

Rahul Sharma & Anr. Vs. National Insurance Company Ltd. & Ors.

Civil Appeal No. 1769 of 2021 arising out of S.L.P. (C) No. 719 of 2018
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Full judgment text

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N.V. Ramana, CJI. ,

1. Leave granted.

2. The appellants before us seek to impugn the judgment dated 4th September, 2017, passed by the Delhi High Court in MAC. App. No. 740/2016.

3. The brief facts, necessary for the adjudication of this appeal are as follows: on the intervening night of the 18th/19th May, 2010, the vehicle in which parents of the Appellants were travelling rammed into a truck, near Phagwara, Punjab. Resultantly, they succumbed to the injuries sustained in the accident. The car was plying other relatives of the Appellants and the deceased. Thereafter, F.I.R. no. 76/10, was registered in PS Sadar Phagwara, Punjab under Sections 249, 304A, 427 of the Indian Penal Code, 1860 in this regard. It may be relevant to note that the vehicle was, during the relevant period, insured by the National Insurance Co. Ltd. (hereinafter, referred to as NIC), the Respondent No. 1 herein.

4. The Appellants instituted a claim petition before the Motor Accidents Claims Tribunal (hereinafter, "the MACT"), under Sections 166 and 140 of the Motor Vehicles Act, 1988, for grant of compensation for the death of their parents, which were registered as cases numbered, MACT No. 349/2010 (with respect to Mrs. Manisha Sharma) and MACT No. 350/2010 (with respect to Mr. Sunil Sharma), and were adjudicated vide a common award dated 7th June, 2016.

5. The present appeal pertains to the claim petition preferred on the account of the death of the appellants mother. The appellants' mother, Mrs. Manisha Sharma, was aged about 37 years and was a selfemployed individual.

6. The Tribunal, while adjudicating the claim, determined the compensation to be Rs. 41,55,235. The Tribunal relied upon the Income Tax Return of the deceased and concluded that her annual income was Rs. 2,55,349.

Based on the dictum of this Court in Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121, 50% addition was included towards future prospects and the multiplier was taken to be 15. Since, the deceased had two dependents, 1/3rd of the deceased's income was deducted on account of personal and living expenses. The nonpecuniary compensation was calculated at Rs. 3,25,000. The NIC, being the insurer of the vehicle, was held liable to pay the compensation of Rs. 41,55,235 with an interest of 9% per annum from the date of filing of the claim petition.

7. Aggrieved, the insurance company preferred an appeal against the award of the MACT before the Delhi High Court, which disposed of the appeal vide the impugned judgment dated 4th September, 2017. The High Court, in its common judgement, calculated the pecuniary compensation as Rs. 19,16,000 and the nonpecuniary damages was calculated as Rs.2,50,000, for a total compensation of Rs. 21,66,000/, in MAC. APP. 740/2016. While passing the aforesaid impugned order, the High Court deducted 50% of income towards personal and living expenses. The High Court however, held the deceased ineligible for the grant of future prospects as she was selfemployed.

8. Aggrieved by the impugned judgement, the Appellants have preferred the present appeal, by way of Special Leave, impugning only the compensation as modified in MAC. App. No. 740/2016.

9. We have heard the counsel for the Appellants and the counsel for the NIC, Respondent No. 1. The Respondents No. 2 and 3 have not tendered their appearances, despite service. The insurance company

has also placed on record their written submissions, which have been perused.

10. This Court in a Five Judge Bench decision in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680, clearly held that in case the deceased is selfemployed and below the age of 40, 40% addition would be made to their income as future prospects. In the present case, the deceased was selfemployed and was 37 years old, therefore, warranting the addition of 40% towards future prospects. Moreover, *Pranay Sethi* (supra), affirming the ratio in *Sarla Verma* (supra), held that the deduction towards personal and living expenses for a person such as the deceased who was married with two dependents, to be onethird (1/3rd). Since the High Court in the impugned judgment deducted 50% the same merits interference by this Court.

11. Therefore, in light of the above, the compensation as awarded to the Appellants by the High Court is modified to the extent of deduction towards personal and living expenses (determined to be onethird (1/3rd)) and 40% addition towards future prospects. The annual income of the deceased (Mrs. Manisha Sharma) was Rs. 2,55,349. After deducting personal and living expenses and adding future prospects, the annual income is determined at Rs. 2,38,326/. The multiplier of 15 is appropriate, considering the age of the deceased. Accordingly, the total loss of dependency, is calculated to be Rs. 35,74,890/. We do not find any reason to interfere with any other heads as determined by the High Court.

12. Hence, the total compensation is determined to be, Rs. 38,24,890/payable with interest of 9% per annum from the date of filing of the claim petition till realisation, set off against the part compensation already received, if any. 13. This Civil Appeal is disposed of in the aforesaid terms.

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

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