



IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Appeal from Order No.267 of 2009

Smt. Poonam Jakhwal and others. Appellants.

Versus

Union of India and others. Respondents.

Present:

Mr. Hari Mohan Bhatia, learned counsel for the appellants.

Mr. Rajesh Sharma, learned Standing Counsel for the Union of India.

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. The instant appeal from order is preferred by the appellants, herein, under Section 173 of the Motor Vehicle Act, 1988 and during the pendency of the instant appeal, in the year 2013 the appellant no.3 was died and then in the year 2015, the appellant no.4 was also died, and subsequently, an application was filed for deletion of their names from the array of parties, due to which, now the appellant nos.1 and 2 has been left out who are the legal heirs of the deceased – Shashi Shekhar Jakhwal.

2. The instant appeal has been preferred for enhancement of the quantum of compensation as awarded by the Motor Accident Claims Tribunal vide award dated 02.05.2009. On the previous date, both the parties were directed to prepare the calculation sheets in terms of the latest judgment of the Hon'ble Apex Court and pursuant thereto both of them filed composite calculation sheet, which is also placed on record.

3. It is argued by the learned counsel for the appellant Mr. H.M. Bhatia, that the monthly salary of the deceased late Shashi Sekhar Jakhwal as per Paper No.9GA/1 was Rs.5019/- (Rupees Five Thousand Nineteen only), which has not been disputed by the learned counsel for the respondent Mr. Rajesh Sharma. He

submits that according to the said monthly salary, the annual salary of the deceased comes to Rs.60,228/- (Rupees Sixty Thousand Two Hundred Twenty Eight only) and after deduction of $\frac{1}{4}$ th the annual income for awarding the compensation under the provisions of Motor Vehicle Act, comes to Rs.45,171/- (Rupees Forty Five Thousand One Hundred Seventy One only).

4. He submits that in view of the law laid down by the Hon'ble Apex Court in the case of "Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Another" reported in 2009 (6) SCC 121, the multiplier of 18 to the annual salary as determined after deduction of $\frac{1}{4}$ th comes to Rs.8,13,078/- (Rupees Eight Lakh Thirteen Thousand Seventy Eight only).

5. The future prospects as per this judgment is 50% and other loss in view of the judgment of the Hon'ble Apex Court in the case of "National Insurance Company Ltd. Vs. Pranay Sethi", reported in 2017 (16) SCC 680, comes to approximately Rs.4,06,539/- (Rupees Four Lakh Six Thousand Five Hundred Thirty Nine only). He submits that the deceased at the time of death was 24 years and was in permanent job serving as a Nayak in Indian Army, therefore, the 50% towards future prospects of Rs.8,13,078/- (Rupees Eight Lakh Thirteen Thousand Seventy Eight only), comes to Rs.4,06,539/- (Rupees Four Lakh Six Thousand Five Hundred Thirty Nine only).

6. In reference to other loss learned counsel for the appellant submits that in view of the judgment of the Hon'ble Apex Court in the case of "National Insurance Company Ltd. Vs. Pranay Sethi" 2017 (16) SCC 680, the total amount comes to Rs.15,000/- (Rupees Fifteen Thousand only). The loss of consortium for spouse and one minor son in view of the judgment of the Hon'ble Apex Court in the case of "Hasina Yasmin and others Vs.

National Insurance Co. Ltd. and another” reported in 2025 INSC 1501, comes to Rs.80,000/- (Rupees Eighty Thousand only) i.e. Rs.40,000/- each, the wife and one minor son. The funeral expenses comes to Rs.15,000/- (Rupees Fifteen Thousand only)

7. He submits that in such view of the matter, on total calculation on amount of compensation including future prospects, loss of estate, loss of consortium and funeral expenses comes to Rs.13,29,617/- (Rupees Thirteen Lakh Twenty Nine Thousand Six Hundred Seventeen only). He submits that since the deceased was the Army personnel and at the time of death, he was in job, the deceased family was granted *ex gratia* amount of Rs.5,00,000/- (Rupees Five Lakh Only) and submits that the Motor Accident Claims Tribunal awarded only a sum of Rs.1,92,584/- (One Lakh Ninety Two Thousand Five Hundred Eighty Four), which is completely contrary to the law laid down by the Hon’ble Apex Court, and therefore, the amount which was paid in terms of the award of MACT, has to be deducted from the total amount of compensation and the net figure comes to Rs.11,37,033/- (Eleven Lakh Thirty Seven Thousand Thirty Three only).

8. He submits that since *ex gratia* amount was also paid to the family of the deceased by the Army, therefore, the amount towards *ex gratia* has to be deducted from this total amount of compensation Rs. Rs.11,37,033/- (Eleven Lakh Thirty Seven Thousand Thirty Three only) and as such net figure comes to Rs.6,37,033/- (Six Lakh Thirty Seven Thousand Thirty Three only). He submits that in terms of Section 171 of the Motor Vehicle Act, though the appellants are entitled to get the interest from the date of the application but the Tribunal awarded the interest on a condition that it within one month the awarded

amount is deposited then the claimant will not entitle to get interest. He submits that such a condition is contrary to Section 171 of the Motor Vehicle Act, and as a matter of fact, the appellants are entitled to get the interest on the amount of compensation as above from the date of application.

9. On this Mr. Rajesh Sharma, learned counsel for the respondent submits that the present appeal was dismissed for want of prosecution for three years, therefore, the interest as claimed by the appellant be reduced.

10. Taking into consideration the objections of Mr. Rajesh Sharma, in a reference to the interest, this Court is of the view that the appellant instead of claiming interest from the date of application is entitled to get the interest from the date of the award because the interest has been given to the appellant because of the condition as stipulated by the Tribunal in it's award.

11. After hearing the rival submissions of the learned counsel for the parties and taking into consideration the law laid down by the Hon'ble Apex Court in the case of "Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Another" reported in 2009 (6) SCC 121 and the subsequent judgment of the Hon'ble Apex Court in the case of "National Insurance Company Ltd. Vs. Pranay Sethi", reported in 2017 (16) SCC 680 as well as another judgment of the Hon'ble Apex Court in the case of "Hasina Yasmin and others Vs. National Insurance Co. Ltd. and another" reported in 2025 INSC 1501, and in view of the discussion as above, this Court is of the view that Motor Accident Claims Tribunal committed manifest illegality in awarding only a sum of Rs.1,92,584/- (One Lakh Ninety Two Thousand Five Hundred Eighty Four), and that too with the condition in reference to the

interest which is contrary to the law laid down by the Hon'ble Apex Court, and as such the instant appeal is allowed and the award of the Motor Accident Claims Tribunal is modified and the amount as awarded by the Tribunal is enhanced as above, wherein, this Court already held that after deduction i.e. amount as awarded by the Tribunal and the deduction of the *ex gratia* amount, the total figure comes to Rs.6,37,033/- (Six Lakh Thirty Seven Thousand Thirty Three only) and this amount will be paid by the respondent within three months from today along with the interest @ 9% to be computed from the date of the award dated 02.05.2009.

12. No order as to costs.

(Rakesh Thapliyal, J.)

07.07.2026

Nitesh/