IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO. 648 OF 2022

Maharashtra State Road Transport Corporation, Chandrapur
Vs.
Vilas Ramkrushna Nimsarkar and Ors.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. A.R. Fule, Advocate for appellant.
Mr. R.G. Bagul, Advocate for respondent Nos.1 to 4.

CORAM : ABHAY AHUJA, J.

DATE : 21.09.2022.

This is an appeal challenging award dated 15.12.2021, passed by the Motor Accident Claims Tribunal, Chandrapur, in M.A.C.P. No.145/2019, allowing the claim of the respondents and directing the appellant to pay compensation of Rs.24,91,700/- inclusive of no fault liability amount of Rs.50,000/- with interest @ 7% p.a. from the date of the petition till realization.

2. Mr. Fule, learned counsel for the appellant – Maharashtra Road Transport Corporation, Chandrapur, submits that there is a short point with regard to the computation of compensation involved in the matter as was submitted by him on 19.09.2022, when this matter came up for hearing on 19.09.2022, and the following order came to be passed :

> *"1. Heard the learned counsel appearing for the parties.*
>
> *2. Shri Fule, learned counsel for the appellant submits that there is a very short issue involved in this appeal. He submits that as per the decision of the Hon'ble Apex Court in the case of National Insurance Company Limited ..Vrs.. Pranay Sethi and Ors., AIR 2017 S.C. 5157, with respect to the claim of future prospects in the case of a person, who died when he was below the age of 40 years, which is the case of the deceased herein, he would be entitled to 50% of his income towards future prospects. He further submits that since the deceased was unmarried and 50% of his income is required to be deducted towards personal expenses, the same can be balanced with 50% amount towards future prospects. He submits that the calculation made in the impugned order is erroneous inasmuch as the personal expenses, which would be 50% of the future prospects would come to Rs.1,05,075/- and not to Rs.1,40,100/-, which is the deceased's annual income. He tenders across the bar a calculation in support of his contention.*
>
> *3. Shri Bagul, learned counsel for the respondents/original claimants would submit that he needs some time to go through the working.*
>
> *4. Accordingly, list the matter on 21.09.2022."*

3. The following working was handed over to Mr. Bagul, on 19.09.2022, for instructions: -

“Calculation of compensation after addition & deduction as per National Insurance Co. Ltd. V/s. Pranay Sethi Judgment : -

1	Deceased Annual Income	1,40,100/-
2	Future Prospects 50 % Rs.1,40,100/- + Rs. 70,050/-	2,10,150/-
3	Personal expenses 50% Rs. 2,10,150/- - Rs.1,05,075/-	1,05,075/-
4	Towards Dependency Rs.1,05,075/- x 17	17,86,275/-
5	Loss of Estate Rs.	15,000/-
6	Loss of Consortium Rs.	80,000/-
7	Funeral Expenses Rs.	
8	Love & Affection Rs.	15,000/-
9	Other Rs.	
	Total (4+5+6+7+8+9) Rs.	**18,96,275/-”**

4. Today, when the matter is called out Mr.Bagul, on instructions, submits that the calculation/working handed over by Mr. Fule, in fact depicts the correct calculation of compensation in accordance with the decision of the Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and Ors. (supra)*** and the calculation in paragraph 12 of the impugned requires to be modified.

5. He submits that though the annual income of the deceased was Rs.1,40,000/-, however, the Tribunal erred in ignoring that the deceased was below 40 years and that as per the aforesaid decision, claimant would be entitled to 50% of the salary towards future prospects and being unmarried, the personal expenses which are 50% of the future prospects would require to be deducted thus bringing the figure balancing the future prospects with personal expenses to Rs.1,05,075/-. The Tribunal ought to have taken this figure into account for calculation of the compensation.

6. The Apex Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and Ors. (supra)* has observed that a deceased having a permanent job or having a fixed salary would be entitled to future prospects as per the percentage mentioned therein. Admittedly, the deceased was an unmarried employee of the appellant corporation below 40 years of age, which would entitle the claimants to 50% of the salary towards future prospects viz. Rs.2,10,150/-(Rs.Two Lakhs Ten Thousand One Hundred Fifty only) (Rs.1,40,000/- + Rs.70,050/-). However, being unmarried, 50% of his income is required to be deducted towards personal expenses, which is balanced with the 50% of the amount of salary towards future prospects viz. Rs.1,05,075/- (50% of Rs.2,10,150/-). The working set out in paragraph 3 above correctly reflects the above discussion.

7. This Court is therefore of the view that the computation in paragraph 12 of the impugned judgment dated 15.12.2021, requires to be modified and stands modified to the above extent.

8. The respondent – MSRTC liability to pay compensation of Rs.18,96,275/- (Rs. Eighteen Lakhs Ninety Six Thousand Two Hundred Seventy Five Only) to the claimants including NFL amount of Rs.50,000/- within six weeks from the date of this order.

9. The appellants would also be entitled for interest on the compensation amount @ Rs.18,96,275/- @ 7% p.a. from the date of the claim.

10. Considering that the claimants are aged parents of the deceased it would not be necessary for any part of the compensation amount to be deposited in a Nationalized Bank.

11. The appeal is accordingly allowed in the above terms. No costs

JUDGE

Prity