



2026:AHC:184643

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 883 of 2004

Smt. Arpi Gupta And Others

.....Appellant(s)

Versus

United India Insurance Co. Ltd. And Another

.....Respondent(s)

Counsel for Appellant(s)	:	P.K. Agarwal, Ram Singh
Counsel for Respondent(s)	:	Arun Prakash, Vipul Kumar

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Heard Shri Ram Singh, learned counsel for the appellants and Shri Vipul Kumar, learned counsel for respondent no.1-Insurance Company.

2. This appeal, at the instance of the claimants seeking enhancement of compensation, challenges the judgment and award dated 18.12.2003 passed by the Motor Accident Claims Tribunal, Bareilly (hereinafter referred to as the "Tribunal") in M.A.C.P. No.269 of 2002 (Smt. Arpi Gupta & Ors. vs. United India Insurance Company Ltd. & Anr.), whereby a sum of Rs.1,77,000/- has been awarded to the claimants as compensation.

Brief facts of the appeal

3. The deceased Anil Kumar met with an accident on 27.02.2002 at about 07:00 a.m. It was alleged that he was standing on the side/sidewalk of the road and was waiting for a conveyance. At that time, Jeep bearing registration No. UP-22/7494 came and crushed him, as a result of which he died. The claimants instituted a claim petition seeking compensation on account of the death of Anil Kumar. It was pleaded that the deceased was aged about 26 years and was earning Rs.6,000/- per month from agricultural work as well as by running a shop.

4. Learned Tribunal did not accept the income of Rs.6,000/- per month as pleaded by the claimants. His income was, therefore, assessed on the basis of notional income at Rs.15,000/- per annum. After deducting 1/3rd towards his personal expenses, the loss of dependency was assessed at Rs.10,000/- per annum. Considering the age of the deceased as 23 years on the basis of his Transfer Certificate, multiplier of 17 was applied. Learned Tribunal further awarded Rs.2,000/- towards funeral expenses and Rs.5,000/- towards loss of consortium. Thus, a total compensation of Rs.1,77,000/- was awarded in

favour of the claimants along with interest at the rate of 9% per annum.

Arguments by learned counsel for the appellant

5. Learned counsel for the appellant submits that the income of the deceased has been assessed on the lower side by the learned Tribunal. It is submitted that there was no impediment in assessing the income of the deceased at Rs.3,000/- per month by taking his daily income at Rs.100/-. It is further submitted that no amount towards future prospects has been added while assessing the loss of dependency. Learned counsel also submits that adequate amount under the non-pecuniary heads has not been awarded in accordance with the principles laid down by the Hon'ble Supreme Court in **Sarla Verma v. Delhi Transport Corporation**.

Arguments by learned counsel for the respondents

6. Per contra, learned counsel for the respondents submits that the income of the deceased was rightly assessed by the learned Tribunal. The alleged income of Rs.6,000/- per month was not proved by the claimants by producing any reliable evidence. It is further submitted that once the income has been assessed on the basis of notional income, there is no question of adding any amount towards future prospects. It is, therefore, submitted that the compensation awarded by the learned Tribunal is just and adequate and does not call for any interference.

Conclusion

7. Having considered the submissions advanced by learned counsel for the parties and the material available on record, this Court finds that the income of the deceased has been assessed by the learned Tribunal on the lower side. The deceased was stated to be aged about 23 years and was engaged in agricultural work as well as running a shop. Though the claimants could not establish the pleaded income of Rs.6,000/- per month by reliable evidence, considering the age of the deceased and the nature of work in which he was engaged, there was no justification to confine his income to the notional income of Rs.15,000/- per annum. In the facts of the case, it would be appropriate to assess his income at Rs.3,000/- per month by taking his daily income at Rs.100/-.

8. So far as the other parameters for determination of compensation are concerned, the accident took place on 27.02.2002. Therefore, the compensation is required to be assessed keeping in view the legal position applicable to the accident in question. The principles subsequently laid down

by the Hon'ble Supreme Court in Sarla Verma and National Insurance Company Ltd. v. Pranay Sethi were rendered much later. Applying all the guidelines contained in those judgments mechanically to an accident of the year 2002 would not be appropriate. In the present case, the assessment already made by the learned Tribunal on the basis of the Second Schedule to the Motor Vehicles Act, wherever applicable, does not call for interference merely on account of the subsequent judgments.

9. At the same time, the question of future prospects requires separate consideration. The fact that the income has been assessed by adopting a reasonable estimate does not, by itself, mean that the deceased had no future earning potential. The deceased was a young person aged about 23 years and was earning from his occupation. His income would reasonably have been expected to increase with passage of time. Therefore, while reassessing the compensation, a reasonable addition towards future prospects is required to be made.

10. Accordingly, except for the correction in the income of the deceased and the appropriate addition towards future prospects, the other parameters adopted by the learned Tribunal, including the deduction towards personal expenses and the multiplier, are maintained. The compensation is accordingly required to be reassessed.

11. In view of the foregoing discussion, this Court finds that the income of the deceased was assessed by the learned Tribunal on the lower side. His income is accordingly assessed at Rs.3,000/- per month, i.e. Rs.36,000/- per annum. After deducting 1/3rd towards his personal and living expenses, the annual loss of dependency comes to Rs.24,000/-. Considering the age of the deceased as 23 years, the multiplier of 17 applied by the learned Tribunal is maintained. Thus, the loss of dependency comes to Rs.4,08,000/-.

12. The deceased was a young person aged 23 years. Therefore, a reasonable addition towards future prospects is also required to be made. Taking future prospects at 40%, an amount of Rs.1,63,200/- is added towards future prospects.

13. Thus, the compensation is reassessed as under:-

Head Amount

Annual income = Rs.36,000/-

Less 1/3rd towards personal expenses = Rs.12,000/-

Annual loss of dependency = Rs.24,000/-

Multiplier = 17

Loss of dependency = Rs.4,08,000/-

Addition towards future prospects @ 40% = Rs.1,63,200/-

Funeral expenses = Rs.2,000/-

Loss of consortium = Rs.5,000/-

Total compensation = Rs.5,78,200/-

14. Accordingly, the appellant/claimants are entitled to a **total compensation of Rs.5,78,200/-** instead of Rs.1,77,000/- awarded by the learned Tribunal, alongwith rate of interest at the rate of 9% per annum from the date of filing of the petition which shall be indemnified by the insurer of the offending vehicle.

15. Accordingly, the appeal is **allowed in part**. The impugned award passed by the learned Tribunal stands modified to the aforesaid extent. Except for the aforesaid modification, the findings recorded by the learned Tribunal are affirmed. The award shall stand modified accordingly.

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 and be disbursed in same proportion as held in judgment dated 18.12.2003.

(i) Claimants are hereby directed to provide their savings bank account details, having R.T.G.S. facility, within four weeks from today to 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 3, 2026

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(Anil Kumar-X,J.)