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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 12th March, 2025***+ **MAC.APP. 978/2014**

UNITED INDIA INSURANCE CO LTDAppellant

Through: Ms. Suman Bagga and Ms.
Rhea Duggal, Advs.

versus

VINOD KUMAR SINHA & ORSRespondents

Through: Mr. Sunil Kumar Verma,
Adv. for R-1 & 2.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J.****CM APPL. 60562/2024 (for early hearing)**

1. For the reason mentioned in the application, the same is allowed.
2. The application is disposed of.

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3. The present appeal is filed challenging the award dated 07.08.2014 ('**impugned award**') passed by the learned Presiding Officer, Motor Accidents Claims Tribunal, Dwarka Courts, New Delhi, in MACP No. 30/2012.
4. Briefly stated, on 11.11.2011, at approximately 2:45 p.m., the deceased, Mr. Vishal Ranjan, was riding his motorcycle bearing registration number HR-29Q-4492. He was allegedly hit by a DTC bus bearing registration number DL-1PC-0601,



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resulting in fatal injuries. The deceased was transported to Safdarjung Hospital, where he was declared brought dead. The parents of the deceased/respondents subsequently filed a claim petition before the Motor Accidents Claims Tribunal.

5. The learned Tribunal, by the impugned award, awarded compensation for a sum of ₹25,65,000/- with interest at 7.5% per annum from the date of filing the claim petition until realization.

6. The insurance company has preferred the present appeal on the following grounds:

- a) The learned Tribunal erred in assessing the notional income of the deceased at ₹15,000/- per month, which is excessive ;
- b) Since the deceased was not in permanent employment, future prospects should have been considered at 40% instead of 50%, as per the Hon'ble Apex Court's judgment in *National Insurance Co. Ltd v. Pranay Sethi & Ors. : (2017) 16 SCC 680*.

7. The learned counsel for the Insurance Company submits that the learned Tribunal erred in assessing the notional income of the deceased at ₹15,000 per month, which is excessive and speculative. She submits that the Tribunal failed to appreciate that the deceased was a fourth-year engineering student with no conclusive proof of employment or income. In the absence of any documentary evidence supporting the alleged consultancy work or earnings of the deceased, the learned Tribunal ought to have considered the minimum wage applicable to unskilled labour at



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the relevant time instead of presuming a higher potential income.

8. She submits that the learned Tribunal erred in adding 50% towards future prospects while calculating the loss of dependency. The Hon'ble Apex Court in ***National Insurance Co. Ltd v. Pranay Sethi & Ors.*** (*supra*), has categorically held that for a person who is not in permanent employment, the future prospects should be capped at 40%. Since there was no proven employment record of the deceased, the Tribunal's grant of 50% future prospects is contrary to law and requires correction.

9. In regard to the first contention raised by the learned counsel for the insurance company, I find no merit in the arguments advanced.

10. The Hon'ble Apex Court in the case of ***Navjot Singh v. Harpreet Singh : Civil Appeal No. 278/2020***, while deciding the claim compensation, took the exception of equating the notional income of an engineering student to that of unskilled labour and observed as under:

"13. But we do not think that the notional income of a student undergoing a Degree course in Engineering from a premier institute should be taken to be equivalent to the minimum wages admissible to an unskilled worker. Students recruited through campus interviews are atleast offered a sum of Rs.20,000/- per month. Even if we do not go on the said basis, the High Court could have fixed the notional income atleast at Rs.10,000/- per month.

14. Therefore, in the facts and circumstances of the case, and by exercising our power under Article 142 of the Constitution of India, we take the notional monthly income of the appellant as Rs.10,000/ per month."

11. For the fixation of the notional income, there is no straight jacket formula. While concurring with the view expressed by



Hon'ble Mr. Justice Surya Kant in the case of ***Kirti v. Oriental Insurance Co. Ltd. : (2021) 2 SCC 166*** Hon'ble Mr.N.V Ramana explained two distinct categories of situations wherein the Court usually determines the notional income of a victim. The relevant excerpts of the said judgment read as under:

“17. There are two distinct categories of situations wherein the court usually determines notional income of a victim. The first category of cases relates to those wherein the victim was employed, but the claimants are not able to prove her actual income, before the court. In such a situation, the court “guesses” the income of the victim on the basis of the evidence on record, like the quality of life being led by the victim and her family, the general earning of an individual employed in that field, the qualifications of the victim, and other considerations.

18. The second category of cases relates to those situations wherein the Court is called upon to determine the income of a non-earning victim, such as a child, a student or a homemaker. Needless to say, compensation in such cases is extremely difficult to quantify.

19. The court often follows different principles for determining the compensation towards a non-earning victim in order to arrive at an amount which would be just in the facts and circumstances of the case. Some of these involve the determination of notional income. Whenever notional income is determined in such cases, different considerations and factors are taken into account. For instance, for students, the court often considers the course that they are studying, their academic proficiency, the family background, etc. to determine and fix what they could earn in the future. (See M.R. Krishna Murthi v. New India Assurance Co. Ltd. [M.R. Krishna Murthi v. New India Assurance Co. Ltd., (2020) 15 SCC 493 : (2020) 4 SCC (Cri) 84])”

12. The assessment of notional income for a student enrolled in a professional course must be determined on a case-by-case basis, taking into account the specific facts and circumstances.

The principle established by the courts is that such students



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cannot be equated with unskilled laborers, as their educational background and career trajectory indicate higher earning potential upon completion of their studies.

13. In the present case, the deceased was a fourth-year engineering student, and it is reasonable to assume that, upon graduation, he would have pursued a career in engineering, a field that offers a significantly higher earning capacity compared to unskilled labor. The learned Tribunal, while considering this aspect, assessed the notional income of the deceased at ₹15,000 per month.

14. This Court finds no reason to interfere with the learned Tribunal's assessment. Given the educational qualifications and the likely career progression of the deceased, an earning potential of ₹15,000 per month is a fair and reasonable presumption. Under no circumstances could the deceased, who was on the verge of becoming a qualified engineer, be equated with an unskilled labourer.

15. With respect to the contention raised by the learned counsel for the insurance company regarding the calculation of future prospects, it is argued that the learned Tribunal erroneously applied 50% addition instead of the legally mandated 40%.

16. The Hon'ble Apex Court in the case of *National Insurance Co. Ltd v. Pranay Sethi & Ors* : (2017) 16 SCC 680, has held that in cases where the deceased was self-employed or on a fixed salary and below the age of 40 years, the appropriate



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percentage to be added for future prospects is 40%. It was held as under :

“.... The degree-test has to have the inbuilt concept of percentage. Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life, etc., (an addition of 40% of the established income of the deceased towards future prospects and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable.)

58. The controversy does not end here. The question still remains whether there should be no addition where the age of the deceased is more than 50 years. Sarla Verma thinks it appropriate not to add any amount and the same has been approved in Reshma Kumari. Judicial notice can be taken of the fact that salary does not remain the same. When a person is in a permanent job, there is always an enhancement due to one reason or the other. To lay down as a thumb Rule that there will be no addition after 50 years will be an unacceptable concept. We are disposed to think, there should be an addition of 15% if the deceased is between the age of 50 to 60 years and there should be no addition thereafter. Similarly, in case of self-employed or person on fixed salary, the addition should be 10% between the age of 50 to 60 years. The aforesaid yardstick has been fixed so that there can be consistency in the approach by the tribunals and the courts.”

(emphasis supplied)

17. The Hon'ble Apex Court in ***Meena Pawaia v. Ashraf Ali : (2021) 17 SCC 148*** addressed the issue of awarding future prospects in cases where the deceased was a student with promising career prospects. The Hon'ble Apex Court considered the principles laid down in ***National Insurance Company Limited v. Pranay Sethi & Ors. (supra)***, and extended the benefit of future prospects to the deceased student. It was observed as



under :

“11. The next question which is posed for the consideration before this Court is whether anything further is required to be added towards the future rise in income? It is submitted that on behalf of the Union of India that as the deceased was not serving and earning at the time of accident/death nothing further is to be added towards the future prospect/future rise in income. The aforesaid cannot be accepted.

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13. We see no reason why the aforesaid principle may not be applied, which apply to the salaried person and/or deceased self-employed and/or a fixed salaried deceased, to the deceased who was not serving and/or was not having any income at the time of accident/death. In case of a deceased, who was not earning and/or not doing any job and/or self-employed at the time of accident/death, as observed herein above his income is to be determined on the guesswork looking to the circumstances narrated hereinabove. Once such an amount is arrived at he shall be entitled to the addition over the future prospect/future rise in income. It cannot be disputed that the rise in cost of living would also affect such a person.

14. As observed by this Court in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] , the determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Motor Vehicles Act. In case of a deceased who had held a permanent job with inbuilt grant of annual increment and/or in case of a deceased who was on a fixed salary and/or self-employed would only get the benefit of future prospects and the legal representatives of the deceased who was not serving at the relevant time as he died at a young age and was studying, could not be entitled to the benefit of the future prospects for the purpose of computation of compensation would be inapposite. Because the price rise does affect them also and there is always an incessant effort to enhance one's income for sustenance.

15. It is not expected that the deceased who was not serving at all, his income is likely to remain static and his income would remain stagnant. As observed in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017)



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16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] to have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. Therefore we are of the opinion that even in case of a deceased who was not serving at the time of death and had no income at the time of death, their legal heirs shall also be entitled to future prospects by adding future rise in income as held by this Court in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] i.e. addition of 40% of the income determined on guesswork considering the educational qualification, family background, etc. where the deceased was below the age of 40 years.

(emphasis supplied)

18. The Hon'ble Apex Court categorically recognized that future prospects should be considered even where a victim had not yet begun earning at the time of their demise. The rationale is that the court must assess their likely future earning capacity based on their education, skills, and career trajectory, rather than treating them as having no potential income.

19. In view of the above findings, this Court finds merit in the arguments raised by the learned counsel for the Insurance Company. In the present case, the deceased was a student and was not in permanent employment at the time of the accident. However, it can be said that looking at his educational qualifications that he was having a bright future. In the absence of concrete proof of employment or a stable income, the learned Tribunal's assessment of future prospects at 50% is not in conformity with the law and should have been 40%.

20. In view of the above, the compensation awarded to the



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respondents is modified in the following manner:

S.No.	Head	Compensation
Pecuniary Damages		
1.	Monthly Income	₹15,000/- per month
2.	Annual Income	₹1,80,000/-
3.	Multiplier	18 (deceased was 19 years old at the time of accident)
4.	Deduction	½
5.	Loss of Dependency	₹15,000 X 12 + 40% X 18 X ½ = ₹22,68,000/-
Non – Pecuniary Heads		
6.	Loss of Consortium	₹80,000/-
7.	Funeral Expenses	₹15,000/-
8.	Loss of Estate	₹15,000/-
9.	Rate of Interest	7.5% p.a.
Total Compensation		₹23,78,000/-

21. Accordingly, the compensation amount awarded by the learned Tribunal is reduced from ₹25,65,000/- to ₹23,78,000/-.

22. The reduced compensation amount shall be disbursed to the respondents as per the manner provided in the Impugned award.

23. The statutory amount deposited by the insurance company for filing the appeal shall be refunded.

Signature Not Verified

Signed By: HARMINDER KAUR
Signing Date: 18.03.2025
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24. Accordingly, the appeal is disposed of. Pending applications, if any, also stand disposed of.

AMIT MAHAJAN, J

MARCH 12, 2025

