not be less than Rs. 25,000/-. The reason assigned by the High Court to reduce the monthly income of the deceased is totally cryptic and has no rationale. ***The Notification of Minimum Wages Act can be a guiding factor only in a case where there is no clue available to evaluate monthly income of the deceased. Where positive evidence has been led, no reliance on the Notification could be placed, particularly when it was nobody's case that the deceased was a labourer as presumed by the High Court.****"*

(emphasis supplied)

6. The Apex Court in the case of ***Jitendra vs. Sadiya & Others 2025 SCC OnLine SC 261***, held as under:-

"*10. We have heard the learned counsel for the Appellant. We are unable to agree with the view taken by the Tribunal and High Court on the income of the Appellant and the functional disability suffered by him. At the outset, we must refer to the exposition of this Court in Gurpreet Kaur v. United India Insurance Company Ltd. 2022 SCC OnLine SC 1778., wherein it was stated the notifications under the Minimum Wages Act can be a guiding factor in cases where there is no evidence available to evaluate monthly income."*

7. The claimants claimed that the deceased was earning Rs.12,000/- per month but since the claimants failed to prove that income by submitting documentary evidence before the tribunal as such, the tribunal assessed his monthly income at Rs.6,000/- per month. Since, the deceased was a professional driver, who was himself driving DCM truck No.UP-73A-1763 at the time of the accident and who died in that accident as such, he falls in the category of skilled workman and in the absence of any documentary evidence of the income, his income is liable to be assessed on the basis of minimum wages of a skilled workman prevailing at the time of the accident, which was Rs.8,397/- per month.

8. The Constitution 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. In view of the above legal position, 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 per the minimum wages of skilled workman)	8,397/-	***Gurpreet Kaur*** (*supra)*& ***Jitendra*** *(supra)*
2.	Annual Income of deceased	8,397X12=1,00,764/-	***Pranay Sethi****(supra)*
3.	Less 1/5th deduction towards self expenses(since number of dependents is 10)	20,153/-	***Pranay Sethi****(supra)*
4.	Net annual income on which claimants were dependent	80,611/-	***Pranay Sethi****(supra)*
5.	Add future prospects @50% since deceased was aged less than 40 years	40,306/-	***Rule 220-A of UP Motor Vehicle Rules,1998***
6.	Total annual dependency of claimants on deceased	1,20,917/-	***Pranay Sethi****(supra)*
7.	Multiplier applied since age of deceased was about 39 years	15	***Pranay Sethi****(supra)*
8.	Total loss of dependency to the claimants	1,20,917X15=18,13,755/-	***Pranay Sethi****(supra)*
9.	Loss of consortium @Rs.40,000/-each, increased by 10% after every 3 years(10 dependents)	48,400X10=4,84,000/-	***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	23,34,055/-	

11. In this way, the claimants are entitled to total compensation of Rs.23,34,055/- 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 Truck No.UP-70-DT-3749.

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

13. 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.

14. The original record of the lower court be sent back, forthwith.
Office is directed to remit back the statutory deposit made by the Insurance Company to the Tribunal concerned, forthwith.

(Sandeep Jain,J.)

October 30, 2025
Himanshu

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