

2025 LiveLaw (SC) 309

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SANJAY KAROL; J., PRASHANT KUMAR MISHRA; J.

24th January, 2025.

CIVIL APPEAL NO. 3763 OF 2025 (Arising out of SLP(C) No.6986 of 2023)

SADHANA TOMAR & ORS. *versus* ASHOK KUSHWAHA & ORS.

Motor Vehicles Act, 1988 - A legal representative is one, who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent or child. The term 'legal representative' under the Motor Vehicle Act should not be given a narrow interpretation to exclude those persons as claimants who were dependent on the deceased's income. The father and sister, being financially dependent, were legal representatives under the Act entitling them to compensation. [Relied on: *Gujarat SRTC v. Ramanbhai Prabhatbhai*, (1987) 3 SCC 234 & *N. Jayasree v. Cholamandalam MS General Insurance Company Ltd.* (2022) 14 SCC 712, (Para 13 – 15)]

Motor Vehicle Accidents Claims - Determination of compensation – Monthly income of deceased fruit seller – Multiplier – Deduction for personal expenses – Inclusion of father and sister as dependents – Liability of insurer to pay and recover from driver and owner - Deceased, aged 24, died in a motor vehicle accident. Tribunal awarded compensation based on a notional income of Rs. 4,500 per month, deducting 1/3rd for personal expenses, and excluding the deceased's father and sister as dependents - High Court affirmed - Whether the Tribunal and High Court correctly assessed the monthly income, applied the appropriate multiplier, made the correct deduction for personal expenses, and rightly excluded the father and sister as dependents – Held, the Supreme Court disagreed with the lower courts' assessment of the deceased's monthly income. Considering the deceased's occupation as a fruit seller, the Court adopted the minimum wage for an unskilled worker (Rs. 6,500 per month) as a basis. The multiplier of 18, as applied by the High Court, was upheld as per *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680. The father and sister, being financially dependent, were legal representatives under the Motor Vehicles Act, 1988, entitling them to compensation. Therefore, the deduction for personal expenses was reduced to 1/4th. The insurance company must first pay the award and then recover from the driver and owner of the offending vehicle, as the driver lacked a valid license. The total compensation was enhanced from Rs. 9,77,200 to Rs. 17,52,500. The appeals were allowed, and the tribunals order was modified. (Para 16 & 17)

[Arising out of impugned final judgment and order dated 19-09-2022 in MA No. 5231/2018 passed by the High Court of Madhya Pradesh at Gwalior]

For Petitioner(s): Mr. Praveen Swarup, AOR

For Respondent(s): Mr. Salil Paul, Adv. Ms. Manjeet Chawla, AOR Mr. Sahil Paul, Adv. Mr. Sandeep Dayal, Adv. Ms. Kanupriya Mehta, Adv.

ORDER

Time taken for disposal of the claim petition by MACT	Time taken for disposal of the appeal by the High Court	Time taken for disposal of the appeal in this Court
1 year 10 months	3 years 10 months	1 year 10 months

Leave Granted

2. The present appeal is directed against the judgment and order dated 19th September 2022, passed in Miscellaneous Appeal No.5231 of 2018 by the High Court of Madhya Pradesh at Gwalior, which, in turn, was preferred against the order dated 9th October 2018 in Claim Case No.680/2016 passed by Motor Accidents Claims Tribunal, Gwalior (M.P.).
3. The brief facts giving rise to this appeal are that : on 25th September 2016, the deceased, namely Dheeraj Singh Tomar, aged 24 years, was travelling in an Auto bearing registration No. MP 30-R-0582 (hereinafter referred to as the “offending vehicle”) along with other passengers. The driver of the offending vehicle was driving rashly and negligently, overturned the offending vehicle at Gohad Chauraha Road near Gautum Nagar, Bajrang Washing Centre at Gwalior, due to which the deceased died on the spot and the other passengers suffered injuries.
4. The Appellants (dependents of the deceased) filed a claim petition before the Tribunal seeking compensation of Rs.28,50,000/-, submitting therein that the deceased was earning up to Rs.35,000/- per month, by doing wholesale business of fruit selling to meet the daily expenses of the family.
5. The Tribunal by its Order dated 9th October 2018, observed that Respondent No.1 and 2 are jointly and severally liable to pay compensation as the driver, at the time of accident, was driving the vehicle without a valid and effective driving licence. The Tribunal awarded compensation to the tune of Rs.9,77,200/- along with simple interest @ 7% p.a. to appellant No.1 to 3 herein, by taking the notional income of the deceased as Rs.4,500/- per month and fixing the future prospects at 40 per cent. A deduction of 1/3rd amount for personal expenses was made, and Appellant Nos.4 and 5, i.e., his father and younger sister were not considered as dependents of the deceased.
6. Being aggrieved by the amount of compensation awarded, the claimant-appellants filed an appeal before the High Court. The main ground of challenge was that the Tribunal had incorrectly determined the monthly income of the deceased at Rs.4,500/- per month, whereas it should have been Rs.35,000/- per month; and also, that the Tribunal had deducted 1/3rd amount from the annual income of the deceased towards personal expenses, whereas since there are five claimant-appellants, the deduction for personal expenses ought to have been by 1/4th.
7. The High Court, vide its impugned judgment, affirmed the findings of the Tribunal in respect of the amount of compensation awarded and disposed of the same by holding that the insurance company to pay the amount of compensation to the claimants and, thereafter, recover the same from the driver and owner of the offending vehicle as they

are jointly and severally liable to pay the compensation in accordance with the decision of this Court in ***National Insurance Co. Ltd. v. Swaran Singh & Ors.* [(2004) 3 SCC 297]**.

8. Yet dissatisfied, the claimant-appellants are now before us. The points raised by the appellants are that the High Court incorrectly assessed the monthly income of the deceased at Rs.4,500/-, and the appropriate multiplier was also not applied.

9. We have heard the learned counsel for the parties.

10. We are unable to agree with the view taken by the Tribunal and the High Court on the monthly salary of the deceased. It is borne from the record that he was doing wholesale business of selling fruits. It is true that in the absence of any material on record, the claimantappellants were not able to prove the income of the deceased. However, it is imperative to note that the accident took away such a potential earning member of the family.

11. For this purpose, we advert to the Notification of 2016 under the Minimum Wages Act, 1948, the monthly income for an unskilled worker was fixed at Rs.6,500/-. Consequently, the annual income of the deceased comes to Rs.78,000/-.

12. Further, the claimant-appellants contended that the High Court did not apply the appropriate multiplier while calculating the compensation. As per the ***National Insurance Co. Ltd. v. Pranay Sethi* [(2017) 16 SCC 680]**, the law is settled that the multiplier for a person of the age of 24 years must be 18 and the same has been correctly taken by the High Court.

13. This Court has clarified in the case of ***Meena Devi v. Nunu Chand Mahto* [(2023) 1 SCC 204]**, that the objective of granting compensation under the Motor Vehicles Act, 1988, is to ensure that just and fair compensation is paid to the aggrieved party. Another question which arose for our consideration, as for the purpose of loss of dependency, the deduction of annual income should be 1/3rd or 1/4th, as there are five claimants. The Tribunal did not consider appellant Nos.4 and 5, namely, the father and the younger sister, respectively, of the deceased as dependents, stating therein that the father was not dependent on the income of the deceased and since the father is alive, the younger sister is also not dependent on the income of the deceased. This Court in ***Gujarat SRTC v. Ramanbhai Prabhatbhai* [(1987) 3 SCC 234]**, observed that a legal representative is one, who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent or child.

14. Recently in ***N. Jayasree v. Cholanmandalam MS General Insurance Company Ltd.* [(2022) 14 SCC 712]**, this Court observed that :

“16. In our view, the term “legal representative” should be given a wider interpretation for the purpose of Chapter XII of the MV Act and it should not be confined only to mean the spouse, parents and children of the deceased. As noticed above, the MV Act is a benevolent legislation enacted for the object of providing monetary relief to the victims or their families. Therefore, the MV Act calls for a liberal and wider interpretation to serve the real purpose underlying the enactment and fulfil its legislative intent. We are also of the view that in order to maintain a claim petition, it is sufficient for the claimant to establish his loss of dependency. Section 166 of the MV Act makes it clear that every legal representative who suffers on account of the death of a person in a motor vehicle accident should have a remedy for realisation of compensation.”

(Emphasis supplied)

15. In our view, in furtherance of the above exposition of law, the appellant Nos.4 and 5 being the father and younger sister of the deceased, both not financially independent, would fall under the definition of legal representatives for the purpose of claiming the compensation under the Motor Vehicles Act, 1988, and they were considered as dependents upon the income of the deceased, as he was doing wholesale business of selling fruits to meet the day-to-day expenses of the family. Therefore, the deduction made towards the personal expenses of the deceased should be $\frac{1}{4}^{\text{th}}$ as the number of dependent family members is five.

16. In the present case, it is necessary to note, as observed by the Tribunal, that the driver and the owner of the offending vehicle are liable to pay compensation, as the driver did not possess an effective driving licence. On these facts, the High Court directed Respondent No.3 - the Insurance Company, to first pay the compensation awarded to the appellants and then, recover the same from respondent Nos.1 the driver and respondent No.2, the owner, who are jointly and severally liable to pay the same. On this aspect, we are not inclined to interfere with the impugned order.

17. In view of the above discussion, the compensation payable to the claimant-appellants is as follows :

CALCULATION OF COMPENSATION

Compensation Heads	Amount Awarded	In Accordance with:
Monthly Income	Rs.6,500/-	National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC 680 Para 42, 52 & 59
Yearly Income	Rs.78,000/-	
Future Prospects (40%) (Age being 24)	1,98,192 + 31,200= Rs.1,09,200/-	
Deduction (1/4)	1,09,200 – 27,300= Rs.81,900/-	
Multiplier (18)	81,900 X 18= Rs.14,74,200/-	
Loss of Estate	Rs.18,150/-	
Loss of Funeral Expenses	Rs.18,150/-	
Loss of Consortium	48,400 X 5 = Rs.2,42,000/-	
Total	Rs. 17,52,500/-	

Thus, the difference in compensation is as under:

MACT	High Court	This Court
Rs.9,77,200	Rs.9,77,200	Rs.17,52,500/-

18. The Civil Appeal is allowed in the aforesaid terms. The impugned award dated 9th October 2018 passed in Claim Case No.680/2016 passed by Motor Accident Claims Tribunal, Gwalior M.P.), as modified by the High Court vide the impugned order dated 19th September 2022, passed in Miscellaneous Appeal No.5231 of 2018, stands modified accordingly. Interest is to be paid as awarded by the Tribunal.

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

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