



2026:AHC:190961

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 1863 of 2016

Smt. Nisha Devi and 3 others

.....Appellant(s)

Versus

Ramanand Dixit and 3 Ors.

.....Respondent(s)

Along with :

1. First Appeal From Order No. 1864 of 2016:

Smt. Sunita Devi and 4 Ors.

Versus

Ramanand Dixit and 3 Ors.

Counsel for Appellant(s) : Pramod Kumar Sinha

Counsel for Respondent(s) : Dharendra Singh, G.k. Srivastava, Komal Mehrotra

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Sri Pramod Kumar Sinha, learned counsel for appellant and Ms. Komal Mehrotra, Sri G.K.Srivastava, learned counsel for respondent no. 3 are present.

2. Both these appeals arise out of the same accident and involve common questions of fact and law; therefore, they were heard together and are being decided by this common judgment.

3. First Appeal From Order No. 1863 of 2016 has been filed against the judgment and award dated 14.03.2016 passed in MAC No. 256 of 2013, whereas First Appeal From Order No. 1864 of 2016 has been filed against the judgment and award dated 14.03.2016 passed in MAC No. 255 of 2013. Both the claim petitions arose out of an accident which occurred on 08.04.2013 involving offending Truck No. UP-75-M-0115. Since both the appeals arise out of the same accident and the impugned judgments and awards were passed on the same date, they are being considered and decided together by this common judgment. Both appeals have been filed to enhance the amount of compensation awarded by learned tribunal.

ARGUMENTS BY THE APPELLANTS

4. Learned counsel for the appellants submits that on 08.04.2013, deceased Lalit Kumar and his cousin Rakesh were returning to their home at District Fatehpur on a motorcycle from Jahanabad towards Ghatampur. At about 4:30 p.m., near the place of occurrence, they were knocked down by offending Truck No. UP-75-M-0115. In the said accident, both Lalit Kumar and Rakesh sustained fatal injuries and died on the spot.

5. So far as MAC No. 256 of 2013, filed by the legal representatives of deceased Lalit Kumar, is concerned, it is submitted that the tribunal has awarded a total compensation of Rs. 6,58,000/-, which is wholly inadequate. Lalit Kumar was aged about 28 years at the time of the accident and was earning Rs. 10,000/- to Rs. 12,000/- per month from agriculture. The tribunal, however, assessed his income at only Rs. 3,000/- per month without any proper basis. It is further submitted that no addition towards future prospects and no appropriate amount towards consortium has been awarded in terms of the principles laid down by the Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi, 2017 LawSuit (SC) 1093**. The compensation, therefore, deserves to be enhanced.

6. In MAC No. 255 of 2013, filed by the legal representatives of deceased Rakesh, learned counsel submits that Rakesh was aged about 43 years and was earning Rs. 20,000/- to Rs. 25,000/- per month from agriculture. Though his income was claimed and proved on the basis of the evidence available on record, the tribunal arbitrarily assessed the same at only Rs. 3,000/- per month. The tribunal awarded a total compensation of Rs. 5,47,500/- with interest at the rate of 7% per annum, which is also inadequate. It is, therefore, submitted that the compensation in both the appeals deserves to be suitably enhanced by taking the actual income of the deceased and by granting the permissible amount under future prospects, consortium and other conventional heads.

7. Lastly, learned counsel for the appellants submits that the compensation awarded by the tribunal under the conventional heads is also not in accordance with the law laid down by the Supreme Court in **Pranay Sethi (supra)**. It is, therefore, submitted that the compensation be re-computed and appropriate amount under the heads of future prospects, consortium and other conventional heads be awarded in accordance with the principles laid

down in **Pranay Sethi (supra)**.

ARGUMENTS BY THE RESPONDENTS

8. Learned counsel for the respondents supports the impugned judgments and awards and submits that the tribunal has rightly assessed the income of both the deceased at Rs. 3,000/- per month, as the appellants failed to adduce any cogent and reliable evidence to establish the alleged income from agriculture. The mere assertion that deceased Lalit Kumar was earning Rs. 10,000/- to Rs. 12,000/- per month and deceased Rakesh was earning Rs. 20,000/- to Rs. 25,000/- per month cannot be accepted in the absence of documentary or other reliable evidence. It is further submitted that the compensation awarded by the tribunal has been determined on the basis of the evidence available on record and does not warrant interference. The claimants cannot seek enhancement by relying upon unproved income. The judgments and awards passed by the tribunal are, therefore, justified and the appeals are liable to be dismissed.

Conclusion in FAFO NO. 1863 OF 2016 and 1864/2016

9. Heard learned counsels and perused the records.

10. The factum of accident and death of Lalit Kumar and Rakesh in the accident dated 08.04.2013 involving Truck No. UP-75-M-0115 is not in dispute. The principal question requiring consideration in these appeals is the quantum of compensation payable to their respective legal representatives. The claimants asserted that both the deceased were earning substantial income from agriculture. However, no cogent and reliable evidence has been produced to establish the alleged monthly income of Rs. 10,000/- to Rs. 12,000/- in the case of Lalit Kumar and Rs. 20,000/- to Rs. 25,000/- in the case of Rakesh. The tribunal, therefore, rightly did not accept the claimed income. However, instead of taking the income at Rs. 3,000/- per month, the income ought to be assessed on the basis of the minimum wages applicable to an unskilled worker in Uttar Pradesh on the date of accident. The monthly income is accordingly taken at Rs. 4,976/-.

11. Accordingly, modified compensation in FAFO No. 1863 of 2016 would be herein below:-

Head Amount

Monthly income = Rs. 4,976/-

Annual income = Rs. 59,712/-

Future prospects @ 50% = Rs. 29,856/-

Annual income with future prospects = Rs. 89,568/-

Deduction @ 1/4 = Rs. 22,392/-

Annual contribution to family = Rs. 67,176/-

Loss of dependency $\times 17$ = Rs. 11,41,992/-

Spousal consortium to wife = Rs. 40,000/-

Loss of estate = Rs. 15,000/-

Funeral expenses = Rs. 15,000/-

Total = Rs. 12,11,992/-

Similarly, reassessed amount of compensation in FAFO No. 1864 of 2016 would be:-

Head Amount

Monthly income = Rs. 4,976/-

Annual income = Rs. 59,712/-

Future prospects @ 30% = Rs. 17,913.60/-

Annual income with future prospects = Rs. 77,625.60/-

Deduction @ 1/4 = Rs. 19,406.40/-

Annual contribution to family = Rs. 58,219.20/-

Loss of dependency $\times 14$ = Rs. 8,15,069/-

Spousal consortium to wife = Rs. 40,000/-

Loss of estate = Rs. 15,000/-

Funeral expenses = Rs. 15,000/-

Total = Rs. 8,85,069/-

12. Accordingly, in FAFO No. 1863 of 2016, the claimants are entitled to total compensation of Rs. 12,11,992/-, as against Rs. 6,58,000/- awarded by the tribunal. The award is, therefore, liable to be enhanced by a sum of Rs. 5,53,992/-. So far as FAFO No. 1864 of 2016 is concerned, the claimants are entitled to total compensation of Rs. 8,85,069/-, as against Rs. 5,47,500/- awarded by the tribunal. The award is, accordingly, liable to be enhanced by a sum of Rs. 3,37,569/-.

13. Remaining findings shall remain unaffected. The amount already deposited or paid pursuant to the award of the Tribunal shall be adjusted from the enhanced compensation. Accordingly, both the appeals are partly allowed. The judgments and awards dated 14.03.2016 passed by the Motor Accident Claims Tribunal in MAC No.256 of 2013 and MAC No.255 of 2013 are modified to the aforesaid extent. The remaining terms and conditions of the awards shall remain unaltered.

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/parents and be disbursed in same proportion as has been held by the 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.

September 11, 2026
Ujjawal

(Anil Kumar-X,J.)