

Sarup Singh @ Ram Sarup Vs. HDFC Ergo General Insurance Company Ltd. and Ors.

Civil Appeal Nos. 7283-7284 of 2022 @ S.L.P. (C) Nos. 31198-31199/2017
2022-01-01 | M.R. SHAH · C.T. RAVIKUMAR
Repository ID: F2J-C-1641

Full judgment text

Sarup Singh @ Ram Sarup Vs. HDFC Ergo General Insurance Company Ltd. and Ors.

[Civil Appeal Nos. 7283-7284 of 2022 @ S.L.P. (C) Nos. 31198-31199/2017]

M.R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court reducing the amount of compensation from Rs. 20,64,000/- as awarded by the learned Motor Accident Claims Tribunal (hereinafter referred to as the "Tribunal") to Rs.11,34,136/- alongwith interest @ 6% p.a., the original claimants have preferred the present appeals.

2. The deceased at the time of accident was of 28 years of age. The original claimants - wife of the deceased, minor daughter, father and sister of the deceased filed the claim petition before the Tribunal. The learned Tribunal considered the notional income of the deceased at Rs. 10,000/- per month and thereafter adding 30% towards the future prospect and thereafter deducting 1/4th towards the personal expense of the deceased, awarded Rs. 19,89,000/- under the head loss of dependency. The learned Tribunal also awarded Rs. 25,000/- towards loss of consortium or loss of love and affection and Rs. 50,000/- under the conventional head (funeral expenses and loss of estate). Thus, the learned Tribunal awarded a total sum of Rs.20,64,000/- with interest @ 9% p.a. towards the compensation for the death of the deceased.

3. In an appeal preferred by the insurance company, the High Court has reduced the amount of compensation to Rs. 11,34,136/- by considering the notional income @ Rs. 6,500/- per month and thereafter deducting 1/3rd towards the personal expense of the deceased and determined/awarded Rs. 8,84,136/- under the head loss of dependency. The High Court has also awarded a further sum of Rs. 1,00,000/- towards loss of consortium and Rs. 1,00,000/- towards loss of love and affection for the child and Rs. 50,000/- for loss of estate. However, the High Court has also reduced the rate of interest from 9% p.a. to 6% p.a. The impugned judgment and order passed by the High Court is the subject matter of the present appeal.

4. Having heard the learned counsel appearing on behalf of the respective parties and having gone through the impugned judgment and order passed by the High Court, we are of the opinion that the amount awarded by the High Court can be said to be on lower side. While awarding the loss of dependency, the High Court has not awarded/considered the future prospects at all. As per the decision of this Court in the case of National Insurance Company Limited Vs. Pranay Sethi and Ors., (2017) 16 SCC 680, there shall be 40% rise towards future prospects. Therefore, even if we consider the notional income @ Rs. 6,500/- per month as determined by the High Court and adding 40% towards future prospects and deducting 1/3rd towards personal expense of the deceased and by applying the multiple of 17, the claimant shall be entitled to Rs. 12,37,790/- under the head loss of dependency.

Considering the decision of this Court in the case of Pranay Sethi and Ors. (supra) and the recent decision of this Court in the case of Janabai and Ors. Vs. I.C.I.C.I. Lombard General Insurance Company Ltd., 2022 ACJ 2003, the claimant shall also be entitled to Rs. 40,000/- towards parental consortium for minor child; Rs. 40,000/- towards spousal consortium for wife and Rs. 40,000/- towards filial consortium for the father of the deceased. Thus, the claimants shall be entitled to Rs. 1,20,000/- under the head loss of consortium. The claimants shall also be entitled to Rs. 30,000/- under the conventional head (funeral expense and loss of estate). The High Court has also erred in reducing the interest from 9% p.a. to 6% p.a. Considering the fact that the deceased died in the year 2012, the claimants shall be entitled to the interest @ 7.5% p.a. Thus, the claimants shall be entitled to Rs. 13,87,790/- with interest @ 7.5% p.a.

5. In view of the above and for the reasons stated above, the present appeals are allowed in part. The impugned judgment and order passed by the High Court is modified and it is held and directed that the appellants shall be entitled to a total sum of Rs. 13,78,790/- with interest @ 7.5% p.a. from the date of filing

of the claim petition till realization towards the compensation for the death of the deceased.

Present appeals are accordingly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.

Source disclosure: Complete sanitized public judgment text retained for research. Official-primary replacement and later-history closure remain pending.

Disclaimer: This material is for general information and legal research. It is not legal advice. Verify current law, the operative order and later history, and consult a qualified professional before acting.