



2026:AHC:204892

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 765 of 2003

Smt. Prem Wati And Others

.....Appellant(s)

Versus

New India Insurance Co. Ltd. And Others

.....Respondent(s)

Counsel for Appellant(s)	:	Ram Singh
Counsel for Respondent(s)	:	Aditya Singh Parihar

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Heard Sri Ram Singh, learned counsel for appellant and Sri Aditya Singh Parihar, learned counsel for respondent.
2. The First Appeal From Order has been filed by the claimant-appellants against the judgment and decree dated 21.09.2002 passed by the learned Additional District Judge, IXth, Bareilly in MACP No.739 of 1999, seeking enhancement of the compensation awarded by the learned Tribunal.
3. The brief facts pleaded in the claim petition are that on 19.10.1999 at about 01:15 A.M., when the deceased Ram Sevak was going on his motorcycle on Faridpur-Shahjahanpur Road near village Simra, within the jurisdiction of Police Station Fatehganj Purvi, District Bareilly, the driver of vehicle No. 50-JO-R-1151, due to rash and negligent driving, hit the said motorcycle. In the said accident, Ram Sevak, who was riding the motorcycle, sustained injuries and died.
4. The learned Tribunal, after considering the evidence available on record, assessed the age of the deceased at 45 years. Although the claimants had claimed that the deceased was earning Rs.6,000/- per month, the learned Tribunal assessed his annual income at Rs.21,000/-. After deducting one-third towards his personal and living expenses, the annual contribution towards the dependents was determined at Rs.14,000/-.
5. Applying the multiplier of 15, the loss of dependency was calculated at Rs.2,10,000/-. However, the learned Tribunal also recorded a finding that the deceased himself was responsible to the extent of 50% for the accident and, accordingly, deducted 50% of the aforesaid amount, reducing the loss of

dependency to Rs.1,05,000/-.The learned Tribunal further awarded Rs.5,000/- towards loss of consortium and Rs.2,000/- towards funeral expenses. Thus, the total compensation was determined at Rs.1,12,000/- together with interest of 9% per annum.

Arguments on behalf of the Appellant

6. Learned counsel for the appellant submitted that the compensation awarded by the learned Tribunal is on the lower side. It was submitted that the income of the deceased was wrongly assessed at Rs.21,000/- per annum, whereas the claimants had claimed his income at Rs.6,000/- per month. It was further submitted that the deduction of 50% on account of contributory negligence of the deceased is not justified. Learned counsel further submitted that the compensation is also required to be reassessed in accordance with the principles laid down in *National Insurance Company Limited v. Pranay Sethi 2017 ACJ 2700*, particularly with regard to the deduction towards personal and living expenses, addition towards future prospects and compensation under the non-pecuniary heads. It was, therefore, submitted that the compensation awarded by the learned Tribunal deserves to be enhanced by making appropriate reassessment under the aforesaid heads.

Arguments on behalf of the Respondent-Insurance Company

7. Learned counsel for the respondent-Insurance Company supported the impugned judgment and award and submitted that the accident had occurred in the year 1999 and the learned Tribunal has rightly determined the compensation by following the principles contained in the Second Schedule to Section 163-A of the Motor Vehicles Act. It was further submitted that the claimants failed to prove that the deceased was earning Rs.6,000/- per month and, therefore, the learned Tribunal has rightly assessed his annual income at Rs.21,000/-. It was, accordingly, submitted that no interference is warranted in the impugned judgment and award.

Conclusion

8. Heard learned counsel for the parties and perused the impugned judgment and award.

9. The finding recorded by the learned Tribunal with regard to the contributory negligence of the deceased to the extent of 50% has not been

challenged and, therefore, the said finding does not call for any interference. Likewise, the annual income of the deceased assessed at Rs.21,000/- is found to be just and reasonable, particularly when the claimants failed to establish the pleaded income of Rs.6,000/- per month. The said finding is accordingly affirmed.

10. The deceased was aged about 45 years at the time of the accident. While reassessing the compensation, an addition of 25% towards future prospects is liable to be made. Thus, the annual income of the deceased comes to Rs.26,250/-. After deducting one-third towards his personal and living expenses, the annual contribution towards the dependents comes to Rs.17,500/-. Applying the multiplier of 15, the loss of dependency comes to Rs.2,62,500/-.

11. The compensation under the non-pecuniary heads is liable to be awarded in terms of the Second Schedule to Section 163-A of the Motor Vehicles Act, namely, Rs.5,000/- towards loss of consortium and Rs.2,000/- towards funeral expenses.

12. Thus, the total compensation before applying the finding of contributory negligence comes to Rs.2,69,500/-. Since the deceased himself was held responsible to the extent of 50% for the occurrence, 50% of the total compensation is liable to be deducted. Consequently, the amount payable to the claimants comes to Rs.1,34,750/-.

Sl. No. Particulars Calculation Amount

- a. Annual income : Rs.21,000/-
- b. Future prospects @ 25% : $Rs.21,000 \times 25\% = Rs.5,250/-$
- c. Annual income after future prospects : $Rs.21,000 + Rs.5,250 = Rs.26,250/-$
- d. Deduction towards personal expenses @ 1/3 : $Rs.26,250 \times 1/3 = Rs.8,750/-$
- e. Annual loss of dependency : $Rs.26,250 - Rs.8,750 = Rs.17,500/-$
- f. Multiplier : 15
- g. Loss of dependency : $Rs.17,500 \times 15 = Rs.2,62,500/-$

h. Loss of consortium : Rs.5,000/-

i. Funeral expenses : Rs.2,000/-

Total compensation : Rs.2,69,500/-

Deduction towards contributory negligence @ 50% Rs.2,69,500 × 50%
(-) Rs.1,34,750/-.

Net compensation payable : Rs.1,34,750/-

13. Accordingly, the claimants are entitled to Rs.1,34,750/- as compensation. The remaining findings of the learned Tribunal, including the finding regarding 50% contributory negligence, are affirmed.

14. In view of the above, appellant/ claimant is entitled to a total compensation of **Rs.1,34,750/-** along with rate of interest at the rate of 9% per annum, which shall be indemnified by the insurer of the offending vehicle.

15. Accordingly, the appeal is allowed. The impugned award passed by the learned Tribunal is modified to the aforesaid extent.

16. It is further directed that if any amount has already been paid by the Insurance Company pursuant to the award of the learned Tribunal, the same shall be adjusted towards the total amount payable under this judgment. The Insurance Company shall deposit the enhanced amount of compensation before the concerned Tribunal within a period of two months from the date of this order; it shall further be released by the learned Tribunal within four weeks after the deposit of the said amount in favour of the claimants/parents, each of whom shall directly receive 50%-50% in their respective savings bank accounts in cash.

(i) The claimants are hereby directed to provide their savings bank account details, having R.T.G.S. facility, within four weeks from today to the learned Tribunal.

(ii) The said amount shall be transferred to the savings bank accounts of the claimants by way of passing a judicial order, so that the differential amount may be transferred directly from the account of the Tribunal to the accounts of the claimants, after completing the necessary formalities, if any.

September 25, 2026

Mukesh

(Anil Kumar-X,J.)