



**CM-22270-CII-2024 in/and
FAO-5844-2024 (O&M)
Date of decision : 13.12.2024**

Versus

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

PANKAJ JAIN, J. (ORAL)

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 149 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 149 days in filing the instant appeal is hereby condoned.

Insurance Company is in appeal aggrieved of award passed by
MACT whereby respondents/claimants have been awarded compensation of



Rs.84,88,256/- on account of death of Dhan Singh in a motor-vehicular accident.

2. The only argument raised by Mr. Jain is regarding deduction of the amount received by claimants on account of insurance which was linked to the maintenance of salary account of the deceased which was result of MOU between the State of Haryana and HDFC Bank.

3. Though the MOU has not been placed on record, however it is being claimed that the MOU was between Haryana Police and HDFC Bank. As per the same, each and every employee working with Haryana Police, whose salary account was being maintained by HDFC bank, is entitled to receive insurance policy. In terms of which, he is entitled to Rs.30.00 lacs in case of accidental death. For issuance of the said policy, consideration is maintenance of salary account with HDFC Bank. Employer i.e. State of Haryana or the Police Department does not pay premium for the same. Likewise, the said MOU is not between the State of Haryana and HDFC Bank, but between the Haryana Police and HDFC Bank.

4. The issue w.r.t. the amounts received by claimants occasioned by the death of deceased being deductible from the compensation payable to the claimants under 1939 Act, came up for consideration before Supreme Court in the case of **Mrs. Helen C. Rebello vs. Maharashtra State Road Transport Corporation, (1999) 1 SCC 90**, wherein it was observed as under :

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27. This being so, we finally revert to the question, which is in issue for consideration, whether the compensation computed under 1939 Act, the life insurance amount received by the claimants occasioned by the death of the deceased, is deductible from it or not?

28. Submission by the learned counsel for the appellants is, the insurance money is by virtue of a contractual relationship between the deceased and the Insurance Company and is payable to the legal heirs of the deceased in terms of the contract. Such money cannot be said to have been received by the heirs only on account of the death of the deceased, but truly it is a fruit of the premium paid by the deceased during his life time. The deceased bought this insurance policy as an act of his prudence, to confer benefit either to himself or to his heirs in case of death. This amount is receivable by the claimant irrespective of the accidental death, even if he would have died the natural death. He further submits that the interpretation given by the High Court confers benefit to the tortfeasor for his negligence and wrong leading to the untimely death without any contribution by him. It permits him to escape from the liability cast by the statute. Thus, his submission is, any amount payable under any contract of social assurance or any insurance, ought not to be deducted as the same is payable to the heirs because of the contract and not on account of the death of the insured person. Referring on the dictionary meaning of the word 'compensation', he submits it would mean anything given to make things equal in value. He submits that in this case the death of the deceased-husband of the claimant was due to the negligence of the respondents has to be offset by a just equivalent, where claimants are put back in position where they would have been but for such death. On this, he draws the conclusion, the benefits of insurance policy cannot be deducted while awarding the compensation. On the other hand, learned counsel for the respondents restricted the argument as was advanced before the High Court and submitted, the High Court, after considering all aspects including English decisions and the decisions of this Court, rightly concluded to

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deduct the life insurance money out of the compensation payable to the claimant.

29. So far as the general principle of estimating damages under the common law is concerned, it is settled that the pecuniary loss can be ascertained only by balancing on one hand, the loss to the claimant of the future pecuniary benefits that would have accrued to him but for the death with the 'pecuniary advantage' which from whatever source comes to him by reason of the death. In other words, it is the balancing of loss and gain of the claimant occasioned by the death. But this has to change its colour to the extent a statute intends to do. Thus, this has to be interpreted in the light of the provisions of the Motor Vehicles Act, 1939. It is very clear, to which there could be no doubt that this Act delivers compensation to the claimant only on account of accidental injury or death, not on account of any other death. Thus, the pecuniary advantage accruing under this Act has to be deciphered, co-relating with the accidental death. The compensation payable under the Motor Vehicles Act is on account of the pecuniary loss to the claimant by accidental injury or death and not other forms of death. If there is natural death or death by suicide, serious illness, including even death by accident, through train, air flight not involving motor vehicle, would not be covered under the Motor Vehicles Act. Thus, the application of general principle under the common law of loss and gain for the computation of compensation under this Act must co- relate to this type of injury or deaths, viz., accidental. If the words 'pecuniary advantage' from whatever source are to be interpreted to mean any form of death under this Act it would dilute all possible benefits conferred on the claimant and would be contrary to the spirit of the law. If the 'pecuniary advantage' resulting from death means pecuniary advantage coming under all forms of death then it will include all the assets movable, immovable, shares, bank accounts, case and every amount receivable under any contract. In other words, all heritable assets including what is willed by the deceased etc. This would obliterate both, all possible conferment of economic security to the

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claimant by the deceased and the intentions of the legislature. By such an interpretation the tortfeasor in spite of his wrongful act or negligence, which contributes to the death, would have in many cases no liability or meagre liability. In our considered opinion, the general principle of loss and gain takes colour of this statute, viz., the gain has to be interpreted which is as a result of the accidental death and the loss on account of the accidental death. Thus, under the present Act whatever pecuniary advantage is received by the claimant, from whatever source, would only mean which comes to the claimant on account of the accidental death and not other form of death. The constitution of the Motor Accidents Claims Tribunal itself under Section 110 is, as the Section states :

"...For the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to,....."

Thus, it would not include that which claimant receives on account of other form of deaths, which he would have received even apart from accidental death. Thus, such pecuniary advantage would have no correlation to the accidental death for which compensation is computed. Any amount received or receivable not only on account of the accidental death but that would have come to the claimant even otherwise, could not be construed to be the 'pecuniary advantage', liable for deduction. However, where the employer insures his employees, as against injury or death arising out of an accident, any amount received out of such insurance on the happening of such incidence may be an amount liable for deduction. However, our legislature has taken note of such contingency, through the proviso of Section 95. Under it, the liability of the insurer is excluded in respect of injury or death, arising out of, in the course of employment of an employee.

30. This is based on the principle that the claimant for the happening of the same incidence may not gain twice from two sources. This, it is excluded thus, either through the wisdom of

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legislature or through the principle of loss and gain through deduction not to give gain to the claimant twice arising from the same transaction, viz., same accident. It is significant to record herein both the sources, viz., either under the Motor Vehicles Act or from the employer, the compensation receivable by the claimant is either statutory or through the security of the employer securing for his employee but in both cases he receives the amount without his contribution. How thus an amount earned out of one's labour or contribution towards one's wealth, savings, etc. either for himself or for his family, which such person knows, under the law, has to go to his heirs after his death either by succession or under a will could be said to be the 'pecuniary gain' only on the account of one's accidental death. This, of course, is a pecuniary gain but how this is equitable or could be balanced out of the amount to be received as compensation under the Motor Vehicles Act. There is no correlation between the two amounts. Not even remotely. How can an amount of loss and gain of one contract could be made applicable to the loss and gain of another contract. Similarly, how an amount receivable under a statute has any co-relation with an amount earned by an individual. Principle of loss and gain has to be on the same place within the same sphere, of course, subject to the contract to the contrary or any provisions of law.

31. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event, viz., accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co- relation between the two. Similarly, life insurance policy is received either



by the insured or the heirs of the insured on account of the contract with the insurer, for which insured contributes in the form of premium. It is receivable even by the insured, if he lives till maturity after paying all the premiums, in the case of death insurer indemnifies to pay the sum to the heirs, again in terms of the contracts for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on similar and same plane having nexus *inter se* between them and not to which, there is no semblance of any co-relation. The insured (deceased) contributes his own money for which he receives the amount has no co-relation to the compensation computed as against tortfeasor for his negligence on account of accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act, he receives without any contribution. As we have said the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual.

32. As we have observed the whole scheme of the Act, in relation to the payment of compensation to the claimant, is a beneficial legislation, the intention of the legislature is made more clear by the change of language from what was in Fatal Accidents Act, 1855 and what is brought under Section 110-B of 1939 Act.



This is also visible through the provision of Section 168(1) under the Motor Vehicle Act, 1988 and Section 92-A of 1939 Act which fixes the liability on the owner of the vehicle even on no fault. It provides where the death or permanent disablement of any person has resulted from an accident in spite of no fault of the owner of the vehicle, an amount of compensation fixed therein is payable to claimant by such owner of the vehicle. Section 92-B ensures that the claim for compensation under Section 92-A is in addition to any other right to claim compensation in respect whereof under any other provision of this Act or of any other law for the time being in force. This clearly indicates the intention of the legislature which is conferring larger benefit to the claimant. Interpretation of such beneficial legislation is also well settled. Whenever there be two possible interpretations in such statute then the one which subserves the object of legislation, viz., benefit to the subject should be accepted. In the present case, two interpretations have given of this statute, evidenced by two distinct sets of decisions of the various High Courts. We have no hesitation to conclude that the set of decisions, which applied the principle of no deduction of the life insurance amount should be accepted and other set, which interpreted to deduct, is to be rejected. For all these considerations, we have no hesitation to hold that such High Courts were wrong in deducting the amount paid or payable under the life insurance by giving restricted meaning to the provisions of the Motor Vehicles Act basing mostly on the language of English statutes and not taking into consideration the changed language and intents of the legislature under various provisions of the Motor Vehicles Act, 1939.”

5. The same view was reiterated by Apex Court in the case of **‘United India Insurance Co. Ltd. vs. Patricia Jean Mahajan’, (2002)6 SCC 281**, observing as under:

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“31. Shri P.P. Rao, learned Counsel appearing for the claimants submitted that the scope of the provisions relating to award of compensation under the Motor Vehicles Act is wider as compared to the provisions of the Fatal Accidents Acts. It is further indicated that the Gobald's case (supra) is a case under the Fatal Accident Acts. For the above contention he has relied upon the observation made in the Rebello's case. It has also been submitted that only such benefits, which accrued to the claimants by reason of death, occurred due to an accident and not otherwise, can be deducted. Apart from drawing distinction between the scope of provisions of the two Acts namely, Motor Vehicles Act and the Fatal Accident Act, this court in the Helen Rebello's case accepted the argument that amount of insurance policies would be payable to the insured, the death may be accidental or otherwise, and even where the death may not occur the amount will be payable on its maturity. The insured chooses to have insurance policy and he keeps on paying the premium for the same, during all the time till maturity or his death. It has been held that such a pecuniary benefit by reason of death would not be such as may be deductible from the amount of compensation.

It may be useful to quote paragraph 33 of the decision which reads as under :-

"Thus, it would not include that which the claimant receives on account of other forms of deaths, which he would have received even apart from accidental death. Thus, such pecuniary advantage would have no correlation to the accidental death for which compensation is computed. Any amount received or receivable not only on account of the accidental death but that which would have come to the claimant even otherwise, could not be construed to be the "pecuniary advantage", liable for deduction. However, where the employer insures his employee, as against injury or death arising out of an accident, any amount received out of such insurance on the

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happening of such incident may be an amount liable for deduction. However, our legislature has taken note of such contingency through the proviso of Section 95. Under it the liability of the insurer is excluded in respect of injury or death, arising out of and in the course of employment of an employee."

The Court has observed in the last part of the para 34 :-

"How can an amount of loss and gains of all one contract be made applicable to the loss and gain of an other contract."

Similarly, how an amount receivable under a statute has any co-relation with an amount earned by an individual. Principle of loss and gain has to be on the same line within the same sphere, of course, subject to the contract to the contrary or any provisions of law. The court has further referred to receipts of Provident Fund which is a deferred payment out of contribution made by an employee during tenure of his service. Such an amount is payable respective of accidental death of the employee. The same is the position relating to family pension. There is no co-relation between the compensation payable on account of accidental death and the amounts receivable irrespective of such accidental death which otherwise in the normal course one would be entitled to receive. This Court for taking the above view has also referred to certain English decisions as discussed in paragraph 18 of the judgment.

We are in full agreement with the observations made in the case of Helen Rebello (*supra*) that principle of balancing between losses and gains, by reason of death, to arrive at amount of compensation is a general rule, but what is more important is that such receipts by the claimants must have some co-relation with the accidental death by reason of which alone the claimants have received the amounts. We do not think it would be necessary for us to go into the question of distinction made between the provisions of the Fatal Accident Act and the Motor Vehicles Act. According to the

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decisions referred to in the earlier part of this judgment, it is clear that amount on account of social security as may have been received must have nexus or relation with the accidental injury or death, so far as to be deductible from the amount of compensation. There must be some co-relation between the amount received and the accidental death or it may be in the same sphere, absence the amount received shall not be deducted from the amount of compensation. Thus the amount received on account of insurance policy of the deceased cannot be deducted from the amount of compensation though no doubt the receipt of the insurance amount is accelerated due to pre-mature death of the insured. So far other items in respect of which learned Counsel for the Insurance Company has vehemently urged for example some allowance paid to the children, and Mrs. Patricia Mahajan under the social security system no co-relation of those receipts with the accidental death has been shown much less established. Apart from the fact that contribution comes from different sources for constituting the fund out of which, payment on account of social security system is made one of the constituent of funds is tax which is deducted from income for the purpose. We feel that the High Court has rightly disallowed any deduction on account of receipts under the Insurance Policy and other receipts under social security system which the claimant would have also otherwise entitled to receive irrespective of accidental death of Dr. Mahajan. If the proposition "receipts from whatever source" is interpreted so widely that it may cover all the receipts, which may come into the hands of the claimants, in view of the mere death of the victim, it would only defeat the purpose of the Act providing for just compensation on account of accidental death. Such gains may be on account of savings or other investment etc. made by the deceased would not go to the benefit of wrong doer and the claimant should not be left worse off, if he had never taken an Insurance Policy, or had not made investments for future returns."



6. Supreme Court further reiterated the aforesaid view in **‘Reliance General Insurance Co. Ltd. vs. Shashi Sharma’, (2016)9 SCC 627**, observing as under:

“12. The principle expounded in this decision that the application of general principles under the common law to estimate damages cannot be invoked for computing compensation under the Motor Vehicles Act. Further, the "pecuniary advantage" from whatever source must correlate to the injury or death caused on account of motor accident. The view so taken, is the correct analysis and interpretation of the relevant provisions of the Motor Vehicles Act of 1939, and must apply proprio vigore to the corresponding provisions of the Motor Vehicles Act, 1988. This principle has been restated in the subsequent decision of two Judges' Bench in Patricia S.Mahajan's case (supra), to reject the argument of the Insurance Company to deduct the amount receivable by the dependents of the deceased by way of "social security compensation" and "Life Insurance Policy".

16. The principle discernable from the exposition in Helen C. Rebello's case (supra) is that if the amount "would be due to the dependants of the deceased even otherwise", the same shall not be deductible from the compensation amount payable under the Act of 1988. At the same time, it must be borne in mind that loss of income is a significant head under which compensation is claimed in terms of the Act of 1988. The component of quantum of "loss of income", inter alia, can be "pay and wages" which otherwise would have been earned by the deceased employee if he had survived the injury caused to him due to motor accident. If the dependents of the deceased employee, however, were to be compensated by the employer in that behalf, as is predicated by the Rules of 2006 - to grant compassionate assistance by way of ex-gratia financial assistance on compassionate grounds to the dependents of the deceased Government employee who dies in harness, it is

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unfathomable that the dependents can still be permitted to claim the same amount as a possible or likely loss of income to be suffered by them to maintain a claim for compensation under the Act of 1988.

17. A perusal of the scheme of Rules of 2006 would reinforce the position that the dependents of the deceased Government employee are suitably compensated for a specified period by way of financial assistance in the form of ex-gratia payment on compassionate grounds equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Here, we may advert to the recital of the Rules of 2006, which reads thus:

"No. G.S.R. 19/Const./Art. 309/2006.-In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, The Governor of Haryana hereby makes the following rules *to grant the compassionate assistance by way of ex-gratia financial assistance on compassionate grounds* to members of the family of a deceased Government employee *who dies while in service/missing Government employee*, namely:-

(emphasis supplied)

Rule 2 stipulates the objects of the Rules, namely, to assist the family of a deceased/missing Government employee of Group C and D category, in tiding over the emergent situation, resulting from the loss of the bread-earner while in regular service by giving financial assistance. Rule 3 of the said Rules provides for eligibility to receive financial assistance under the Rules. As per Rule 4, the eligible family members are required to submit an application in Form A for compassionate financial assistance. Rule 5, is of some significance which provides for the extent of financial assistance. The same reads thus:

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"5.(1) On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim.,-

(a) for a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty- five years;

(b) for a period of twelve years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee at the time of his death had attained the age of thirty-five years but had not attained the age of forty-eight years;

(c) for a period of seven years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty-eight years.

(2) The family shall be eligible to receive family pension as per the normal rules only after the period during which he receives the financial assistance as above is completed.

(3) The family of a deceased Government employee who was in occupation of a Government residence would continue to retain the residence on payment of normal rent/license fee for a period of one year from the date of death of the employee.

(4) Within fifteen days from the date of death of a Government employee, an ex-gratia assistance of twenty five thousand rupees shall be provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner.

(5) House Rent Allowance shall not be a part of allowance for the purposes of calculation of assistance."

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18. Rule 6 pertains to pending cases of ex-gratia assistance, with which we are not concerned in the present appeals. But to complete the narrative, we may refer to the said provision. It postulates that all pending cases of ex-gratia assistance shall be covered under the new Rules (i.e. Rules of 2006). Further, the calculation of the period and payment shall be made to such cases from the date of notification of the new Rules. It further provides that the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the new Rules.

19. Reverting back to Rule 5, sub-clause (1) provides for the period during which the dependents of the deceased employee may receive financial assistance equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Sub-rule (2) provides that the family shall be eligible to receive family pension as per the normal Rules only after the period during which they would receive the financial assistance in terms of sub-rule (1). Sub- rule (3) guarantees the family of a deceased Government employee of a Government residence in occupation for a period of one year from the date of death of the employee, upon payment of normal rent/license fee. By virtue of sub-rule (4), an ex-gratia assistance of 25,000/- is provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner. Sub-rule (5) clarifies that house rent allowance shall not be a part of allowance for the purposes of calculation of assistance.

20. Rule 5 broadly deals with two aspects. Firstly, to compensate the dependents of the deceased Government employee by granting ex-gratia financial assistance on compassionate grounds for the loss of pay and other allowances for a specified period. The second part of Rule 5 is to compensate the dependents of the deceased Government employee by way of allowances and concessions - of retaining occupation of the Government residence on specified terms, of family pension and other allowance. As regards the

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second part, it deals with income from other source which any way is receivable by the dependants of the deceased Government employee. That cannot be deducted from the claim amount, for determination of a just compensation under the Act of 1988.

21. The claimants are legitimately entitled to claim for the loss of "pay and wages" of the deceased Government employee against the tortfeasor or Insurance Company, as the case may be, covered by the first part of Rule 5 under the Act of 1988. The claimants or dependents of the deceased Government employee (employed by State of Haryana), however, cannot set up a claim for the same subject falling under the first part of Rule 5 - "pay and allowances", which are receivable by them from employer (State) under Rule 5 (1) of the Rules of 2006. In that, if the deceased employee was to survive the motor accident injury, would have remained in employment and earned his regular pay and allowances. Any other interpretation of the said Rules would inevitably result in double payment towards the same head of loss of "pay and wages" of the deceased Government employee entailing in grant of bonanza, largesse or source of profit to the dependants/claimants. Somewhat similar situation has been spelt out in Section 167 of the Motor Vehicles Act, 1988, which reads thus:

"167. Option regarding claims for compensation in certain cases.--- Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both."

(emphasis supplied)

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22. Indeed, similar statutory exclusion of claim receivable under the Rules of 2006 is absent. That, however, does not mean that the Claims Tribunal should remain oblivious to the fact that the claim towards loss of Pay and wages of the deceased has already been or will be compensated by the employer in the form of ex-gratia financial assistance on compassionate grounds under Rule 5 (1). The Claims Tribunal has to adjudicate the claim and determine the amount of compensation which appears to it to be just. The amount receivable by the dependants/claimants towards the head of pay and allowances in the form of ex-gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, that the Rules of 2006 would come into play if the Government employee dies in harness even due to natural death. At the same time, the Rules of 2006 do not expressly enable the dependents of the deceased Government employee to claim similar amount from the tortfeasor or Insurance Company because of the accidental death of the deceased Government employee. The harmonious approach for determining a just compensation payable under the Act of 1988, therefore, is to exclude the amount received or receivable by the dependents of the deceased Government employee under the Rules of 2006 towards the head financial assistance equivalent to "pay and other allowances" that was last drawn by the deceased Government employee in the normal course. This is not to say that the amount or payment receivable by the dependents of the deceased Government employee under Rule 5 (1) of the Rules, is the total entitlement under the head of "loss of income". So far as the claim towards loss of future escalation of income and other benefits, if the deceased Government employee had survived the accident can still be pursued by them in their claim under the Act of 1988. For, it is not covered by the Rules of 2006. Similarly, other benefits extended to the dependents of the deceased Government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, Life Insurance, Provident Fund etc., that must remain unaffected and cannot be allowed to be deducted, which, any way would be paid to the

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dependents of the deceased Government employee, applying the principle expounded in Helen C.Rebello and Patricia Jean Mahajan's cases (supra).

23. A Priori, appellants must succeed only to the extent of amount receivable by the dependents of the deceased Government employee in terms of Rule 5(1) of the Rules 2006, towards financial assistance equivalent to the loss of pay and wages of the deceased employee for the period specified.”

7. In the light of the aforesaid ratio, each and every amount received by the claimants on account of death of the deceased, is not deductible from the compensation payable under the Motor Vehicles Act, 1988 (hereinafter referred to as ‘the 1988 Act’). For the amount to be deductible, the same must have some connection with the amount payable under the 1988 Act. Section 167 of the 1988 Act provided that notwithstanding anything contained under the Workmen’s Compensation Act, 1923 (hereinafter referred to as ‘the 1923 Act’), the person entitled to claim compensation may claim compensation either under the 1988 Act or under the 1923 Act but not under both. Thus, wherever the policy is on account of premium payable by the employer, the same may fall within the ambit of Workman’s Compensation Act, 1923 and attract bar under Section 167 of the 1988 Act. However, in the present case, the amount received by the claimants from HDFC Bank, owing to insurance linked to the salary account, was not payable on account of death in the motor-vehicular accident but was payable in the event of accidental death related to the



8. In view of above, this Court does not find that any amount received by the claimants, on account of insurance cover attached to the salary account of the deceased, can be discounted from the amount of compensation payable to the claimants under the 1988 Act.

10. Pending application(s), if any, shall also stand disposed off.

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes