Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 693 OF 2024

The Managing Director, Pune Mahanagar Parivahan Mahamandal Ltd (PMPML)	...Appellant
Versus	
Sujata Dhiren Tiwari & Ors	...Respondents

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Mr. Shriram Pingle (appeared through VC), Advocate for the Appellant.

Mr. D. D. Shinde, with Mr. Y. G. Thorat, Advocates for the Respondent Nos. 1 to 5.

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CORAM: SHREE CHANDRASHEKHAR, CJ &
SUMAN SHYAM, J.

DATE: 19th JANUARY 2026

PC:-

To challenge the judgment dated 25th January 2024 in Motor Accident Claim Petition No. 135 of 2019, Pune Mahanagar Parivahan Mahamandal Limited has filed this First Appeal under section 173 of the Motor Vehicles Act, 1988.

2. The Tribunal considered the materials on record, assessed the future prospect and loss of income of the deceased and held as under:-

"18] Now, we come to the income of the deceased. The deceased, as per the case of the claimants, was earning through financial consultancy under the name and style 'Loan Junction'. The claimants further came with the case that a year before the death, the LJ Advisor company was launched by the deceased in which he was Director. The claimants submitted on record the individual income tax returns of the deceased for the financial years 2014-2015, 2015-2016, 2016-2017 and 2017-2018. The claimants also submitted on record tax returns of the LJ Advisor company as well as audit reports of this company. The claimants also placed on record computation of total individual income of deceased in each of these four financial years. All these documents are proved by the claimants by examining Gopal Kisan Dalvi, Tax Assistant working in Income Tax Office, Akurdi and examined as Applicant Witness NO. 2 at Exh. 39, Income Tax Inspector Manoj Jagdevsingh Kumar examined as Applicant Witness No. 3 at Exh. 51 and Mrs. Rutika Manoj Lalwani, a practicing Chartered Accountant examined as Applicant Witness No. 4 at Exh. 58,. Gopal Dalvi (AW 2) is examined to prove the tax returns of LJ Advisors Pvt. Ltd. Company. Income Tax Inspector Manoj Jagdevsing Kumar (AW 3)as well as Rutika Lalwani (AW 4) are examined to prove the individual tax returns of the deceased.

19] Deceased died on 09/06/2018. So, the relevant financial years for computation of the individual income of the deceased so submitted on record are only for 4 years i.e. for the financial years 2014-2015, 2015-2016, 2016-2017 and 2017-2018 (Tax returns collectively marked as Exh. 54) as well as the computation of income sheet of the deceased for these 4 years (commonly at Exh. 62). As per the computation of income sheet as well as these income tax returns, income to the deceased from all the sources i.e. business, rent, interest, etc. in the financial year 2014-2015 is Rs. 19,83,092/-, for the financial year 2015-2016 is Rs. 20,71,003/-, for the financial year 2016-2017 is Rs. 29,55,313/- and for *the financial year 2017-2018 is Rs. 21,67,218/-. So, the total income for all these financial years come to Rs. 91,76,626/-. The income tax so paid in each of these financial years is Rs. 4,10,027/- in financial year 2014-2015, Rs. 4,18,811/- in financial year 2015-2016, Rs. 5,46,243/- in the financial year 2016-2017, Rs. 4,25,443/- in the financial year 2017-2018. The total income tax for all these four years so paid by the deceased is Rs. 18,00,524/-.*

21] The learned counsel for the opposite parties submitted that the wife of the deceased Sujata admitted in her cross-examination that business of LJ Advisors is still going on and she is looking after the affairs of that business. The learned counsel, therefore, submitted that since the business of financial consultancy is still going on and earning has not stopped, there is no question of future loss of income. The argument does not commend me because the deceased initially had started this financial consultancy as a Proprietorship under the name and style 'Loan Junction' on 01/03/2011 as per Shop and Establishment License in his individual name (Exh. 25). It appears that with gradual flourishing of his business, a year before the unfortunate death of the deceased, he launched private limited company under the name and style 'LJ Advisors Pvt. Ltd.' in which he was Director and he took his wife Sujata – claimant No. 1 as the owner of this company as per the Shop and Establishment Act license (Exh. 25D). Sujata, in her cross-examination, further clarified that her clients and the clients of her husband were different. So, the overall picture clearly depicts that the deceased out of his own skills and efforts started this financial consultancy business and raised it to its pinnacle. Therefore, merely because this private company 'LJ Advisors' is still going on and therefore the family of the deceased in no way can be said to have suffered future losses of income would be an unbecoming approach. In fact, deceased who had started from zero became successful financial consultant, obviously must have potential to earn. His untimely death deprived of his family, his potential *and hence there is every reason to say that claimants suffered future loss of income on account of the death of deceased, more so when, in these claimants there include minor issues and old parents of deceased.*

22] All the income tax returns are the individual income tax returns of the deceased having been proved by examining the income tax officers, employees as well as Chartered Accountant and during their cross-examination, nothing could be extracted by the opposite parties to doubt these tax returns and the contents therein. There is no dispute about the fact that deceased was running financial consultancy business. As such, I see no doubt in the income projected in these tax returns of four years.

23] Now we come to the items of various incomes so included in the aggregate income of the deceased in these financial years. I could see on perusal of the computation sheets of all these four years (commonly at Exh. 62) that income from house property by way of rent, income by way of interest received from bank were included in all these four years computation. Similarly, an item of income from capital gain to the tune of Rs. 12,89,383/- as a long term capital gain was included in the income in the financial year 2016-2017. From the computation sheet of the financial year 2016-2017, the Tribunal found that a house property acquired for Rs. 16,64,321/- was sold by the deceased in said financial year for consideration of Rs. 31,50,000/- which was the value assessed by the Stamp Valuation Authority and thus had capital gain of Rs. 14,85,679/-. However, it appears that the assessee i.e. deceased in said financial year took house property loss set off as per the provisions of Income Tax Act to the tune of Rs. 1,96,296/- and thus the net long term capital gain was Rs. 12,89,383/-. All these items of income whether really can be treated as income was the query put by the Tribunal before parties and the parties advanced argument.

34] In the light of above discussion, it becomes crystal clear that though there is total income of Rs. 91,76,626/- for all the four financial years, the *item of capital gain, amount of net rent though with substitution of cost of managerial skill, are getting eliminated. So, with subtraction of net rent of Rs. 7,52,046/- from total income of Rs. 91,76,626/- , the income remains to Rs. 84,24,580/-. In this figure, the loss of managerial expenses of Rs. 1,12,806/- will have to be added. The figure thus comes to Rs. 85,37,386/- . Now, from this figure, the capital gain will have to be subtracted which is Rs. 12,89,383/-. With subtraction of capital gain from Rs. 85,37,386/- we are left with Rs. 72,48,003/-. This* ***Rs. 72,48,003/-*** *is now the base income from which we have to subtract tax.*

35] Now, to calculate what could be the income tax with elimination of capital gain and amount of net rent from the income, is the further task. The total income tax for all these financial years so paid by the deceased as per tax returns (Exh. 54) is Rs. 18,00,524/-. We cannot subtract this entire amount from Rs. 72,48,003/- because we have eliminated amount of capital gain and income from rent from the head of income and consequently the proportionate tax on these income heads will have to be subtracted from Rs.18,00,524/-. The learned counsel made a statement that as per his instruction from Chartered Accountant amount of Rs. 2,57,877/- is paid by the deceased in financial year 2016-2017 towards income tax on capital gain. This figure is believable because as per Income Tax Rules on long term capital gain, 20% tax is to be paid. The figure of capital gain is Rs. 12,89,383/-. 20% of this exactly comes to Rs. 2,57,877/-. So, with subtraction of Rs. 2,57,877/- from Rs. 18,00,524/- one is left with Rs. 15,42,647/-.

36] Now, moving towards income tax on net rent so earned by deceased, it can be seen that the total amount of net rent is Rs. 7,52,046/-. Loss of managerial skills and experience is decided to be taken upto 15% of net rent. So, this 15% amount which came to Rs. 1,12,806/- will have to be deducted from Rs. 7,52,046/- and the figure remains Rs. 6,39,240/-. This would be the taxable amount of rent. On perusal *of the income in each financial year and the income tax so paid by the deceased, it can be gathered that the deceased paid 20% income tax of his income. So, 20% of this Rs. 6,39,240/- is Rs. 1,27,848/-. So, this much of income tax will have to be deducted further from Rs. 15,42,647/-. With this deduction, the final amount of income tax comes to **Rs. 14,14,799/-** .*

37] *We were left with reduced income of those 4 years after ,eliminating income from rent and capital gain to the tune of Rs. 72,48,003/-. From this amount of Rs. 72,48,003/- on deducting income tax of Rs. 14,14,799/- one is left with an income of Rs. 58,33,204/- for all these four financial years. The average yearly income thus comes to Rs. 14,58,301/-. This is the yearly income of the deceased.*

AS TO ISSUE NO. 3

38] *In view of the affirmative finding on issue No. 1, I hold that the liability of compensation would be there against the opposite party since admittedly the bus was owned by the opposite party No. 2 and its employee opposite party No. 1 was driving the bus.*

39] *Now, we come to the calculations. The yearly income of the deceased is concluded to Rs. 14,58,301/-. The deceased was below 40 years of age and was self-employed person doing the business as financial consultant. So, as per the judgment of **Pranay Sethi Vs National Insurance Company, 2017 (Vol. 2) ILR – CUT – 998 (SC)** , there would be 40% future prospects which comes to Rs. 5,83,320/-. With future prospects the income of the deceased rises to Rs. 20,41,621/-. The deceased left behind him five dependents and therefore there would be 1/4th deduction towards his personal expenses which comes to Rs. 5,10,405/-. With this deduction, the income remains to the tune of Rs. 15,31,216/- per annum. The relevant multiplier as per Hon'ble Supreme Court **Sarla Verma ..vs.. Delhi Transport Corporation 2009 ACK 1298 (SC)** is '16'. Thus, the net future loss of income comes to **Rs. 2,44,99,456/-**. (Rs. 15,31,216/- x 16). This is a net future loss of income.*

40] So far as the conventional heads are concerned, the fixed amount of consortium to the tune of Rs. 40,000/- each to all the five claimants as per their relations with deceased deserves to be given to them. That amount comes to Rs. 2,00,000/-. Similarly, Rs. 15,000/- each for funeral expenses and loss of estate would be there. As such conventional head comes to Rs. 2,30,000/-. As per the judgment of Hon'ble Supreme Court in case of ***Pranay Sethi Vs National Insurance Company, 2017 (Vol. 2) ILR – CUT – 998 (SC), dated 31/10/2017*** *there would be 10% increase in the conventional heads after every three years from the date of said judgment. We are in the second phase after three years from the date of said judgment. So 20% increase will have to be given in these conventional heads of Rs. 2,30,000/- which comes to Rs. 46,000/-. So the amount of conventional heads comes to* ***Rs. 2,76,000/-****.*

41] As such the claim rests to ***Rs. 2,47,75,456/-****."*

3. In the judgment dated 25th January 2024, the Tribunal awarded a sum of Rs. 2,47,75,456/- to the family of the victim and fastened the liability jointly and severally on the respondent nos. 1 and 2.

4. Mr. Shriram Pingle, the learned counsel for the appellant- Pune Mahanagar Parivahan Mahamandal Limited submits that the findings recorded by the Tribunal as to rash and negligent driving by the bus driver is contrary to the materials on record, in as much as, there are evidences vide *panchanama* at Exhibit-27 which would establish that the road was completely closed. The learned counsel for the appellant-Pune Mahanagar Parivahan Mahamandal Limited further submits that there are other evidences on record

which were completely ignored by the Tribunal while awarding compensation to the tune of Rs. 2,47,75,456/-.

5. Insofar as the allegation of rash and negligent driving by the driver of the bus is concerned, the Tribunal after meticulous examination of the materials on record including the map at Exhibit-27 observed that while the deceased was travelling in a perpendicular direction, that is, South-North to 42 feet wide road for taking right turn, the bus driver running through another such perpendicular South-North road came to 42 feet wide road to take left turn and thus the accident took place. It was, accordingly, held that the negligence on the part of the bus driver was established.

6. Insofar as the computation of income is concerned, here also, the Tribunal has taken note of the documents and records including the Income Tax Returns of the deceased so as to compute the total income for four consecutive financial years. Accordingly, the Tribunal has arrived at a finding that the yearly income of the deceased, at the time of his death was Rs. 14,58,301/-. The age of the deceased was below 40 years and he was a self-employed person. By recording such findings of fact, supported by materials on record, the Tribunal has made following observations in paragraph no. 39 so as to compute the future loss of income of the deceased to Rs. 2,44,99,456/-:-

> *"39. Now, we come to the calculations. The yearly income of the deceased is concluded to Rs. 14,58,301/-. The deceased was below 40 years of age and was self-employed person doing the business as financial consultant. So, as per the*

> *judgment of **Pranay Sethi Vs National Insurance Company, 2017 (Vol. 2) IIR - CUT - 998 (SC)**, there would be 40% future prospects which comes to Rs. 5,83,320/-. With future prospects the income of the deceased rises to Rs. 20,41,621/-. The deceased left behind him five dependents and therefore there would be 1/4th deduction towards his personal expenses which comes to Rs. 5,10,405/-. With this deduction, the income remains to the tune of Rs. 15,31,216/- per annum. The relevant multiplier as per Hon'ble Supreme Court **Sarla Verma ..vs.. Delhi Transport Corporation 2009 ACK 1298 (SC)** is '16'. Thus, the net future loss of income comes to Rs. 2,44,99,456 (Rs. 15,31,216/- x 16). This is a net future loss of income."*

7. After considering the impugned order passed by the Tribunal, we do not find any justifiable ground to disagree with the findings recorded therein.

8. The proceedings in a claim for compensation arising out of motor accident are summary in nature. The assessment of evidence by the Tribunal is not open to challenge on mere showing of some error committed by the Tribunal. It is necessary to keep in mind the object behind the compensation awarded under the Motor Vehicles Act, 1988 which is a piece of beneficial legislation. It is the duty of the Court to read a beneficial provision in the widest possible manner so as to achieve the object behind the legislation. In a claim for compensation, the Tribunal is required to take a holistic view of the matter and not to pick up holes in case of the claimant to deny him the benefit of compensation. An error committed by the Tribunal can be a ground to interfere with a judgment rendered by the Tribunal provided it is demonstrated before the Court that the mistake committed by

the Tribunal is substantial in nature and goes into the root of the matter. The appellant has, however, failed to demonstrate so.

9. In view thereof, First Appeal No. 693 of 2024 is dismissed with cost of Rs. 2 lakhs to be paid to the respondents within a period of four weeks from today in addition to the decreetal amount awarded by the Tribunal.

10. The learned counsel for the appellant seeks leave of six weeks to challenge the said order. This prayer is declined for the reason that no question of law, leave alone any substantial question of law arises in this First Appeal.

(SUMAN SHYAM, J) **(CHIEF JUSTICE)**