REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 009014 OF 2022
(arising out of Special Leave Petition (Civil) No. 18808 of 2019)

SMT. ANJALI & ORS. … APPELLANT(S)

VS.

LOKENDRA RATHOD & ORS. … RESPONDENT(S)

JUDGMENT

KRISHNA MURARI, J.

Leave Granted

2. The present appeal arises from a judgment of the Madhya Pradesh High Court dated 16th August, 2018 in a First Appeal from the decision of the Motor Accident Claims Tribunal, Indore.

3. The Appellants are the heirs and legal representatives of Rajesh (deceased) who died as a result of a motor accident on 15th August 2010.

www.taxcode.in

He was traveling in a Maruti Alto Car bearing Registration No. MP-09-HE-3322, on reaching Badwah Road, a bus bearing Registration No. MP-09-FA-3169 being driven by Respondent No.2 in a rash and negligent manner crashed into the Rajesh's car, resulting in Rajesh (deceased) receiving grievous injuries on various body parts, he later succumbed to the injuries during treatment. He is survived by his two wives, three children and his parents, who are the appellants before this Court.

4. The claimants/appellants filed a Claim Petition under Section 166 of the Motor Vehicles Act, 1988 before the Tribunal, seeking compensation in the amount of Rs.20 Lakhs. By its award dated 12th July, 2013**,** the Tribunal estimated the deceased's income at Rs.4000/- per month and allowed the claim in the amount of Rs.6,24,000/- together with interest at the rate of 6% per annum from the date of filing the Claim Petition till the date of full realization of the decreed amount. The appellants filed a First Appeal before the High Court of Madhya Pradesh, Indore Bench, wherein vide impugned judgment dated 16th August, 2018 the High Court increased the deceased's estimated income to Rs. 5000/- per month and awarded a compensation of Rs. 11,41,000/- with interest at the rate of 6% per annum from the date of filing the Claim Petition till the

date of full realization of the decreed amount. Aggrieved by the judgment of the High Court, the claimants are in appeal before this Court.

5. There is no dispute as to the occurrence of the accident and the liability of the respondent- insurer to pay the compensation. In view of this admitted position, it is unnecessary to narrate the factual aspects of the accident.

6. The deceased was aged 28 years at the time of the accident, and he used to run a business of scrap and earned Rs. 15,000/- per month as claimed by the appellants, in support the appellants had filed the deceased's Income Tax Return for financial year 2009-2010 before the Tribunal which showed the total income of deceased to be Rs.1,18,261/-, approx. Rs.9855/- per month. The MACT disregarded the deceased's Income Tax Return on the ground that neither any ITR prior to 2009-2010 nor any other document with regard to the deceased's income was filed before the Tribunal. The MACT while relying on this Court's judgment in ***Laxmi Devi & Ors. Vs. Mohammad Tabbar & Anr.***[1], held the deceased to be a skilled labour and fixed his income at Rs.4000/- per month i.e., Rs.48,000/- per annum. The Tribunal applied a multiplier of '17' and deducted one-fourth (1/4th) of the income towards his personal

1 (2008) 12 SCC 165

www.taxcode.in

expenses for the purpose of calculation of the compensation under the head of loss of dependency. A total sum of Rs.6,12,000/- was awarded towards loss of dependency, to this Rs.10,000/- was added for loss of pain & suffering and Rs.2,000/- for funeral expenses. The MACT awarded a total sum of Rs.6,24,000/- (Rupees Six Lakh Twenty-Four Thousand only) towards compensation with interest @ 6% per annum from the date of the Claim Petition till date of realization.

7. However, the High Court held that the Tribunal was unjustified in estimating the deceased's income as Rs.4,000/- per month, considering that the deceased was the sole bread earner of the family, the High Court estimated the deceased's income as Rs.5,000/- per month. Furthermore, the High Court observed that the Tribunal failed to pass any award under the head of 'future prospects', hence the High Court held that since the deceased was 28 years of age and self-employed, he was entitled to future prospects of 40%. The High Court fixed the monthly income of the deceased to Rs.5,000/- per month, added 40% (Rs.2,000/-) of the deceased's income towards future prospects and deducted one-fourth (1/4th) of the income towards personal expenses, which totaled to Rs.63,000/-. It applied a multiplier '17' for calculating the dependency

and awarded Rs.70,000/- under conventional head. Accordingly, the High Court awarded a compensation of Rs.11,41,000/- (Rupees Eleven Lakh Forty-One Thousand Only) with interest @ 6% per annum from the date of the claim petition till date of realization.

8. Assailing the High Court's impugned order dated 16th August, 2018, the learned Counsel appearing on behalf of the Appellants has contended:-

a. The High Court and the Tribunal failed to consider the deceased's Income Tax Return filed on **28.05.2010** for the year 2009-2010, the HC rejected the ITR on the ground that earlier returns were not filed while the Income Tax Inspector was examined.

b. The High Court and Tribunal failed to observe that since the number of dependents exceeded 6 members, the deduction made towards personal expenses ought to be one-fifth (1/5th). In the present case there are 7 dependents of the deceased.

c. The Tribunal failed to award any amount under the Conventional Heads and the High Court awarded a sum of Rs.70,000/- in lumpsum under the Conventional Heads, whereas the same ought to have been Rs.1,20,000/- as per the

Supreme Court's judgment in ***Malarvizhi & Ors. Vs. United India Insurance CO. Ltd. & Ors.***[2]

d. Both the Tribunal and High Court awarded interest at the rate of 6% per annum from the date of application while it ought to have been 9% as held in ***Malarvizhi & Ors. Vs. United India Insurance Co. Ltd. & Ors.(Supra).***

9. The Tribunal and the High Court both committed grave error while estimating the deceased's income by disregarding the Income Tax Return of the Deceased. The appellants had filed the Income Tax Return (2009-2010) of the deceased, which reflects the deceased's annual income to be Rs.1,18,261/-, approx. Rs.9,855/- per month. This Court in ***Malarvizhi & Ors. (Supra)*** has reaffirmed that the Income Tax Return is a statutory document on which reliance be placed, where available, for computation of annual income. In ***Malarvizhi (Supra),*** this Court has laid as under:

> *"10. …We are in agreement with the High Court that the determination must proceed on the basis of the income tax return, where available. The income tax return is a statutory document on which reliance may be placed to determine the annual income of the deceased."*

2 (2020) 4 SCC 228

Hence, this Court is of the opinion that the deceased's annual income be fixed at Rs.1,18,261/-, approx. Rs.9,855/- per month keeping in mind the deceased's Income Tax Return for the year 2009-2010.

10. The provisions of the Motor Vehicles Act, 1988 (for short, **"MV Act"**) gives paramount importance to the concept of 'just and fair' compensation. It is a beneficial legislation which has been framed with the object of providing relief to the victims or their families. Section 168 of the MV Act deals with the concept of 'just compensation' which ought to be determined on the foundation of fairness, reasonableness and equitability. Although such determination can never be arithmetically exact or perfect, an endeavor should be made by the Court to award just and fair compensation irrespective of the amount claimed by the applicant/s. In ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.***[3]**,** this Court has laid down as under:

> *"16. ..."Just compensation" is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit."*

3 (2009) 6 SCC 121

www.taxcode.in

11. In ***Sarla Verma (Supra),*** it was further held that where the deceased was married, the deduction towards personal and living expenses of the deceased should be one-third (1/3rd) where the number of dependent family members is between 2 and 3, one-fourth (1/4th) where the number of dependent family members is between 4 and 6, and one-fifth (1/5th) where the number of dependent family members exceeds six. The same has been affirmed by the Constitution Bench of this Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.***[4]

12. In the instant case the deceased is survived by seven (7) dependents, hence in view of the ***Sarla Verma (Supra)*** judgment and the Constitution bench judgment of this Court in ***Pranay Sethi (Supra)*** the appropriate deduction for personal expenses for deceased ought to be 1/5th only and not 1/4th as applied by the Tribunal and High Court.

13. Regarding the additions to be made for future prospects of the deceased, in ***Sarla Verma (Supra)***, this Court has held that while calculating the compensation, the courts should take into consideration not only the actual income at the time of the death but should also make additions by taking note of future prospects. It was further held that

4 (2017) 16 SCC 680

though the evidence may indicate a different percentage of increase, it is necessary to standardize the addition to avoid disparate yardsticks being applied or disparate methods of calculation being adopted.

14. In ***Pranay Sethi (Supra)***, this Court has not only approved the aforesaid observations made in ***Sarla Verma (Supra),*** but also held as under:

> *"59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*
>
> *59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."*

15. The Tribunal erred by not making any additions to future prospects of the deceased, whereas the High Court by placing reliance on ***Sarla Verma (Supra)*** and ***Pranay Sethi (Supra)*** held that since the deceased was under 40 years of age and was self-employed, he be entitled to

addition of future prospects of 40% of his established income. We find no error in the High Court's reasoning for adding 40% of the deceased's income towards future prospects.

16. The Tribunal awarded meagre sums of Rs.10,000/- and Rs.2,000/- towards conventional heads and funeral expenses, respectively, whereas the High Court while placing reliance on ***Pranay Sethi (Supra)*** awarded Rs.70,000/- under conventional heads and Rs.10,000/- towards funeral expenses of the deceased. Although the High Court was correct in placing reliance on ***Pranay Sethi (Supra),*** the High Court erred by not granting an increment of 10% on the conventional heads in every three years as directed in the ***Pranay Sethi (Supra),*** it may be relevant to extract the following observations :-

> *'52…..The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix*

> *reasonable sums. It seems to us 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. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads."*

Hence, we are of the opinion that the High Court ought to have added the increment of 10% to the conventional heads as per the dictum in ***Pranay Sethi (Supra).***

17. A three-Judge Bench of this Court in ***United India Insurance Co. Ltd. vs. Satinder Kaur @ Satwinder Kaur and Ors.***[5] after considering ***Pranay Sethi (Supra)***, has awarded spousal consortium at the rate of Rs.40,000/ (Rupees forty thousand only) and towards loss of parental consortium to each child at the rate of Rs.40,000/ (Rupees forty thousand only). The compensation under these heads also needs to be increased by 10%. Thus, the spousal consortium is awarded at Rs.44,000/ (Forty-four thousand only), and towards parental consortium at the rate of Rs.44,000/ each (Total Rs.1,32,000/) is awarded to the three children.

5 (2021) 11 SCC 780

www.taxcode.in

18. In light of the above mentioned discussion, the Appellants are entitled to the following amounts:

Sl. No.	Head	Compensation Awarded
1.	Income	Rs. 9,855/- per month
2.	Future Prospects	Rs.3,942/- (i.e. 40% of the income)
3.	Deduction Towards personal expenses	Rs.2,300/- (i.e. 1/6th of Rs.9,855 + Rs.3,942)
4.	Total Annual Income	Rs.1,37,964/- [(i.e. 5/6th of Rs.9,855 + Rs.3,942) x 12]
5.	Multiplier	17
6.	Loss of Dependency	Rs.23,45,388/- (i.e. Rs.1,37,964 x 17)
7.	Funeral Expenses	Rs. 50,000/-
8.	Loss of Estate	Rs. 20,000/-
9.	Loss of Spousal Consortium	Rs. 44,000/-
10.	Loss of Parental Consortium to each of the three children.	Rs. 44,000/- each
11.	Total Compensation to be Paid	Rs.25,91,388/-.

Thus the total compensation payable to the Appellants is Rs.25,91,388/- with interest at 9% per annum from the date of filing of the application till the date of payment of the compensation to the Appellants.

19. The appeal is allowed to the extent indicated above.

www.taxcode.in

……..……..,J.
(KRISHNA MURARI)

……..……..,J.
(BELA M. TRIVEDI)

NEW DELHI;
06TH DECEMBER, 2022