



2026:AHC:186086

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 2641 of 2005

Sunity Das And Others

.....Appellant(s)

Versus

New India Assurance Co. Ltd. And Another

.....Respondent(s)

Counsel for Appellant(s) : A.L. Jaiswal, Neerja Singh, Sharve Singh

Counsel for Respondent(s) : Pradeep Kumar Sinha

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Heard Shri Sharve Singh, learned Senior Advocate assisted by Ms. Neerja Singh, learned counsel for the appellants and Shri Achintya Kumar holding brief of Shri Pradeep Kumar Sinha, learned counsel for the respondent no.1.

2. This appeal, at the instance of the claimants seeking enhancement of compensation, challenges the judgment and award dated 11.08.2005 passed by the Motor Accident Claims Tribunal, Allahabad (hereinafter referred to as the "Tribunal") in M.A.C.P. No.549 of 2002 (Sunity Das & Ors. vs. Ashok Kumar and Anr.), whereby a sum of Rs.1,27,000/- has been awarded to the claimants. The grievance of the appellant is that inadequate compensation has been awarded under various admissible heads and the determination made by the Tribunal is not in conformity with the principles laid down by the Hon'ble Supreme Court governing assessment of compensation in motor accident cases.

3. The occurrence of the accident is not in dispute. The finding of negligence recorded by the Tribunal has also not been challenged. The only issue that arises for consideration in the present appeal is the quantum of compensation awarded by the Tribunal.

4. The accident took place on 16.11.2001. The deceased, Umapad Das, who was retired railway personnel, was about 65 years of age at the time of the accident and was stated to be doing private job earning Rs.3000/- per month apart from receiving pension of Rs.3000/- per month. The Tribunal assessed the income of the deceased at Rs.36,000/- per annum as

per notional income, deducted 1/3rd towards personal and living expenses, applied the multiplier of 5, Rs.5000/- towards loss of consortium, and Rs. 2000/- towards funeral expenses. The tribunal consequently awarded a total compensation of Rs.1,27,000/-.

5. Learned counsel for the appellants submitted that the Tribunal has erred in assessing the income of the deceased at Rs.36,000/- per annum, whereas it ought to have been assessed at Rs.6000/- per month as the deceased was receiving pension of Rs.3000/- per month and also earning Rs.3000/- per month from his private job. It was further submitted that the Tribunal, even after assessing the monthly income of the deceased at a very lower side, ignored to add future prospects towards the annual income of the deceased. He further contended that deceased after suffering injuries as a result of accident remained admitted in a hospital, however, no compensation towards medical expenses was awarded. It was contended that the amount awarded under the conventional heads is on the lower side and deserves enhancement in the light of the decisions in **National Insurance Co. Ltd. v. Pranay Sethi and Others, 2017 LawSuit (SC) 1093; Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121; Magma General Insurance Co. Ltd. v. Nanu Ram, 2018 (4) TAC 345 (SC); and New India Assurance Co. Ltd. v. Urmila Shukla, 2021 SCC OnLine SC 822**. Therefore, the award passed by the Tribunal ignoring the guidelines for determining the compensation is not proper and reassessment and recalculation is necessitated for compensating the claimants adequately.

6. Per contra, learned counsel for the respondent-Insurance Company submitted that the income assessed by the Tribunal is just and proper, as no documentary evidence regarding the income of the deceased was produced. It was contended that no addition towards future prospects could be made, as the accident occurred prior to the decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi and Others, 2017 LawSuit (SC) 1093**. It was also submitted that the compensation awarded by the Tribunal towards loss of consortium and funeral expense, is proper and hence no interference is required.

7. Having heard learned counsel for the parties and upon perusal of the record, this Court is of the view that the finding recorded by the Tribunal

regarding determination of income of the deceased does not suffer from any perversity or illegality.

8. It was contended by appellants that income of Rs.3000/-, which was receiving as a pension by the deceased, was not considered by the Tribunal. However, the findings recorded by the Tribunal clearly mention that argument before it from the claimants' counsel was that they are confining their prayer for compensation on basis of the income derived by the deceased through his private job. Even a salary certificate from the concerned Organisation namely M/s Nitin Printers was produced before the Tribunal and same, despite being objected by the Insurance Company, was considered for determining the income of the deceased. Therefore, the appellants at this stage cannot now claim to consider the income derived by the deceased from his pension.

9. So far as the compensation in respect of the medical expenses is concerned, it appears from the finding recorded by the Tribunal that evidences in support of those expenses by means of submitting medical bills etc. were not submitted before the Tribunal.

10. Insofar as the other parameters applied by the Tribunal, considering the prevalent law, i.e., Second Schedule of Section 163-A of Motor Vehicles Act, are concerned, the same do not require interference, except the head of future prospects, under which no compensation has been awarded. Even prior to the decision in **Pranay Sethi** (supra), the Courts had been awarding compensation towards future prospects, though by adopting different methods of computation. It has been consistently laid down that addition of future prospects towards income is integral part of compensation in death cases.

11. From the foregoing discussion, this Court is of the view that compensation awarded by the Tribunal requires re-computation. Upon re-computation of compensation, the following calculation would arise:-

Particulars	Amount (Rs.)
Monthly income	3000/-

Annual income	36,000/-
Addition towards future prospects @ 20%	7200/-
Total annual income	43,200/-
Deduction towards personal and living expenses (1/3rd)	14,400/-
Loss of dependency	28,800/-
Multiplier of 5	1,44,000/-
Loss of spousal consortium	5000/-
Funeral expenses	2000/-
Total Compensation	1,51,000/-

12. In view of the above, appellants/claimants are entitled to a total compensation of Rs.1,51,000/- along with rate of interest awarded by the Tribunal, which shall be indemnified by the insurer of the offending vehicle.

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

14. 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 and be disbursed in same proportion as has been held by learned Tribunal in its impugned award.

(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.

(Anil Kumar-X,J.)

September 7, 2026
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