

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 235 OF 2015

Smt. Kuraisa Alam, W/o Late Vaheeda Alam, aged about 56 years, Caste Mohhammadan, R/o Village Birsamunda Chowk, Karbala Road, Jashpur Nagar, Thana & District Jashpur (C.G.)

... Appellant

versus

1. Arvind Pandey, S/o Sudama Pandey, aged about 32 years
2. Smt. Sidhima Pandey, W/o Arvind Pandey, aged about 30 years
Both are Caste of Brahmin, R/o A-3, Housing Board Colony, Rampur, Raigarh, District Raigarh (C.G.)
3. United Insurance Co. Ltd., through Divisional Officer, Bilaspur, Mendhekar Complex, Ravindra Nagar Square, Bilaspur (C.G.), now new address is Vyapar Vihar Road, near ICICI Bank, Bilaspur (C.G.)

... Respondents

For Appellant	:	Mr. N.K. Malviya, Advocate.
For Respondent No.3	:	Mr. H.B. Agrawal, Senior Advocate, assisted by Ms. Prabha Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/02/2018

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the appellant-claimant seeking for enhancement of the compensation awarded.
2. Challenge in the present appeal is to the award dated 26.11.2014 passed by the Motor Accident Claims Tribunal, Jashpur, in Motor Accident Claim Case No. 37/2012.
3. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.6.11,000/- in favour of the appellant-claimant with interest thereon at the rate of 9% per annum from the date of presentation of the claim application.

4. Learned counsel for the appellant-claimant submits that the present appeal has been preferred only assailing the quantum of compensation calculated. According to him, the learned Tribunal also should have taken into consideration the income under the future prospects while quantifying the compensation. He further submits that the deceased in the instant case was aged around 22 years at the time of accident and was working as a Teacher in one of the private schools at Patthalgaon in District Jashpur and therefore there was all likelihood of future rise in her income. He thus prayed for a suitable enhancement of the compensation awarded.

5. Learned Senior Counsel appearing for respondent no.3-insurance company however opposing the appeal submits that there is no evidence in this regard and that the amount of compensation calculated by the learned Tribunal is just and reasonable and the same does not warrant any further enhancement and the appeal of the claimants deserves to be rejected.

6. Having heard the contentions put forth on either side and on perusal of record, keeping in view the decisions of the Hon'ble Supreme Court starting from the landmark judgment of the Hon'ble Supreme Court in the case of **Sarla Verma (Smt.) and others v. Delhi Transport Corporation and Another**¹ uptill the recent Larger Bench decision in the case of **National Insurance Company Limited v. Pranay Sethi & Others**², it has been settled by the Hon'ble Supreme Court that while assessing the compensation future rise of income should also be borne in mind. Applying the principles laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), the claimant in the instant case shall also be entitled for 40% of income towards future prospects.

1 2009 (6) SCC 121

2 SLP (Civil) No. 25590 of 2014, decided on 31.10.2017.

7. Accordingly, accepting the monthly income of the deceased at Rs.4500/-, her yearly income comes to Rs.54,000/- to which if 40%, *i.e.*, Rs.21600/-, is added towards future prospects, the amount would come to Rs.75,600/- of which if 50%, *i.e.*, Rs.37,800/-, is deducted towards personal expenses, the amount would come to Rs.37,800/- which if multiplied applying the multiplier of 18, the amount would reach to Rs.6,80,400/-. It is thus ordered that the claimant shall be entitled for a compensation of Rs.6,80,400/- towards loss of dependency. In addition, the claimant shall also be entitled for a lump sum compensation under the conventional heads awarded by the learned Tribunal of Rs.1,25,000/-. Thus, the claimant shall be entitled for a total compensation of Rs.8,05,400/- instead of Rs.6,11,000/- as awarded by the learned Tribunal.
8. The impugned award stands accordingly modified and enhanced to the extent that the appellant-claimant shall be entitled for a total compensation of Rs.8,05,400/-. The enhanced amount shall also carry interest at the same rate as has been fixed by the learned Tribunal.
9. The appeal stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge