

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S).8246-8247/2019
(Arising out of Special Leave Petition No(s). 32542-32543/2017)

RENU RANI SHRIVASTAVA & ANR.

APPELLANT(S)

VERSUS

NEW INDIA ASSURANCE COMPANY LTD. & ORS.

RESPONDENT(S)

WITH
CIVIL APPEAL NO. 8248/2019 @ SLP(C) No. 33660/2017

O R D E R

Leave granted.

In the accident that occurred on 28.06.2008, Mr. Palash Kumar who was working as Senior Editor in Asian Age, Mumbai which is under Deccan Chronicle Holding Limited lost his life. He left behind his wife, daughter and parents. The Motor Accidents Claims Tribunal, Alwar (hereinafter called as 'MACT') awarded compensation of Rs.1,37,25,000/- taking income of the deceased at Rs.12 lakhs per year. The MACT deducted 25% of the income towards personal expenses and adopted the multiplier as

15. It has held that the lorry which was involved in the accident was fully responsible and consequently, the respondent/Insurance Company herein is liable to reimburse the compensation. The High Court in appeal, reduced the compensation to Rs.1,03,50,000/- holding that the driver of the car that is the deceased Mr. Palash Kumar was responsible to the extent of 50%. The claimants/appellants are before this Court.

Learned counsel for the respondent/Insurance Company submitted that the High Court was justified in concluding that the accident was due to contributory negligence of both the drivers and, therefore, respondent/Insurance Company is liable to pay 50% of the compensation. He further submitted that the wife of the deceased has relinquished her share in favour of her in-laws and got certain properties in lieu thereof and, therefore, the wife of the deceased is not entitled to any compensation.

The High Court in its judgment has wrongly recorded that the breadth of the road was 9.5 feet. On the contrary, the breadth of the road was 9.5 steps, which means about 20 feet breadth. It is not in dispute that the deceased Mr. Palash Kumar was coming from Kishangarh side to Alwar side and the Lorry was coming from Alwar to

Kishangarh and there was a collision between two vehicles. The car was coming in correct side. It is clear from the record that the lorry went towards wrong side (right hand side of the road) and collided with the car of the deceased at point "A" and dragged the car from point "A" to point "B" i.e. to the extreme side of the road. These facts would clearly reveal that the driver of the lorry was not only reckless but also negligent in driving the vehicle and collided at point "A" which was the wrong side of the lorry driver and dragged the car to point "B". Looking into the entire discussion made by the High Court in its judgment, it is clear that the High Court has fallen into error by wrongly considering the breadth of the road.

Learned counsel for the appellant submits that the assessment of compensation by the MACT as well as by the High Court is improper inasmuch as the appellant is entitled to enhanced compensation. The future prospects of the deceased was not taken into consideration by the MACT as well as by the High Court.

In our considered opinion, learned counsel for the appellant is justified in arguing that the MACT as well as the High Court is not justified in awarding the future

prospects in favour of the deceased. The deceased was the Senior Editor in Asian Age. Though, it is not considered as a permanent job, 40% of the income of the deceased needs to be added for computing the compensation as future prospects. It is also to be taken note that 25% of income as personal expenses is to be deducted while quantifying the compensation. The MACT as well as the High Court has awarded Rs. 2,75,000/- under conventional heads. Having regard to the totality of the facts and circumstances, the appellants are entitled to compensation of Rs.2,06,75,000/- in toto.

The argument of the learned counsel for the respondent/Insurance Company with regard to the relinquishment of her share in favour of the other claimants and consequently she is not entitled to compensation, cannot be accepted. It is in between the family members to make arrangement with regard to the family affairs. The grant of compensation by the MACT or by the Court in respect of accidental death of a person will not be affected by the family arrangement of the parties inasmuch as the compensation as per law has to be awarded by the Court in favour of the dependants. The internal family matter of the parties will not affect the

award of compensation. Accordingly, the arguments of the respondent/Insurance Company are not sustainable. Compensation of Rs.2,06,75,000/- in toto is awarded. The same shall be shared by the family members of the deceased in the same proportion as is awarded by the MACT.

The appeals of the claimants/appellants are allowed and consequently the appeal of the Insurance Company is dismissed.

.....J.
[MOHAN M. SHANTANAGOUDAR]

.....J.
[AJAY RASTOGI]

NEW DELHI;
OCTOBER 23, 2019.

ITEM NO.9

COURT NO.13

SECTION XV

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). 32542-32543/2017

(Arising out of impugned final judgment and order dated 04-08-2017 in SBCMA No. 2157/2014 04-08-2017 in SBCMA No. 1335/2014 passed by the High Court Of Judicature For Rajasthan At Jaipur)

RENU RANI SHRIVASTAVA & ANR.

Petitioner(s)

VERSUS

NEW INDIA ASSURANCE COMPANY LTD. & ORS.

Respondent(s)

WITH

SLP(C) No. 33660/2017 (XV)

Date : 23-10-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s) Mr. Anuj Bhandari, Adv.

Mr. Amit Kumar Singh, AOR
Ms. K. Enatoli Sema, Adv.
Mr. Gaurav Prakash, Adv.

For Respondent(s) Mr. Amit Kumar Singh, AOR
Ms. K. Enatoli Sema, Adv.
Mr. Gaurav Prakash, Adv.

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

Leave granted.

The appeals arising out of SLP (C) No. 32542-32543/2017 are

allowed in terms of the signed order.

The appeal arising out of SLP(C) No. 33660 of 2017 stands dismissed in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI THAKUR)
COURT MASTER (SH)

(R.S. NARAYANAN)
COURT MASTER (NSH)

(Signed order is placed on the file)