

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1736 of 2020
[@ Special Leave to Appeal (C) No(s). 10286/2018]

KUSUM LATA & ORS.

Appellant(s)

VERSUS

VIJAY SINGH & ANR.

Respondent(s)

WITH
CIVIL APPEAL NOS. 1737-1738 of 2020
[@ SLP(C) Nos. 22322-22323/2018]

O R D E R

These two appeals have been filed by the claimants and by the New India Assurance Company Ltd. respectively challenging the judgment dated 13.09.2017 passed by the High Court in FAO No. 145 of 2011.

An accident took place on 28.04.2006 in which two persons namely Pawan Kumar @ Hawa Singh and Billu Singh had died. The petitions under Section 166 of the Motor Vehicles Act, 1988 were filed by the dependents of Pawan Kumar and Billu Singh.

The present appeal (Civil Appeal No. 1736 of 2020 @ Special Leave to Appeal (C) No(s). 10286/2018) has been filed by the dependents of late Billu Singh claiming enhancement of compensation as has been granted by the Tribunal and slightly increased by the High Court.

The claim of the claimants in MACT Case No. 10 RT of 2006 was that the deceased was engaged in driving work and in some

agricultural operations and was earning Rs. 10,000/- per month. Oral evidence was also led by the claimants. The Motor Accident Claims Tribunal assessed the income of the deceased as Rs.3,500/- per month. 1/3 deduction was directed and accordingly the total amount computed was Rs.4,76,000/- on account of the death of Billu Singh. Since the deceased was 32 years of the age, multiplier of 17 was applied. The total amount which was ultimately computed was Rs.5,25,000/- along with interest at the rate of 8% per annum.

Aggrieved by the said judgment, the appeal was filed by the claimants before the High Court. The High Court by its impugned judgment has enhanced the amount to Rs.7,06,000/-.

Still not satisfied with the amount granted by the High Court, this appeal has been filed.

Learned counsel for the appellants submits that the claim of income before the Motor Accident Claims Tribunal was Rs.10,000/- per month and an oral evidence was led by the wife of the deceased. He submits that the Motor Accident Claims Tribunal as well as the High Court erred in deciding the monthly income at Rs.3,500/- which was even less than minimum wages. He further submits that the claimants were also entitled for future prospects in view of the judgment of this Court passed in *National Insurance Company Limited v. Pranay Sethi & Ors.* [(2017) 16 SCC 680].

Learned counsel for the Insurance Company in support of the appeal contends that the High Court committed an error in granting Rs.1,00,000/- as consortium to each claimants.

We have considered the submissions of learned counsel for the parties and perused the record.

In so far as the submissions regarding monthly income of the deceased - Billu Singh is concerned, we are satisfied that there was sufficient evidence on record including the oral evidence of the wife of the deceased, although the claim was made at Rs.10,000/- per month, we are of the view that ends of justice be served in increasing the monthly income at Rs.5,000/- per month. In so far as the submissions of learned counsel for the claimants that future prospects was liable to be added, we find force and the said submission is duly supported by the Constitution Bench judgment of this Court in *Pranay Sethi* (supra). The claimants were thus entitled to 40% of future prospects.

Coming to the appeal by the Insurance company, we are of the view that the amount of consortium has to be calculated at the rate of Rs.40,000/- as per the law laid down in *Pranay Sethi* (supra). We, thus, are of the view that both the appeals deserve to be partly allowed, we direct the Motor Accident Claims Tribunal to recalculate the entitlement as per the following directions:

(i) monthly income of the deceased to be treated as Rs.5,000/- per month;

(ii) there shall be a deduction of 1/3 as held by the Motor Accident Claims Tribunal;

(iii) the amount of consortium will be Rs.40,000/- as laid down in *Pranay Sethi* (supra); and

(iv) the claimants shall be entitled for 40% towards future prospects which shall be added in the income.

With the aforesaid directions, we dispose of the appeals. The claimants shall also be entitled for interest at the rate of 8% per annum.

As per the order passed by the Motor Accident Claims Tribunal, the question of liability of the insurer as well as the owner and driver shall be decided by the Executing Court. We, however, make it clear that the Insurance Company shall make the payment as per the order of the Executing Court and recover the same, if so permitted by the Executing Court as noted above.

.....J.
[ASHOK BHUSHAN]

.....J.
[K.M. JOSEPH]

NEW DELHI;
February 20, 2020.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 10286/2018

(Arising out of impugned final judgment and order dated 13-09-2017 in FAO No. 145/2011 passed by the High Court Of Punjab & Haryana At Chandigarh)

KUSUM LATA & ORS.

Petitioner(s)

VERSUS

VIJAY SINGH & ANR.

Respondent(s)

WITH

SLP(C) No. 22322-22323/2018 (IV-B)

Date : 20-02-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s)

Mr. Dinesh Chander, Adv.
Mr. Vibhur Sushaw Gupta, Adv.
Mr. N.K. Verma, Adv.

Mr. Bharat Bhushan, AOR

Mr. Varinder Kumar Sharma, AOR

For Respondent(s)

Mr. S.L. Gupta, Adv.
Mr. Varinder Kumar Sharma, AOR
Mr. Mata Prasad Singh, Adv.
Ms. Ranjana R. Singh, Adv.
Mr. Ashutosh Sharma, Adv.
Ms. Gunjan Sharma, Adv.
Ms. Mangla, Adv.
Mr. Kuldeep Singh Tomer, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The civil appeals are disposed of in terms of the signed order.

Pending application, if any, stands disposed of.

(MEENAKSHI KOHLI)
AR-CUM-PS(RENU KAPOOR)
COURT MASTER

[Signed order is placed on the file]