



2025:DHC:4941



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 20.05.2025

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MAC.APP. 82/2022**KRISHMA & ORS.****.....Appellants**Through: Mr. Praveen Kumar, Mr. Prateek Rai,
Advts.

versus

MOHAN & ORS.**.....Respondents**Through: Ms. Vandana Kahlon, Mr. Rudra
Kahlon, Advts. for R-3**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed by the Appellants under Section 173 of the Motor Vehicles Act, 1988 [hereinafter referred to as 'MV Act'] seeking to challenge an award dated 04.11.2019 passed by Ld. Presiding Officer, Motor Accidental Tribunal, North-West District, Rohini Courts [hereinafter referred to as 'Impugned Award']. By the Impugned Award, the Appellant/Claimants have been granted compensation in the sum of Rs.29,64,910/- along with 9% interest per annum.

2. Learned Counsel for the Appellants primarily raises three grounds. Firstly, learned Counsel submits that the Appellants/Claimants have not been awarded compensation *qua* the ground of pain and suffering. Secondly, learned Counsel submits that 40% future prospects have not been awarded to the Appellants/Claimants. Lastly, it is contended that the deceased being a truck driver, should be given wages as a skilled worker and not as an unskilled worker.



3. It is thus contended by the learned Counsel for the Appellants that the Impugned Award suffers from an infirmity.

4. Learned Counsel for the Respondent No.3/Insurance Company submits that the Appeal is without any merit. Learned Counsel submits that all three aspects that have been raised by the Appellants/Claimants before this Court have been dealt with by the learned Tribunal and in fact, in favour of the Appellants/Claimants themselves.

5. Learned Counsel for the Respondent No.3/Insurance Company submits that so far as concerns the first aspect, which is the loss of pain and suffering, given that this is a death case and not an injury case, this issue does not arise in the present case. Reliance is placed upon the judgment of the Supreme Court in *Jagdish vs. Mohan & Ors.*¹ in this behalf.

5.1 On the aspect of non-grant of 40% future prospects, learned Counsel for the Respondent No.3/Insurance Company seeks to rely upon the Impugned Award itself to submit that the calculation in the Impugned Award clearly shows that in addition to the established income 40% of the established income was given by the learned Tribunal to the Appellants/Claimants.

5.2 Lastly it is contended by the learned Counsel for the Respondent No.3/Insurance Company that the compensation has been calculated of a matriculate/skilled worker at the relevant time. Reliance is placed on paragraph 9.4 of the Impugned Award in this behalf.

6. Briefly the facts are that the deceased was riding his motorcycle when

¹ (2018) 4 SCC 571



he was hit by a truck from behind, which was owned by Respondent No.2 and was being driven by Respondent No.1. The deceased succumbed to injuries at the spot of accident itself.

7. The learned Tribunal framed the following issues on 31.03.2015:

“(1) Whether on 07.01.2013 at about 01:15 pm at NH-10, main road, in front of bus stand of Sankhol Village, Haryana one truck bearing registration no. HR-55A-1265 which was being driven rashly and negligently by Mohan hit the motorcycle bearing registration no. DL-4S-BN-6424 and caused the death of Pappu?

2. Whether petitioners are entitled to compensation, if so, to what amount and from whom?

3. Relief.”

8. The Appellants examined Appellant No.1 as PW-1 and the eye-witness/Sh. Pawan as PW-2. The Respondent No.3/Insurance Company also examined three witnesses.

9. The learned Tribunal found that the accident was caused due to rash and negligent driving of Respondent No.1 and thus awarded compensation to the Appellants for loss of financial dependency; for Filial Consortium and loss of love and affection awarding the following:

“17. Petitioners/claimants are accordingly entitled to compensation computed as under:

<i>Loss of financial dependency</i>	<i>Rs. 15,79,392/-</i>
<i>Loss of Estate</i>	<i>Rs. 15,000/-</i>
<i>Funeral Expenses</i>	<i>Rs. 15,000/-</i>
<i>Filial consortium/consortium</i>	<i>Rs. 1,20,000/-</i>
<i>Loss of Love & Affection</i>	<i>Rs. 1,50,000/-</i>
<i>Total</i>	<i>Rs. 18,79,392/-</i>

[Rounded off to Rs. 18,79,500]”



9.1 The liability for the compensation was affixed on the Respondent No.3/Insurance Company without any recovery rights from the Respondent No.1/Respondent No.2 [Driver/Owner of the offending vehicle.]

10. As can be seen from the above, an examination of the Impugned Award shows that the learned Tribunal has granted the compensation keeping in mind 40% of the established income as future prospects in terms of the settled law. The relevant extract of the Impugned Award is set out below:

“10.4 The age of the deceased, as discussed above, in the present case was about 33 years & 8 months. In view of paragraph no. 61 (iv) of above said judgment in Pranay Sethi (Supra), the deceased would be entitled to an addition of 40% of the established income as he was below the age of 40 years at the time of his death.”

10.5 The monthly income of the deceased is thus calculated as Rs. 8814/- +40% of 8814/- which comes to Rs. 8814/-+ Rs.3525/- (after rounding of) = Rs.12,339/-.

xxx

xxxx

xxx

xxx

13. Loss of financial dependency

In the light of aforesaid facts, loss of financial dependency of the petitioner comes to Rs.15,79,392/- [i.e. Rs. 12,339/- (per month income of the deceased) X12 X16 (multiplier) X2/3 (dependency)].”

[Emphasis Supplied]

11. So far as concerns the contention of the Appellants/Claimants being awarded wages of an unskilled worker, the same is contrary to the record. The learned Tribunal has awarded wages of Rs.8,814/- per month, which was the wages of a skilled worker at the relevant time on the date of the accident. The relevant extract of the Impugned Award is set out below:

“9.4 Petitioners have proved the matriculate certificates of deceased as Ex. PW1/5 and driving licence of deceased as Ex. PW1/6. Both these documents mention the date of birth of deceased as 20.04.1979, hence he was aged about 33 years and 8 months on the date of accident i.e. 07.01.2013 The DL



of deceased Ex. PW1/6 would show that he was licenced to drive motorcycle, LMV, HTV and HPV. In view of the said discussion, it would be appropriate to assess the income of the deceased on the basis of minimum wages of a matriculate/skilled worker as fixed by the Govt. of NCT of Delhi under the Minimum Wages Act. The minimum wages of a matriculate/skilled worker at the relevant time on the date of accident was Rs. 8814/- p.m. Accordingly, it would be reasonable and just to consider the income of petitioner as Rs. 8814/- per month on the date of accident in question.”

[Emphasis Supplied]

12. Lastly, on the contention that compensation *qua* the ground of pain and suffering has not been granted to the Appellants/Claimants, the judgment that is sought to be relied upon by the Appellant/Claimants in ***Jagdish*** case pertains to a person who was injured in an accident. The Supreme Court, while noting the injury of the Appellant therein and the fact that he was a carpenter, held that the disability should be computed in view of the nature of the injury resulting in total loss of functionality of both hands of the Appellant therein. The Supreme Court also held that a person who suffers from permanent or temporary disability occasioned by an accident is entitled to the award of compensation. Such compensation must account for pain, suffering and trauma resulting from the accident; loss of income, including future income; victim’s inability to lead a normal life together with its amenities; medical expenses including anticipated future costs; and loss of expectation of life. The relevant extract of the ***Jagdish*** case is extracted herein below:

“7. The appellant has sought an enhancement of compensation under the following heads:

7.1. The Tribunal ought to have, but did not award any amount towards loss of future prospects. The appellant submits that in view of the recent judgment of the Constitution Bench in National Insurance Co. Ltd. v. Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16



SCC 680], he would be entitled to be compensated for loss of future prospects even though he is self-employed;

7.2. According to the appellant, the nature of the injuries suffered, resulting in a total loss of the functionality of both the hands would require compensation to be computed on the basis of a disability of 100% and not 90%; and

7.3. The income as claimed of Rs 6000 per month should be the basis of computation and not Rs 4050 as allowed by the Tribunal and confirmed by the High Court.

8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

(i) Pain, suffering and trauma resulting from the accident;

(ii) Loss of income including future income;

(iii) The inability of the victim to lead a normal life together with its amenities;

(iv) Medical expenses including those that the victim may be required to undertake in future; and

(v) Loss of expectation of life.”

[Emphasis Supplied]

13. Clearly, the applicability of the judgment in **Jagdish** case on the aspect of the award of compensation *qua* the ground of pain and suffering is only in respect of injury cases and not in death cases. Thus, this judgment does not help the case of the Appellants/Claimants in any manner.

14. Thus, the Impugned Award takes into account that the deceased worked as a truck driver and since the salary of the deceased could not be proved, learned Tribunal awarded compensation based on the monthly wages of a skilled worker. The learned Tribunal also awarded amounts on other non-pecuniary heads as discussed above. The Impugned Award has



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been calculated based on the settled legal principles.

15. No other ground of challenge has been raised by the Appellants/Claimants before this Court.

16. Accordingly, and in view of the foregoing discussion, this Court finds no infirmity with the Impugned Award.

17. The Appeal is accordingly dismissed.

18. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 20, 2025/jn

Click here to check corrigendum, if any