



2024:DHC:9905



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of Decision: 17th December, 2024***MAC.APP. 663/2024, CM APPL. 73823/2024 (stay)**

NEW INDIA ASSURANCE CO LTD

.....Appellant

Through: Mrs. Kanchan Kaur Dhodi, Advocate.

versus

1. SMT. MANJU CHANDRA
D/o Late Sh. N.D. SehgalRespondent No.1
 2. SMT. NEELAM WASON
W/o Sh. A.K.WasonRespondent No. 2
 3. SH. ANIL SEHGALRespondent No. 3
 4. SH. RAVI SEHGAL ...Respondent No. 4
 5. SH. SIMARDEEP SINGH BINDRA
S/o Sh. Amarjeet Singh BindraRespondent No.5
 6. SH. AMARJEET SINGH BINDRA
S/o Sh. Govind SinghRespondent No. 6
- Through: None

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G E M E N T(Oral)**

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1. The Appeal under Section 173 of the *Motor Vehicle Act, 1988* ('M.V. Act' *hereinafter*) has been filed on behalf of the Appellant/Insurance

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Company against the Award dated 16.10.2024 *vide* which the compensation in the sum of Rs.16,02,750/- along with the interest @7% p.a. has been granted to the Claimants (two sons and two daughters), on account of demise of Mr. Narsingh Dass Sehgal, in a road accident on 21.06.2013.

2. The *grounds of challenge* of the Award are as under:

- i. that only one daughter/Respondent No. 1, Smt. Manju Chandra, was living with the deceased and therefore, the *deduction on account of Personal Expenses of Deceased* should have been $\frac{1}{2}$ and not $\frac{1}{4}^{\text{th}}$ while calculating the Loss of Dependency; and
- ii. that the Court had directed the learned Tribunal for non-payment of interest for the period from 12.03.2020 till 01.04.2024 *vide* Order dated 12.03.2024. However, compensation on the ground of *Loss of Estate, Loss of Funeral Expenses and Loss of Consortium* 10% increase every year has been given which should not have been given for the period of four years, when the interest on the quantum of compensation had been denied.

3. **Submissions heard.**

4. *Briefly Stated*, on 21.06.2013 at about 8:55 am in front of A2/286, Janak Puri, Pankha Road, New Delhi, a motorcycle bearing registration no. DL10SC-9111 ('offending vehicle' *hereinafter*), being driven by Respondent No. 5, Sh. Simardeep Singh Bindra, at high speed and in rash and negligent manner, hit the pedestrian Sh. Narsingh Dass Sehgal, who was crossing the road who suffered fatal injuries. He was immediately rushed to Mata Chanan Devi Hospital, Janak Puri, Delhi, where he was admitted *vide* MLC no. 4778/2013; and thereafter was referred to Army Hospital, Delhi Cantt., Delhi, where during the course of his treatment, he died on



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01.07.2013.

5. ***FIR No. 201/13*** was filed for offences punishable under Sections 279/304A of the *Indian Penal Code, 1860* ('IPC' hereinafter).

6. Detailed Accident Report was filed before the Tribunal. *Petition under Section 166 and 140 of the M.V. Act* was also filed for grant of compensation, by the four children of the Deceased.

Loss of Dependency:

7. The *first ground of challenge* agitated by the Appellant/Insurance Company is that the Ld. Tribunal has erred in calculating Loss of Dependency since the deduction on account of Personal Expenses of Deceased should have been $\frac{1}{2}$ and not $\frac{1}{4}^{\text{th}}$ as only Respondent No. 1, daughter of deceased, who was living with the deceased.

8. The Apex Court in *National Insurance Company Ltd. vs Birender* AIR 2020 SC 434 while examining the issue that whether the major, married and gainfully employed sons of the deceased would be entitled to "*loss of dependency*", opined that the sons were earning a meagre sum of 1 lacs-1.5 lacs per annum and were financially dependent upon the income of their mother, who contributed her entire salary towards household expenses and reduced 50% deduction for personal expenses to $\frac{1}{3}^{\text{rd}}$ on account of deceased having 2 major sons of the deceased.

9. The Kerala High Court in *United India Insurance Co Ltd. v. Shalumol* MACA No. 1768/2021 has held that even if dependency is a relevant criterion to claim compensation for loss of dependency, it does not mean financial dependency is the '*ark of the covenant*'. The Karnataka High Court in *Reliance General Insurance Company Ltd. v. Gangappa* has relied on



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Shalumol (Supra) and Birender (Supra) to hold that even major married daughters, can be treated as dependents of the deceased.

10. Applying the above principles in the present case, it cannot be overlooked that though the major sons and daughter might be having earnings, they continued to have emotional, social and also financial contribution from their deceased father. The support that the father would have provided in the times of need to his sons, cannot be measured in money. Thus, while deciding the entitlement of Loss of Dependency one has to keep in mind that dependency includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money. Due consideration is to be given to situations where the children/claimant still rely on the deceased's income which could include a contribution towards the standard of living or education or even financial support if the claimant is in a lower-paying job.

11. The Apex Court in Sarla Verma v. DTC, (2009) 6 SCC 121 has held that where the number of dependent family members is 2 to 3 the deduction towards personal and living expenses of the deceased, should be one-fourth ($1/4^{\text{th}}$).

12. In the present case, the Ld. Tribunal has observed in the impugned Award that the deceased is survived by his two daughters and two sons as his only legal heirs i.e. 4 Children and has correctly deducted $1/4^{\text{th}}$ on account of personal and living expenses of the deceased as per Sarla Verma (supra). Accordingly, no interference is warranted in the impugned Award on this ground.



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Compensation on account of Loss of Estate, Loss of Funeral Expenses and Loss of Consortium:

13. The *Second ground of challenge* agitated by the Appellant/Insurance Company is that despite the Order dated 12.03.2024 *vide* which the Court had directed the learned Tribunal for non-payment of interest for the period from 12.03.2020 till 01.04.2024, compensation under Conventional Heads on the ground of Loss of Estate, Loss of Funeral Expenses and Loss of Consortium has been calculated by increasing 10% every three years which, should not have been given for the period of four years i.e. 2020 to 2024, when the interest on the quantum had been denied.

14. In National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 the Apex Court has held that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively and the amounts should be enhanced at the rate of 10% in every three years.

15. The Ld. Tribunal in the impugned Award had observed that the interest for the period from 12.03.2020 till the date of conclusion of final arguments (on 01.10.24) was denied *vide* Order dated 12.03.2020 accordingly, no interest has been granted for the period from 12.03.2020 to 01.10.2024.

16. In the present case, the Ld. Tribunal has awarded conventional heads namely, loss of estate, loss of consortium and funeral expenses as per Pranay Sethi (supra). On the face of it, the ground agitated by the Appellant/Insurance Company is fallacious, as award of compensation under Conventional Heads is distinct and separate from the Interest component.



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Therefore, the Ld. Tribunal has rightly granted compensation under the conventional head.

17. The impugned Award warrants no interference. *The Appeal stands disposed of accordingly.*

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 17, 2024/RS

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