



2026:AHC:9263

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 2841 of 2016

Smt. Kashmiri And 3 Others

.....Appellant(s)

Versus

U.P.S.R.T.C. Thru Regional Manager And Another

.....Respondent(s)

Counsel for Appellant(s)

: Nigamendra Shukla

Counsel for Respondent(s)

: , Sanjeev Kumar Yadav

A.F.R.

Court No. - 38

HON'BLE SANDEEP JAIN, J.

1. Heard Sri Nigamendra Shukla, learned counsel for the appellants and Sri Sanjeev Kumar Yadav, learned counsel for the respondents.

2. The instant appeal under Section 173 of the Motor Vehicles Act, 1988 for enhancement of compensation has been preferred by the claimants against the impugned judgment and award dated 30.04.2016 passed by Shri. Sunil Kumar, the Motor Accident Claims Tribunal/Additional District Judge, court no.7, Bulandshahr, in MACP No.266 of 2014 (Smt. Kashmiri Devi and others vs. U.P.S.R.T.C. and another), whereby, for the untimely death of Ankit in a road accident which occurred on 10.06.2014, a compensation of Rs.2,60,000/- along with interest at the rate of 7% per annum has been awarded to the claimants(mother,sister and brothers), which has been ordered to be indemnified by the owner U.P.S.R.T.C. of the offending Bus No. UP-15AT-4097.

3. Since no cross appeal has been filed by the owner and driver 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 deceased Ankit was a bachelor aged about 22 years at the time of accident, who was a labourer earning about Rs.9,000/- per month on which claimants were dependent, but the tribunal has assessed the notional income of the deceased @ Rs.15,000/- per annum, which is grossly inadequate. It was further submitted that claimants were also entitled to get compensation for future prospects of the deceased @50%, but the tribunal has not awarded

any compensation on this account, which is erroneous. It was further submitted that the tribunal has awarded inadequate compensation under non pecuniary heads. It was further submitted that keeping in view the age of the deceased, a multiplier of 18 was to be applied for assessing the compensation but the tribunal has applied a multiplier of 16, which requires enhancement.

5. It was further submitted that since the father of the deceased had already died before the accident, the claimants were entirely dependent on the deceased, as such, only 1/3rd amount should be deducted towards the personal expenses of the deceased.

6. With these submissions it was prayed that appeal be allowed and enhanced compensation be paid to the claimants.

7. Per contra, learned counsel for the respondent-U.P.S.R.T.C. submitted that since no documentary proof of occupation and income of the deceased was submitted by the claimants, the tribunal has rightly assessed the compensation by taking the notional income of the deceased into consideration. It was further submitted that the deceased was studying in class 12 at the time of accident, who was not earning anything, hence, the tribunal has awarded the right amount of compensation which warrants no enhancement from this Court in exercise of its appellate jurisdiction.

8. With these submissions, it was prayed that claimants appeal be dismissed.

9. I have heard the learned counsel of both the sides, perused the impugned judgment and documents submitted with the appeal

10. The Apex Court in the case of ***Gurpreet Kaur and Others vs. United India Insurance Company Ltd. and Others*** 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)

11. 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.”

12. The claimants claimed that the deceased was a labourer who was earning about Rs.9,000/- per month, which was also proved from the evidence of the mother of the deceased Smt. Kashmiri Devi PW-1, who also admitted that deceased was studying in class 12 at the time of accident. Merely because the deceased was studying in Class 12, it cannot

be presumed that he was not earning anything. It is apparent that claimants failed to submit any documentary proof of income and occupation of the deceased, as such, the tribunal has assessed the compensation on the basis of notional income of the deceased by presuming that he was earning Rs.15,000 per annum, which is grossly inadequate.

13. It is well settled that in the absence of documentary proof of income and occupation of the deceased, the tribunal was supposed to assess the compensation by treating the deceased to be an unskilled workman and was required to assess the compensation on the basis of minimum wages of an unskilled workman prevailing in the State of Uttar Pradesh at the time of accident, which was Rs.6,362/- per month.

14. In view of this, the claimants are entitled to get compensation on the basis that the deceased was earning Rs.6,362/- per month.

15. **Rule 220-A of the UP Motor Vehicle Rules,1998** w.e.f. 26.09.2011, mandates that when the deceased was aged below 40 years on the date of accident, the claimants are also entitled to compensation on future prospects @50% of his income.

16. 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.

17. 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.

18. Further, the Apex Court in the case of **Rahul Ganpatrao Sable vs Laxman Maruti Jadhav (Dead) through LRS and Others (2023) 13 SCC 334**, held as under:-

32. In the present case, MACT had granted a meagre amount of Rs 5000 towards loss of consortium. However, the High Court granted a total amount of Rs 70,000 as consolidated amount under all conventional heads, which included loss of consortium, loss of estate and funeral

expenses. In *Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205]*, the Constitution Bench of this Court had provided that all dependents should be separately awarded towards loss of consortium and had actually awarded Rs 40,000 to each of the dependents. Considering the same, an amount of Rs 40,000 each is awarded to each of the four dependents towards loss of consortium.

(emphasis supplied)

19. It is evident that as per **Rule 220-A of the UP Motor Vehicle Rules, 1998**, the claimants were entitled to get compensation on future prospects of the deceased at the rate 50% of his income, but the tribunal has not awarded any compensation on this account, which is erroneous. It is further evident that as per the judgment of the Apex Court in ***Pranay Sethi*** (supra), since the deceased was about 22 years old at the time of accident, a multiplier of 18 was required to be applied for assessing the compensation, but the tribunal has applied a multiplier of 16, which requires enhancement.

20. Further, in the light of the judgment of the Apex Court in the case of ***Pranay Sethi*** (supra), ***Magma General Insurance Co. Ltd.*** (supra) and ***Rahul Ganpatrao Sable*** (supra), the claimants are entitled to get enhanced compensation under non pecuniary heads.

21. It is apparent that father of the deceased had already died before the accident and as such, the claimants were wholly dependent on the income of the deceased, who was supporting his family consisting of his mother, 2 unmarried brother and one unmarried sister.

22. The Apex Court in the case of ***Sarla Verma (Smt) and others vs. Delhi Transport Corporation and another***(2009) 6 SCC 121 as approved by the Apex Court in ***Pranay Sethi*** (supra), while discussing the situation where the deceased was bachelor and was supporting his large family of dependents, has held as under:-

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely

to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

23. In view of this, even though the deceased was bachelor but since he was the sole bread earner of his family, keeping in view the judgment of the Apex Court in the case of **Sarla Verma** (supra), it will be appropriate that only 1/3rd amount of the income of the deceased is deducted towards his personal expenses and on the remaining 2/3rd income, it is held that the claimants were dependent.

24. 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 | 6,362/- | Gurpreet Kaur (supra) and Jitendra (supra) |
| 2. | Annual Income of deceased | 6,362X12=76,344/- | Gurpreet Kaur (supra) and Jitendra (supra) |
| 3. | Less 1/3th deduction towards self expenses(since deceased was bachelor and was having large family) | 25,448/- | Sarla Verma (supra) |
| 4. | Net annual income on | 50,896/- | Pranay Sethi |

| | | | |
|-----|---|-----------------------|--|
| | which claimants were dependent | | <i>(supra)</i> |
| 5. | Add future prospects @50% since deceased was about 22 years at the time of accident | 25,448/- | <i>UP Motor Vehicle Rules,1998</i> |
| 6. | Total annual dependency of claimants on deceased | 76,344/- | <i>UP Motor Vehicle Rules,1998</i> |
| 7. | Multiplier applied since age of deceased was about 22 years old at the time of accident | 18 | <i>Pranay Sethi (supra)</i> |
| 8. | Total loss of dependency to the claimants | 76,344X18=13,74,192/- | <i>Pranay Sethi (supra)</i> |
| 9. | Loss of consortium @Rs.40,000/-each, increased by 10% after every 3 years (4 claimants) | 48,400X4=1,93,600/- | <i>Pranay Sethi (supra), Magma General Insurance Co. Ltd. (supra) and Rahul Ganpatrao Sable (supra)</i> |
| 10. | Loss of estate @ Rs.15,000/- increased by 10% after every 3 years. | 18,150/- | <i>Pranay Sethi (supra)</i> |
| 11. | Funeral Expenses@ Rs.15,000/- increased by 10% after every 3 years. | 18,150/- | <i>Pranay Sethi (supra)</i> |
| 12. | Total compensation | 16,04,092/- | |

25. In this way, the claimants are entitled to total compensation of Rs.16,04,092/- alongwith interest @ 7% per annum (as awarded by the tribunal) from the date of filing of the claim petition till it's actual payment, which is to be indemnified by the owner U.P.S.R.T.C. of the

offending Bus No. UP-15AT-4097.

26. Accordingly, the appeal is allowed. The impugned award of the tribunal dated 30.04.2016 is modified to the above extent.

27. If any amount has been paid by U.P.S.R.T.C. previously, then it is entitled to adjust the amount accordingly. U.P.S.R.T.C. 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.

(Sandeep Jain,J.)

January 13, 2026

S.A.