

cannot be said to be exorbitant for the following reasons:-

(i) the child has suffered grave injuries;

(ii) the tribunal has considered her condition and has held that though the multiplier is of the higher side that she would not be able to earn in future.

8. The amount of Rs.2,27,560/-for the injuries caused to the minor even in those days cannot be said to be such which requires any interference.

9. The interim relief shall stand vacated forthwith. The amount be deposited however with interest at the rate of 9% to that extent.

10. The amount kept in fixed deposit shall be released in favour of minor who by now must have attained majority.

11. This appeal under Section 173 of the Motor Vehicles Act, 1988 shall stands **partly allowed**.

(2022)02ILR A737
APPELLATE JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 16.12.2021

BEFORE

THE HON'BLE DR. KAUSHAL JAYENDRA
THAKER, J.
THE HON'BLE AJAI TYAGI, J.

First Appeal From Order No. 1447 of 2005

Smt Seema Yadav & Ors. ...Appellants
Versus

Vinod Kumar Bajpai & Ors. ...Respondents

Counsel for the Appellants:

Sri Ram Singh

Counsel for the Respondents:

(A) Civil Law - Motor Vehicles Act, 1988 - quantum of compensation - Income Tax Act, 1961 - Section 194A (3) (ix) - total amount of interest, accrued on the principal amount of compensation is to be apportioned on financial year to financial year basis - if the interest payable to claimant for any financial year exceeds Rs.50,000/- - insurance company/owner is/are entitled to deduct appropriate amount under the head of 'Tax Deducted at Source'- Order of investment not passed because applicants /claimants are neither illiterate nor rustic villagers. (Para - 8,18)

Tribunal awarded a sum of Rs.4,85,000/- - with interest @ 6% as compensation - not granted any amount towards future loss of income of the deceased - multiplier applied 6. (Para - 1,6)

HELD:-Total compensation awarded : 14,72,800. Multiplier applied 11. Deceased in the age bracket of (51-60) years as salaried person, 20% of the income added as future prospects . Rate of interest fixed at 7.5%. Judgment and decree passed by the Tribunal stand modified. Respondent-Insurance Company shall deposit the amount along with additional amount within a period of 12 weeks from today with interest at the rate of 7.5% from the date of filing of the claim petition till the amount is deposited. (Para - 6,7,13)

Appeal partly allowed. (E-7)

List of Cases cited:-

1. National Insurance Co. Ltd. Vs Pranay Sethi & ors., 2017 0 Supreme (SC) 1050

2. New India Assurance Co. Ltd. v. Urmila Shukla & ors., 2021 ACJ 2081,

3. Sarla Verma Vs Delhi Transport Corporation, (2009) 6 SCC 121

4. A.V. Padma V/s. Venugopal, 2012 (1) GLH (SC), 442

5. Smt. Hansaguti P. Ladhani v/s The Oriental Insurance Co. Ltd., 2007(2) GLH 291

6. Smt. Sudesna & ors. Vs Hari Singh & anr., First Appeal From Order No.23 of 2001

7. National Insurance Co. Ltd. Vs Mannat Johal & ors., 2019 (2) T.A.C. 705 (S.C.)

(Delivered by Hon'ble Dr. Kaushal
Jayendra Thaker, J.
&
Hon'ble Ajai Tyagi, J.)

1. Heard Shri Ram Singh, learned counsel for the appellants, learned counsel for the respondents; and perused the record.

2. This appeal, at the behest of the claimants, challenges the judgment dated 14.2.2005 passed by Motor Accident Claims Tribunal/Additional District Judge, Court No.7, Fatehpur (hereinafter referred to as 'Tribunal') in Motor Accident Claim Petition No.60 of 2003 awarding a sum of Rs.4,85,000/- with interest at the rate of 6% as compensation.

3. The accident is not in dispute. The issue of negligence decided by the Tribunal is not in dispute. The respondent concerned has not challenged the liability imposed on them. The only issue to be decided is, the quantum of compensation awarded.

4. It is submitted by learned counsel for the appellants that the Tribunal has not granted any amount towards future loss of income of the deceased which is required to be granted in view of the decision in **National Insurance Company Limited**

Vs. Pranay Sethi and Others, 2017 0 Supreme (SC) 1050. It is further submitted that amount under non-pecuniary heads granted and the interest awarded by the Tribunal are on the lower side and require enhancement and learned counsel submitted that deceased was General Manager in U.P. Sahkari Katai Mills and was getting Rs.15,783/- per month. It is also submitted that as the deceased was survived by his widow, two major children and one minor son and hence the deduction towards personal expenses of the deceased should be 1/4th and not 1/3rd. The multiplier has to be as per age of deceased should have been granted 11 and not 6.

5. Learned counsel for the respondents, has vehemently objected the contentions raised by the learned counsel for the appellants and has submitted that the compensation awarded by the Tribunal is just and proper and does not call for any enhancement.

6. Having heard learned counsel for the parties and considered the factual data, this Court found that the accident occurred on 31.10.2002 causing death of Ram Naresh Yadav who was 52 years of age and left behind him, widow, two major children and one minor son. The Tribunal has assessed the income of the deceased to be Rs.13000/- per month which is 1,56,000/- per annum is not in dispute. The multiplier of 11 could not have been granted even in the year 2002, it is reduced to 6. The tribunal has erred itself in not considering the multiplier as per the age of deceased and has deducted amount which he could not deduct holding that they were personal benefits to the deceased. We cannot concur with the tribunal as far as holding that the deceased was entitled to that the multiplier of 6. The multiplier has to be considered to

be 11 which would be admissible to the family. We are considering to be Rs.1,56,000/- per annum which we feel is just and proper. The deductions made by the tribunal could not have been made. To which as the deceased was age in the age bracket of (51-60) years as salaried person, 20% of the income will have to be added as future prospects in view of the decision of the Apex Court in **New India Assurance Co. Ltd. v. Urmila Shukla and others, 2021 ACJ 2081, National Insurance Company Limited Vs. Pranay Sethi and Others, 2017 0 Supreme (SC) 1050**. Hence we would add 20% of the income as he was a salaried person and his income considered to be Rs.13,000/- per month. As far as deduction towards personal expenses of the deceased is concerned, it should be 1/3rd as the deceased had four persons to feed and as two of them have minor and not 1/4th. The multiplier of 11 would be granted as deceased was in the age bracket of 51-60 years.

7. In this backdrop let us see evaluate the income in view of the judgment of **New India Assurance Co. Ltd. v. Urmila Shukla and others, 2021 ACJ 2081, National Insurance Company Limited Vs. Pranay Sethi and Others, 2017 0 Supreme (SC) 1050 and Sarla Verma Vs. Delhi Transport Corporation, (2009) 6 SCC 121** and and, the

ii. Percentage towards future prospects : 20% namely Rs.2600/-

iii. Total income : Rs. 13000 + 2600 = Rs.15600/-

iv. Income after deduction of 1/3 : Rs.10,400/-

v. Annual income : Rs.10,400 x 12 = Rs.1,24,800/-

vi. Multiplier applicable : 11 (as the deceased was in the age bracket of 51-55 years)

vii. Loss of dependency: Rs.1,24,800 x 11 = Rs.13,72,800/-

viii. Amount under non pecuniary heads : Rs.70,000/- + Rs.30,000/-

ix. Total compensation : Rs.14,72,800/-.

8. On depositing the amount in the Registry of Tribunal, Registry is directed to first deduct the amount of deficit court fees, if any. Considering the ratio laid down by the Hon'ble Apex Court in the case of **A.V. Padma V/s. Venugopal, Reported in 2012 (1) GLH (SC), 442**, the order of investment is not passed because applicants /claimants are neither illiterate or rustic villagers.

9. In view of the ratio laid down by Hon'ble Gujarat High Court, in the case of **Smt. Hansaguti P. Ladhani v/s The Oriental Insurance Company Ltd., reported in 2007(2) GLH 291**, total amount of interest, accrued on the principal amount of compensation is to be apportioned on financial year to financial year basis and if the interest payable to claimant for any financial year exceeds Rs.50,000/-, insurance company/owner is/are entitled to deduct appropriate amount under the head of 'Tax Deducted at Source' as provided u/s 194A (3) (ix) of the Income Tax Act, 1961 and if the amount of interest does not exceeds Rs.50,000/- in any financial year, registry of this Tribunal is directed to allow the claimant to withdraw

the amount without producing the certificate from the concerned Income- Tax Authority. The aforesaid view has been reiterated by this High Court in Review Application No.1 of 2020 in First Appeal From Order No.23 of 2001 (**Smt. Sudesna and others Vs. Hari Singh and another**) while disbursing the amount.

10. Fresh Award be drawn accordingly in the above petition by the tribunal as per the modification made herein. The Tribunals in the State shall follow the direction of this Court as herein aforementioned as far as disbursement is concerned, it should look into the condition of the litigant and the pendency of the matter and not blindly apply the judgment of A.V. Padma (supra). The same is to be applied looking to the facts of each case.

11. As far as issue of rate of interest is concerned, it should be 7.5% in view of the latest decision of the Apex Court in **National Insurance Co. Ltd. Vs. Mannat Johal and Others, 2019 (2) T.A.C. 705 (S.C.)** wherein the Apex Court has held as under :

"13. The aforesaid features equally apply to the contentions urged on behalf of the claimants as regards the rate of interest. The Tribunal had awarded interest at the rate of 12% p.a. but the same had been too high a rate in comparison to what is ordinarily envisaged in these matters. The High Court, after making a substantial enhancement in the award amount, modified the interest component at a reasonable rate of 7.5% p.a. and we find no reason to allow the interest in this matter at any rate higher than that allowed by High Court."

13. In view of the above, the appeal is **partly allowed**. Judgment and decree

passed by the Tribunal shall stand modified to the aforesaid extent. The respondent-Insurance Company shall deposit the amount along with additional amount within a period of 12 weeks from today with interest at the rate of 7.5% from the date of filing of the claim petition till the amount is deposited. The amount already deposited be deducted from the amount to be deposited.

14. Record be sent back to court below forthwith.

15. The amount be disbursed in the proportion which is ordered by the

16. We are thankful to learned counsels for the parties for ably assisted the Court.

(2022)02ILR A740

**APPELLATE JURISDICTION
CIVIL SIDE**

DATED: ALLAHABAD 26.11.2021

BEFORE

THE HON'BLE SYED AFTAB HUSAIN RIZVI, J.

First Appeal From Order No. 1716 of 2010

**Rishi Ram Sahu & Anr. ...Appellants
Versus
Mahendra Kumar Tripathi & Ors. ...Respondents**

Counsel for the Appellants:
Sri S.D. Ojha

Counsel for the Respondents:
Sri Shreesh Srivastava

(A) Civil Law - Motor Vehicles Act, 1988 - Compensation Enhancement - Daughter of appellants (claimants) - aged about 6 years - died in accident - filed claim petition before motor accident claim tribunal - an award of Rs.