2025 INSC 1237

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. ..... OF 2025
(@ Special Leave to Appeal (C) no. 19878/2022)

MANORMA SINHA & ANR. ...APPELLANT (S)

VERSUS

THE DIVISIONAL MANAGER, ORIENTAL INSURANCE COMPANY LIMITED & ANR. ...RESPONDENT (S)

J U D G M E N T

MANOJ MISRA, J.

1. Leave granted.

2. This appeal arises out of judgment and order of the High Court of Judicature at Patna[1] dated 04.07.2022 passed in Miscellaneous Appeal No. 804 of 2017, whereby the compensation awarded by the XI[th] Additional District and Sessions Judge – cum - Motor Accident Claims Tribunal, Muzaffarpur[2] in Claim Case No. 196 of 2011 was reduced from Rs. 88,20,454 to Rs. 38,15,499.

[1] High Court
[2] Tribunal

3. As liability to pay compensation is not in issue, the question that arises for our consideration is whether the High Court was justified in reducing the compensation payable to the appellant.

4. The operative part of the award passed by the Tribunal including computation of compensation is found in paragraphs 10 to 12 of the award, which are reproduced below:

> "10. *Multiplier*: So far quantum of compensation is concerned, the proper multiplier will be 18 as per Schedule-II of the M.V. Act, as the age of deceased was 27 years as per evidence on record.
>
> As per Ext. A & A/1 submitted by O.P. No. 2 Insurer (Insurance Company) and also Ext. 1 salary slip submitted by Claimant the salary of the deceased for the month of Feb., 2011 was as under:
>
> Basic Pay – Rs. 26,420/-
> D.A.: 43% - Rs. 11,360/-
> Local Allowance:
> 10% - Rs. 2,642/-
> Other allowances:
> 49% i.e. Rs. 12,945.80
>
> Thus, total salary of deceased comes to Rs. 53,367 per month. Therefore, loss of dependency would come to Rs. 53,367 x 12 x 18 = Rs. 1,15,27,272/-
>
> Out of which ½ his personal expenses would be deducted and then loss of dependency would be Rs. 57,63,636/-. In which 50% future prospects would be added i.e. amount Rs. 28,81,818/- then loss of dependency would be Rs. 86,45,454/-.
>
> 11. In addition, the claimants are entitled to get a sum of Rs. 1,00,000/- under the head of loss of estate, Rs. 1,00,000/- towards loss of love and affection and Rs. 15,000/- as funeral expenses.

Thus, total compensation will be Rs. 88,70,454/- Hence, claimants are entitled to get Rs. 88,70,454/- with interest thereon at the rate of 6% per annum.

12. Perusal of case record it is evident that claimants have already received Rs. 50,000/- as ad-interim compensation U/s. 140 M.V. Act. Hence, this amount would be adjusted from the amount of Rs. 88,70,454/-. Then it comes to Rs. 88,20,454/- as total compensation U/s. 166 M.V. Act. Hence claimants are entitled to get the said amount with interest thereon @ 6% per annum. Therefore, it is,

ORDERED

That the O.P. No. 2 Oriental Insurance Company Limited, Muzaffarpur is directed to pay the total compensation amount of Rs. 88,20,454/- to the claimants within two months with interest thereon @ 6% per annum from the date of filing till the date of realization failing which the law will take its own course."

5. On an appeal preferred by the Insurance Company (the respondent herein), the High Court computed the compensation in the following manner:

"In view of the above, the computation of the claim of the appellant would be as follows:

1. Monthly basic salary	Rs. 26,420/-
2. D.A. (43%)	Rs. 11,360/-
3. Future prospect @ 40%	Rs. 15,892/-
	Rs. 52,892/-
4. Yearly income (52,892 x 12)	Rs. 6,34,704/-
5. Less of 30% income tax	-1,90,411/-
	Rs. 4,44,293/-
6. Less of 50% personal expense (unmarried)	- 2,22,146/-
	Rs. 2,22,147
7. Multiplier (17 x 2,22147)	Rs. 37,76,499/-
8. Conventional head (unmarried) (30,000 + 3,000 each in 2014, 2017 and 2020)	+ 39,000
	Rs. 38,15,499/-

The aforesaid total amount of Rs. 38,15,499/- shall be paid by the Insurance Company to the

> respondent/claimants within a period of three months with interest thereon at the rate of 6% per annum from the date of petition till the date of realization."

6. The difference between the order of the Tribunal and that of the High Court as regards the mode of computation of compensation is clear. The High Court while computing the compensation has, *inter alia*, excluded the allowances payable as per the last pay slip and gave future prospects at the rate of 40% in place of 50% as was given by the Tribunal. Besides above, the High Court made a flat deduction of 30% towards income tax.

7. We have heard the learned counsel for the parties and have perused the materials on record.

8. The submission of the learned counsel for the appellant is that the High Court has erred in not including the allowances payable for computing the compensation and has also erred in reducing the income by a flat rate of 30% deductible towards income tax even though it might not be even leviable. It is submitted that if any deduction towards income tax is to be made it cannot be at a rate different from the rate at which the tax is

payable on the annualized income based on the last pay slip. It has been submitted that the income tax slab prevailing in 2011 were: annual income up to Rs.1.60 lacs – Nil; annual income between Rs.1.60 lacs to Rs.5 lacs – 10%; annual income between Rs.5 lacs and Rs. 8 lacs – 20%; and annual income above Rs.8 lacs - 30%.

9. Per contra, the learned counsel for the respondent submitted that though the tax payable may vary but the allowances must be excluded in computation of salary in view of decision of this Court in the case of ***Gestetner Duplicators (Pvt.) Ltd. v. Commissioner of Income Tax, West Bengal***[3]. Further, while computing compensation deduction towards income tax is to be made as held by this Court in ***Ranjana Prakash & others v. Divisional Manager & another***[4].

10. We have given due consideration to the rival submissions.

11. Before we proceed to determine the just compensation payable in the context of submissions made before us, it would be useful to mention that there is no dispute in

[3] (1979) 2 SCC 354
[4] (2011) 14 SCC 639

respect of the age of the deceased at the time of accident, which, as per finding returned by the Tribunal, not disturbed by the High Court, was 27 years. Therefore, multiplier of 17, which has been adopted by the High Court is correct.[5]

12. Now, the next question is whether allowances are to be added to the salary for determining the multiplicand. In ***National Insurance Co. Ltd. v. Indira Srivastava & Ors.***[6] it was held that "*the term income has different connotations for different purposes. A court of law, having regard to the change in societal conditions consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family*". In ***Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation***[7] a three-Judge Bench of this court noticing earlier decisions on the point observed that "*the income should include those benefits, either in terms of money or*

[5] See: Sarla Verma & Ors. v. Delhi Transport Corporation & Ors., (2009) 6 SCC 121, paragraph 42, affirmed in National Insurance Company Limited v. Pranay Sethi & Ors., (2017) 16 SCC 680, paragraph 59.6.
[6] (2008) 2 SCC 763, paragraph 9
[7] 2018 SCC OnLine SC 193 paragraph 11

otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may not be taxable due to exemption conferred thereupon under the statute." Following the decision in ***Vijay Kumar Rastogi*** *(supra)* in ***National Insurance Company Ltd. v. Nalini & Ors.***[8] it was held by this Court that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, ought to be included irrespective of whether they are taxable or not. Thus, in our view, the High Court erred in excluding the allowances from the computation to arrive at the multiplicand. Hence, the total monthly income was rightly computed by the Tribunal at Rs.53,367.

13. As regards deduction towards income tax is concerned, same is permissible in view of the decision of this Court in ***Ranjana Prakash***[9] *(supra)*. However, in our view, deduction towards income tax should be at such rate which the annual income may be subjected to in the

[8] 2024 SCC OnLine SC 2252
[9] See Paragraph 9 of the judgment in Ranjana Prakash referred to in Footnote 4

relevant year. It is not demonstrated that the allowances received were exempt from income tax. Even the nature of allowances has not been disclosed to enable us to determine whether they are exempt from tax. Therefore, we include them in the annual income and compute the annual income as Rs. 6,40,400 (approximately) for the purposes of tax. The tax payable in the relevant year (i.e., with reference to the date of death) would be Rs.62,080 (Tax: Nil up to Rs. 1.60 lacs; Rs.34,000 @ 10% up to Rs.5.00 lacs; and Rs.28,080 @ 20% up to Rs.6,40,400). Thus, net annual income from salary after deduction of income tax, with the allowances, would be Rs.5,78,324.

14. In so far as addition for future prospects is concerned, High Court gave @ of 40% of actual income whereas Tribunal gave @ of 50%. The deceased was an Engineer employed with Power Grid Corporation of India, which is a public sector undertaking. There is no material to indicate that his job was not permanent in nature or that he was on a contract for a limited period. In such circumstances, in our view, addition for future prospects

would have to be at the rate of 50% considering that deceased was aged below 40 years at the time of accident.[10] Therefore, the High Court was not justified in adding future prospects at the rate of 40% in place of 50% as awarded by the Tribunal.

15. In view the discussion above, after deducting 50% towards personal expenses, 50% of annual net salary would be Rs.2,89,162. 50% of it for future prospects would be Rs.1,44,581. Thus, net annual income post deduction towards personal expenses and addition for future prospects would be Rs.4,33,743. Consequently, the multiplicand for determining loss of dependency would be Rs.4,33,743. As we have found that multiplier would be 17, the loss of dependency would be 4,33,743 X 17 = Rs.73,73,631. Compensation payable under conventional heads such as loss of filial consortium, loss of estate and funeral expenses can be taken at the rate specified in ***Pranay Sethi (supra)***[11] as the accident is of the year 2011. Hence, we deem it appropriate to add Rs.15,000 towards loss of estate, Rs.40,000 towards

[10] See paragraph 59.3 of the judgment in Pranay Sethi (see footnote 5)
[11] See: Paragraph 59.8 of Pranay Sethi decision referred to in Footnote No.5

loss of filial consortium and Rs.15,000 towards funeral expenses to Rs.73,73,631 to determine total compensation payable as Rs.74,43,631.

16. We, therefore, allow the appeal, modify the order of the High Court by enhancing the compensation payable to the appellants to Rs.74,43,631 with a direction that the aforesaid compensation shall carry interest @ six percent per annum from the date of the claim petition till the date of actual payment.

.....**J.**
(Pamidighantam Sri Narasimha)

.....**J.**
(Manoj Misra)

New Delhi;
October 15, 2025