

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2024  
(ARISING OUT OF SLP(CIVIL) NO. 15643/2016)

KAVITA NAGAR & ORS. ... APPELLANT(S)

Versus

THE ORIENTAL INSURANCE CO. ... RESPONDENT(S)  
LTD. AND OTHERS

WITH

CIVIL APPEAL NO(S). OF 2024  
(ARISING OUT OF SLP(CIVIL) NO. 36070 OF 2016)

WITH

CIVIL APPEAL NO(S). 12046 OF 2017

WITH

CIVIL APPEAL NO(S). OF 2024  
(ARISING OUT OF SLP(CIVIL) NO. 7992 OF 2016)

O R D E R

Leave granted in all the Special Leave Petitions.

2. The appeal @ Special Leave Petition (C) No.15643 of 2016 arises from a judgment dated 11<sup>th</sup> February, 2016 of the High Court of Delhi in MAC Appeal No. 312 of 2014, whereby the appeal of the Insurance Company was allowed and grant of future prospects in the claim of dependents of a fixed salary employee was set

aside.

3. The appeal @ SLP (C) No.36070 of 2016 is directed against the judgment dated 17<sup>th</sup> March, 2016 of the High Court of Delhi in MAC Appeal No. 251 of 2013, wherein also the grant of future prospects to the dependent-claimants of a fixed salary employee were set aside.

4. Civil Appeal No.12046 of 2017 and the appeal @ S.L.P.(C)No.7992 of 2016 are filed by the Insurance Company against the dismissal of their appeals before the High Court of Punjab and Haryana vide judgments dated 29<sup>th</sup> November, 2016 and 10<sup>th</sup> August, 2015 respectively, whereby the grant of future prospects in cases of fixed salary employees has been upheld.

5. The appellants-claimants in appeal @ SLP (C) No.15643 of 2016 are the dependents of the deceased who met with an accident and succumbed to his injuries on 19<sup>th</sup> October, 2010 and was of young age at the time of his demise. The claimants proved that the deceased was less than 35 years and was working as a site inspector with a building and construction company. On the basis of the documents such as children's fee receipts, identity cards and others, to show the

financial status of the family produced by the appellants-claimant's, Tribunal was satisfied that the deceased was earning Rs.14,000/- per month. The Tribunal held that the claimants are entitled for 30% increase towards future prospects, in light of the judgment in *Santosh Devi v. National Insurance Co. Ltd*<sup>1</sup>.

6. The High Court while relying on the judgment in *Sarla Devi & Ors. vs. DTC and Anr.*<sup>2</sup>, held that since the deceased was working on a fixed salary with no proof of periodical increase, the claimants cannot be held entitled to the element of future prospects of increase in income.

7. Appellants in appeal @ SLP (C) No.36070 of 2016, being aggrieved by the compensation awarded by the Tribunal, the Insurance Company preferred an appeal before the High Court. By the impugned judgment, the High Court reduced the award passed by the Tribunal.

8. Aggrieved by the judgment passed by the High Court, the appellants-claimants are before us in this Civil Appeal who are the wife and son of the deceased

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1 (2012) 6 SCC 421

2 (2009) 6 SCC 121

who was of young age at the time of his demise on 19<sup>th</sup> February, 2010.

9. It has been held to be proved before the Tribunal that the deceased was 35 years old and employed as a security guard earning Rs.6,000/- per month, at the time of the accident. The Tribunal granted addition for future prospects by an escalation of 50 percent.

10. The High Court in the impugned order, while relying on *Sarla Devi* (supra) has set aside the addition of future prospects, holding that the claimants would not be entitled to it since the evidence on record would not show any progressive rise in income of the deceased.

11. It has been held in *Santosh Devi* (supra) that the Tribunals and Courts must take note of the rise in cost of living and even self-employed persons cannot be taken to remain on a fixed salary throughout their lives. Salaries of even those employed in the private sector increase manifold with passage of time. Thus, increase in income in light of future prospects has to be added in case where deceased was self-employed or engage on fixed wages as well.

12. The above view has been upheld and further substantiated by this Court in the case of *National Insurance Company Ltd. v. Pranay Sethi & Ors.*<sup>3</sup>, wherein this Court noted that:

"57. Having bestowed our anxious consideration, we are disposed to think when we accept the principle of standardization, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust. 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 Act. In case of a deceased who had held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to state that the legal representatives of a deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be inapposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and staticness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a perception is fallacious. It is because the price rise does affect a self-employed person; and that apart there is always an incessant effort to enhance one's income for sustenance. The purchasing capacity of a salaried person

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3 (2017) 16 SCC 680

on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to garner his resources and raise his charges/fees so that he can live with same facilities. 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. Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in the case of a person having a permanent job, yet the said perception does not really deserve acceptance. We are inclined to think that there can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary. But not to apply the principle of standardization on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground reality. And, therefore, degree-test is imperative. Unless the degree-test is applied and left to the parties to adduce evidence to establish, it would be unfair and inequitable. 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."

13. In motor accident claim cases, it is imperative to consider the future aspects of a person's earning potential when determining compensation. Simply focusing on a deceased individual's current income at the time of death disregards the natural progression of a career or the intrinsic motivation to improve one's financial position over time. Both self-employed individuals and those on fixed salaries strive to increase their earnings, adapting to economic changes such as inflation and the cost of living. While individuals on a fixed salary may appear to have a predictable income, this view overlooks the reality that salaries, even for employees in permanent positions, generally increase over time due to factors like inflation, promotions, and company policies. For instance, a government employee or someone in the private sector with a fixed salary may still receive annual increments, benefits, or adjustments based on performance, seniority, or pay revisions. These incremental increases reflect the natural progression of a person's career and the adjustment to cost-of-

living changes, making it unjust to disregard future earning potential simply because an individual receives a fixed salary. Similarly, those who are self-employed, though lacking the certainty of a regular salary, are still motivated to grow their income to maintain their standard of living in an ever-changing economy. The view expressed in *National Insurance Company Ltd.* (Supra), rightly emphasizes that failing to account for these dynamics creates a distorted view, where individuals in self-employment or fixed-income roles are presumed to have a stagnant earning potential. This outlook is fundamentally flawed because it negates the drive for income growth, which is inherent to human ambition and sustenance.

14. The need to factor in future prospects when determining compensation becomes even clearer and more pressing when considering the basic human drive to sustain and improve one's life. A self-employed individual, just like someone on a fixed salary, strives to increase their income to meet growing expenses and to adapt to changing circumstances. This is particularly important when considering the purchasing power and quality of life, which tend to

increase as a person's career progresses. The notion that a self-employed person's income will remain static is flawed, as they, too, make efforts to raise their fees or charges to keep pace with inflation and market demands. For instance, someone working in a government role or another fixed-income job might receive annual salary adjustments or benefits, reflecting a growth trajectory over time. Similarly, a self-employed professional—such as a doctor, lawyer, or small business owner—will often increase fees or expand services to keep pace with rising costs. Recognizing these future prospects ensures a fair and just compensation by aligning with real-world economic dynamics, which Section 168 of the Motor Vehicles Act, 1988 seeks to uphold.

15. This drive to improve one's income is universal, regardless of the employment status, and should be reflected in the compensation calculations for motor accident claims. As the precedent in the quoted judgment suggests, it is unjust to disregard future prospects solely based on the perceived static nature of the income. Instead, a degree-test should be applied, accounting for factors like age, career

growth, and economic conditions, ensuring fair compensation that reflects the individual's true earning potential over time.

16. In the present cases, owing to the age of the deceased and the findings of the Tribunal with respect to his salary, the principles of just compensation and standardization need to be applied. It would be apposite to hold that someone on a fixed salary would not be entitled to the benefit of future prospects. Simply because there is no certainty of periodic increase unlike those with permanent employment with fixed annual increments, such a comparison and distinction between the categories is unjust and unreasonable, as increasing costs of living affect everyone and everyone would make the effort increase their income over time. Thus, we find no validity in the order of the High Court to the extent of setting aside of the addition of the future prospects owing to the deceased being employed on a fixed salary.

17. Regard being had to the fact that the accident had taken place a long while ago and considering the material on record and weighing the facts and circumstances of each case, limited to the extent of

granting future prospects which has been reduced by the High Court although awarded by the Tribunal, the appeals @ SLP (C) No.15643 of 2016 and SLP (C) No.36070 of 2016 are allowed.

18. In view of the above, the appeals abovementioned are allowed to the extent indicated above. The awards passed by the Tribunal that have been reduced by the High Court stand modified accordingly. The orders of the High Court are set aside and orders of the Tribunal are restored. There shall be no order as to costs.

19. Now, coming to the two appeals filed by the Insurance Company, as we have already observed, the addition of future prospects cannot be denied in cases of self-employed persons or those employed on a fixed salary. We do not find any merit in these appeals warranting interference in the impugned judgments and orders passed by the High Court of Punjab & Haryana at Chandigarh.

20. The appeals are, accordingly, dismissed.

21. Pending application(s), if any, shall stand disposed of.

..... .J.  
[VIKRAM NATH]

..... .J.  
[PRASANNA B. VARALE]

NEW DELHI;  
SEPTEMBER 18, 2024.

ITEM NO.8

COURT NO.7

SECTION IV-B

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 7992/2016  
(Arising out of impugned final judgment and order dated 10-08-2015  
in FAO No. 5199/2015(O&M) passed by the High Court Of Punjab &  
Haryana At Chandigarh)

ORIENTAL INSURANCE CO. LTD.

Petitioner(s)

VERSUS

SURESH DEVI & ORS.

Respondent(s)

( IA No. 76548/2024 - VACATING STAY)

WITH

SLP(C) No. 15643/2016 (XIV)

SLP(C) No. 36070/2016 (XIV)

C.A. No. 12046/2017 (IV)

Date : 18-09-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH  
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Parties(s)

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Mr. M.s. Bhangle, Adv.  
Mr. Rahul Dubey, Adv.  
Ms. Pragya Singh, Adv.  
Mr. Sunny Singh, Adv.  
Mr. Akshay Singh, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted in all the special leave petitions.

The appeals are allowed and the appeals filed by the Insurance Company are dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SONIA BHASIN)  
COURT MASTER (SH)

(RANJANA SHAILEY)  
COURT MASTER (NSH)

[Signed order is placed on the file]