



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on : 5th March, 2024**
Judgment pronounced on : 7th March, 2024

+ **MAC.APP. 573/2016**

UNITED INDIA INSURANCE CO LTD Appellant
Through: **Mr. Pradeep Gaur, Mr. Amit Gaur and Ms. Sweta Singh,**
Adv.

versus

BHAWNA & ORS Respondents
Through: **Mr. S.K. Choudhary, Adv.**

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The appellant/insurance company is assailing the quantum of compensation awarded by the learned Presiding Officer, Motor Accident Claims Tribunal-02, Patiala House Courts, New Delhi¹ vide award-cum-judgment dated 12.02.2016 to the respondents No.1 and 2, who are the daughters of the deceased.

2. Learned counsel for the appellant has urged that only respondent No.1 was financially dependent upon the deceased-mother, namely Shakuntala, whereas, respondent No.2 had already been married and thereby she was not financially dependent upon the deceased-mother.

¹ Tribunal



3. The main grievance of the learned counsel for the appellant/ insurance company is that the deduction towards personal use and living expenses has been reckoned at $1/3^{\text{rd}}$ from the annual financial dependency instead of $1/2$. Further, it is pointed out that the rate of interest has been awarded @ 9% from the date of filing of the petition till realization, which as per catena of decisions should be 7.5%.

4. A careful perusal of the impugned award-cum-judgment dated 12.02.2016 passed by the learned Tribunal would show that the deceased was 48 years of age at the time of his death and employed with Airports Authority of India [“AAI”], deriving monthly salary of Rs. 49,132/- as per salary slip for the month of May, 2015 proven on the record. Learned Tribunal noted that the salary income included perks towards proficiency allowance of Rs.1700/-; medical allowance of Rs. 1820.83/-; and the consolidated perks were to the tune of Rs. 8450.20/- besides, monthly tax of Rs. 330/-. Thus the salary of the deceased was reckoned @ Rs. 35,000/- per month. As the deceased was in a stable employment, future loss of income was reckoned at 30% and multiplier of 13 was applied but $1/3^{\text{rd}}$ were deducted towards personal use and living expenses and accordingly the loss of financial dependency was arrived at Rs. 47,32,000/-.

5. Without further ado, since respondent No.1 was an unmarried daughter and the only one who was financially dependent on the deceased, the deductions towards personal use and expenses should be reckoned at $1/2$ from the annual financial loss of dependency. Accordingly, the assessment for loss of financial dependency is worked out to be Rs. $35000 \times 12 = \text{Rs } 4,20,000/-$ + Rs.1,26,000/-



towards future prospects and thereby, the annual income would come to Rs. 5,46,000/-. One half has to be deducted towards personal use and living expenses and applying multiplier of 13, it worked out to be Rs. 35,49,000/-.

6. Further, the learned Tribunal has awarded Rs. 1,00,000/- towards love and affection. However, as per decision in the case of **National Insurance Co. Ltd. v. Pranay Sethi**² it has to be reckoned @ Rs.40,000/- each to the two daughters towards loss of consortium and love and affection. Rs. 15,000/- is awarded towards loss of estate and Rs. 15,000/- towards funeral expenses. The total compensation is accordingly arrived as under:-

S. No.	Head	Amount
1.	Annual Income	Rs.4,20,000/- (Rs.35,000 X 12)
2.	Addition towards loss of future prospects	Rs.1,26,000/- (30% of 4,20,000)
3.	Deduction towards personal use & living expenses	1/2
4.	Multiplier	13
5.	Total expenses towards future income	Rs.35,49,000
6.	Loss of Consortium	Rs.80,000 (40,000 each)
7.	Loss of Estate	Rs.15,000/-
8.	Funeral expenses	Rs. 15,000/-
	Total Compensation	Rs. 36,59,000/-

7. Lastly, as regards the question of interest awarded @ 9%, in view of the decision in the case of **National Insurance Co. Ltd. v.**

² (2017) 16 SCC 680



Yad Ram³ wherein, it was held that the cases where 9% interest has been granted are those pertaining to accidents which took place several years ago, even when the bank rate of interest of FDRs was much higher. Further, there is no uniform rate of interest laid down under MV Act. In this light, I am of the considered view that the claimants are entitled to receive interest @ 7.5% p.a.

8. Accordingly, the present appeal is allowed and the impugned award-cum-judgment dated 12.02.2016 is hereby modified. The claimants i.e. the respondents No. 1 and 2 are awarded the total compensation of Rs.36,59,000 with interest @ 7.5% from the date of filing of the petition i.e. 28.10.2015 till realization. In terms of the award passed by the learned Tribunal, 20% with accrued interest is awarded to the grandson of the deceased (Shakuntala) Master Anurag and 10% of the amount of compensation is awarded to petitioner No.2 Amrita with accrued interest and the balance to petitioner No.1 Bhawna.

9. The appeal stands disposed of accordingly.

DHARMESH SHARMA, J.

MARCH 07, 2024

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³ (2023) SCC OnLine Del 1849