

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

...
RP no.31/2023
In CMAM no.41/2014

National Insurance Company Limited through its Divisional Manager

.....Appellant(s)

Through: Mr Aatir Kawoosa, Advocate

Versus

Abdul Salam Ganaie and others

.....Respondent(s)

Through: Mr Rizwan ul Zaman Bhat,
Advocate for respondents 1 to 8/review
petitioners in RP no.31/2023

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL JUDGE

ORDER
17.02.2025

1. Heard and considered
2. This Court by judgement dated 9th March 2023, dismissed the appeal of National Insurance Company Limited, being CMAM no.41/2014. However, by the said judgement Cross Objections filed by claimants/respondents 1 to 8 was allowed and took the monthly income of deceased as Rs.6500/- and accordingly, the compensation on account of loss of income was assessed as under:

Rs.6500/- x 12 x 14	= Rs.10,92,000.00
Deduction 1/5 th	= Rs. 2,18,400.00
Net compensation on account of loss of dependency	= Rs.8,73,600.0
3. Compensation given by the Tribunal on account of Funeral Expenses @ Rs.10,000/-, Loss of Estate @ Rs.10,000/- and Transport charges of dead body @ Rs.10,000/-, was not modified or interfered with.

Appellant-Insurance Company was directed to pay Rs.9,03,600/- along with interest @ 6% per annum from the date of filing of the claim petition till final realization of the award amount, to the claimants and the amount if any already paid was directed to be deducted from the above compensation amount.

4. Now, Mr. Rizwan, learned counsel for claimants/respondents 1 to 8 is seeking, and rightly so, review of judgement dated 9th March 2023 on the ground that while calculating compensation payable to claimants, this Court has left out two important heads of compensation in view of judgement passed by the Supreme Court in *Special Leave Petition (Civil) No.25590 of 2014* titled as *National Insurance Company Limited v. Pranay Sethi and others reported in AIR 2017 SC 5157 : (2017) 16 SCC 680 : [2017] 13 SCR 100*, which are compensation on account of “Future Prospects” and “Consortium”. According to him, wife of deceased – respondent no.3, is entitled to Rs.40,000/- as loss of Consortium. Since age of deceased was between 40 to 50, therefore, 25% of the loss of dependency/earning is to be added to the actual earning.
5. Having regard to law laid down by the Supreme Court in *Pranay Sethi* (supra), and submissions made by learned counsel for review petitioners, review petition is **allowed**. The judgement dated 9th March 2023 is reviewed and paragraphs 14 to 16 thereof are recast as under:

14. Applying the judgment referred to above, the income of the deceased ought to have been taken as Rs.6500/- per month and, therefore, while having regard to judgment referred to above, the monthly income of the deceased in this case is taken as Rs. 6500/- and multiplier of 14 is applied, and therefore, the compensation on account of loss of income is assessed as under:

Rs.6500 x 12 x 14	= Rs.10,92,000.00
Add: Future Prospects	= Rs. 2,73,000.00
Deduction 1/5 th	= Rs. 2,73,000.00
Net compensation on account of loss of dependency	= Rs.10,92,000.00

15.Insofar as compensation on account of Funeral Expenses @ Rs.10,000/-, Loss of Estate @ Rs.10,000/-, and Transport charges of dead body @ Rs.10,000/- (total amounting to Rs.30,000/-) are concerned, the same need not be interfered with. However, respondent no.3 (wife of deceased) is held entitled to Rs.40,000/- on account of loss of Consortium.

16.In view of above, the Cross Objections are allowed and respondents/claimants are entitled to compensation of Rs.11,62,000/- (Rs.10,92,000 + Rs.30,000 + Rs.40,000) and appellant-Insurance Company is saddled with the liability to pay the compensation to the claimants/respondents along with interest @ 6% per annum from the date of filing of the claim petition till the final realization of the award amount. The amount, if any, paid by appellant-Insurance Company to respondents/claimants shall be deducted from the above compensation amount.

17. Review petition is accordingly **disposed of**.

18. This order shall form part of judgement dated 9th March 2023, passed in CMAM no.41/2024.



(Vinod Chatterji Koul)
Judge

Srinagar
17.02.2025
Ajaz Ahmad, Secy.