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MA-1278-2010

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE HIRDESH

ON THE 7th OF JANUARY, 2026MISC. APPEAL No. 1278 of 2010*SMT.GEETA DEVI AND OTHERS**Versus**RAMJAN KHAN AND OTHERS*

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Appearance:

Smt.Meena Singhal - Advocate for appellants- claimants.

Shri B.K.Agrawal- Advocate for respondent No.3- Insurance

Company.
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ORDER

This misc. appeal under Section 173(1) of the Motor Vehicles Act, 1988 has been filed by appellants- claimants seeking enhancement of compensation awarded by Additional Motor Accident Claims Tribunal, Ambah, District Moren (in " the Claims Tribunal"), in Claim Case No.108 of 2008.

2. The Claims Tribunal, by its award dated 12th March 2010, granted a total compensation of Rs.12,58,797/- with interest at the rate of 7% per annum from the date of the award. The appellants are aggrieved by the quantum of compensation awarded and, therefore, have preferred this appeal, praying for its enhancement.

3. In brief, the facts of the case are that deceased, Jaiveer Singh, was a constable in Madhya Pradesh Police Department. The Claimants filed a



claim petition before the Claims Tribunal, inter alia, stating that the deceased was a responsible and hardworking individual, known for his dedication to both his duties and his family. The deceased was the sole breadwinner for his family, and his untimely death resulted in severe financial hardship for the appellants, who are his legal heirs. The appellants are wife; son, parents and stepmother of deceased. At the time of his death, deceased was earning a monthly salary of Rs.14,000/- which he used to support his family. It was averred that on 4th February 2008, the deceased, along with his colleague Vajinath Singh Jatav, was traveling on a motorcycle to execute court warrants as part of his official duties. While traveling on the AB Road, near Nayagaon Gate, Subhashpura Police Station, deceased's motorcycle was struck from behind by a tanker bearing registration number MH 04AL2588 (in short " the offending vehicle). The tanker was being driven recklessly and at high speed by respondent No.2- Vikram Singh, employed by respondent No.1- Ramjan Khan (the owner of offending vehicle). As a result of the collision, both the deceased and his colleague Vajinath Singh Jatav died instantaneously. The appellants, being the legal heirs of deceased, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the loss of life of the deceased. They filed the claim against driver, owner, and insurer of tanker. In the claim petition, they claimed compensation to the tune of Rs.48,47,000/- for the loss of dependency, loss of love and affection, and other heads of damages.

4. After conducting proceedings, framing issues, and considering the oral and documentary evidence presented by parties, the Claims Tribunal



granted a total compensation of Rs. 12,58,797/- along with interest at the rate of 7% per annum from the date of impugned award.

5. The appellants have now approached this Court seeking an enhancement in compensation amount.

6. Aggrieved by the compensation awarded by the Claims Tribunal, it is contended on behalf by learned Counsel for appellants that the income of the deceased was not properly assessed by the Claims Tribunal. The Claims Tribunal relied on a lower monthly income of deceased at Rs.10,280/- instead of Rs.14,000/- which was actual salary of deceased. Monthly income of Rs.14,000/- should have been considered for calculating the compensation. The Claims Tribunal failed to consider the future prospects of deceased. Since the deceased was a Government employee, he was likely to receive promotions and increments in salary as per the Sixth Pay Commission. The Claims Tribunal should have awarded compensation for the loss of future prospects, and a sum of Rs.5 lac should have been added to the compensation. The Claims Tribunal's award of Rs.60,000/- for the loss of companionship, love, and affection is grossly inadequate. It is further contended that a minimum of Rs. 1 lac should have been granted under this head. Hence, the compensation amount be enhanced.

7. On the other hand, the learned counsel for Insurance Company has supported the Award passed by the Claims Tribunal and submitted that the compensation awarded was just and appropriate, considering the facts and circumstances of the case. There is no ground to enhance the compensation, and the appeal should be dismissed.



8. In addition, the Insurance Company has filed a cross-objection under Order 41 Rule 22 of the CPC, challenging several findings of the Claims Tribunal, including the findings on negligence, the multiplier applied, and the income assessment. It is submitted that the accident was not solely caused by negligence and that the Claims Tribunal erroneously applied the multiplier of 16 instead of correct multiplier. It is submitted that the appellants had filed a claim petition for compensation under Section 166 of Motor Vehicles Act on 04.02.2008 for Rs.48,47,000/-stating that deceased Jaiveer Singh died in an accident involving tanker No.MH 04 AL 2588. Insurance company, had also submitted a counterclaim, denying the incident and citing breach of insurance conditions as a defence, denying liability for damages. After consideration, the Claims Tribunal passed a final award of Rs.12,58,797/- along with 7% annual interest in the case. The award in question passed by Claims Tribunal is not maintainable as it is against the law and against the record. The incident caused by the vehicle in question and due to its speeding and negligence was not duly proved, and there was a mistake in not understanding it. The income of deceased accepted by claimants was not certified, and legal taxes were not taken into consideration for the same. Thus, considering the income to be higher, a higher award was given, which is not tenable. The age of deceased was more than what was considered (34 years), and the multiplier of 16 has been applied more than necessary. The dependency was also considered more by two-thirds. The Claims Tribunal failed to consider the legal aspect that, where there is a higher award, it is not mandatory to apply coefficient according to the



schedule. Thus, it applied a higher coefficient and wrongly held appellants Nos. 3 and 5 eligible for compensation. Rs.60,000/- has been wrongly and excessively awarded for mental and physical suffering, affection, and Rs.15,000/- for rituals and rent, which is not permissible. The Claims Tribunal has not properly appreciated the evidence and has awarded an excessive amount. Additionally, it has awarded interest at a higher rate. Therefore, having submitted the Cross-Objection, it is humbly requested that the same be taken on record and the award in question be kindly revoked.

9. Per contra, learned counsel for the appellants objected to the cross-objection filed by Insurance Company and prayed for its rejection. It is submitted by learned counsel for appellants that the Insurance Company, having satisfied with the award, is not entitled to file cross-objection, and the cross-objection is not maintainable. In support of her contention, she has placed reliance on the decision of this Court in *Smt. Sonam Devi and Others Vs. Rinki and Others, decided on 17th October 2023 in Misc. Appeal No. 4011 of 2023.*

10. In reply, learned counsel for the Insurance Company by placing reliance on the decision of the Hon'ble Supreme Court in the case of *Superintending Engineer and Others vs. B. Subba Reddy (1999) 4 SCC 423*, contended that cross-objection is nothing but an appeal, a cross-appeal at that. It may be that the respondent wanted to give a quietus to the whole litigation by accepting the judgment and decree or order even if it was partly against his interest. When, however, the other party challenged the same by filing an appeal, the statute gave the respondent a second chance to file an



appeal by way of cross-objection if he still felt aggrieved by the judgment and decree or order.

11. The Hon'ble Apex Court in the case of *B. Subba Reddy(supra)* has held as under:-

"23. From the examination of these judgments and the provisions Of Section 41 of the Act and Order 41 Rule 22 of the Code, in our view, following principles emerge:

(1) Appeal is a substantive right. It is a creation of the statute. Right to appeal does not exist unless it is specifically conferred,

(2) Cross objection is like an appeal. It has all the trappings of an appeal. It is filed in the form of memorandum and the provisions of Rule 1 of Order 41 of the Code, so far as these relate to the form and contents of the memorandum of appeal apply to cross-objection as well.

(3) Court fee is payable on cross-objection like that on the memorandum of appeal. Provisions relating to appeals by indigent person also apply to cross-objection.

(4) Everi Where the appeal is withdrawn or is dismissed for default, cross-objection may nevertheless be heard and determined.

(5) Respondent even though he has not appealed may support the decree on any other ground but if wants to modify it, he has to file cross-objection to the decree which objections he could have taken earlier by filing an appeal. Time for filing objection which is in the nature of appeal is extended by one month after service of notice on him of the day fixed for hearing the appeal. This time could also be extended by the Court like in appeal.

(6) Cross-objection is nothing but an appeal, a cross-appeal at that. It may be that the respondent wanted to give quietus to whole litigation by his accepting the judgment and decree or order even if it was partly against his interest. When, however, the other party challenged the same by filing an appeal statute gave the respondent a second chance to file an appeal by way of cross-objection if he still felt aggrieved by the judgment and decree or order."

12. Having heard learned counsel for the parties and carefully considering the law laid down by the Hon'ble Apex Court in the case of *B. Subba Reddy (supra)*, this Court is of the opinion that cross-objection filed by the Insurance Company is maintainable. Even though the Insurance Company has expressed satisfaction with the award, the law allows for a



cross-objection when a respondent feels aggrieved by certain aspects of the judgment, especially when the appellant(s) has raised a challenge to the award. Thus, the Insurance Company, having raised valid concerns regarding the negligence findings, multiplier, and other aspects of award, is well within its rights to file a cross-objection. This Court, therefore, allows cross-objection of Insurance Company, taking into consideration the submissions made, and principles of law established by the Hon'ble Supreme Court. The cross-objection is hence **taken on record**.

13. The only question remains for consideration of enhancement of compensation amount.

14 On perusal of documents (Ex.P1 to Ex.P3), it is clear that the gross salary of deceased was Rs.10,282/- and his net salary was Rs.8,212/-. The Claims Tribunal has assessed the monthly income of deceased at Rs. 8,537/- after adding professional tax of Rs. 125/-

15. In the case of **Sunil Sharma vs. Bachitar Singh and Others reported in 2011 AIR SCW 2811**, the Hon'ble Apex Court in regard to computation of compensation of income of deceased, has held that house rent allowance, CCA and medical allowance should be taken into consideration, so also amount of EPF and GIS should be included in the income of deceased but computer advance should not form part of monthly salary. Similar view has been taken by Hon'ble Apex Court in the case of **Raghuvir Singh Motolya and Others vs. Hari Singh Malviya and Others reported in (2009) 15 SCC 363** wherein it was held that HRA and DA should have been included for determining income of deceased.



16. The citation as relied upon by the Counsel for the appellants in the case of **Manorma Sinha and Another vs. Divisional Manager, Oriental Insurance Company Limited and Another** reported in 2025(4) TAC 353 (SC), the Hon'ble Apex Court in para 12 has observed as under:-

"12. Now, the next question is whether allowances are to be added to the salary for determining the multiplicand. In *National Insurance Co. Ltd. v. Indira Srivastava & Ors.*⁶ it was held that "the term income has different connotations for different purposes. A court of law, having regard to the change in societal conditions consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family". In *Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation*⁷ a three-Judge Bench of this court noticing earlier decisions on the point observed that "the income should include those benefits, either in terms of money or See: *Sarla Verma & Ors. v. Delhi Transport Corporation & Ors.*, (2009) 6 SCC 121, paragraph 42, affirmed in *National Insurance Company Limited v. Pranay Sethi & Ors.*, (2017) 16 SCC 680, paragraph 59.6. (2008) 2 SCC 763, paragraph 9 2018 SCC OnLine SC 193 paragraph 11 Civil Appeal @ SLP(C) No. 19878/2022 otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may not be taxable due to exemption conferred thereupon under the statute." Following the decision in *Vijay Kumar Rastogi (supra)* in *National Insurance Company Ltd. v. Nalini & Ors.*⁸ it was held by this Court that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, ought to be included irrespective of whether they are taxable or not. Thus, in our view, the High Court erred in excluding the allowances from the computation to arrive at the multiplicand. Hence, the total monthly income was rightly computed by the Tribunal at Rs.53,367."

17. In view of the law laid down by the Hon'ble Apex Court in the above cited cases, on perusal of impugned record of the Claims Tribunal, it is found that the Claims Tribunal has committed an error in holding the monthly income of deceased at Rs. 8537/- per month whereas the monthly income of deceased is Rs.10,282/-. The deceased was working in Madhya Pradesh Police Department. His date of birth is 05-06-1966 whereas the



alleged accident was happened on 04-02-2008, therefore, his age is more than 41 years i.e. in between 41 to 45 years, therefore, the multiplier of 14 should be applied in stead of multiplier of 16. Accordingly, the claimants are entitled to get the following compensation amount:-

Head Amount (Rs.)

Income (Rs. 10,282 X 13 months) 1,33,666/-

Deduction of Professional Tax (2,500)

Net Income After Deduction 1,31,166/-

Deduction for 3/4th (Dependency) (98,374/-)

Multiplier (14) 13,77,236/-

Future Prospects @ 30% 4,13,091/-

Total (Loss of Dependency) 17,90,406/-

Loss of Consortium (Rs. 40,000 X 4) 1,60,000/-

Loss of Estate & Funeral Expenses 30,000/-

Total Compensation 19,80,406/-

18. Thus, just and proper amount of compensation is Rs.19,80,406/-against the award of the Claims Tribunal of Rs.12,58,797/- Accordingly, the claimants are entitled to additional sum of Rs.7,21,609/- over and above the amount, which has been awarded by the Claims Tribunal.

19. In the result, the misc. appeal is partly allowed by enhancing the compensation amount by a sum of Rs.7,21,609/- and the enhanced amount shall carry interest from the date of payment of Court fees by the appellants in the present appeal (as per judgment passed by Coordinate Bench of this Court (Jabalpur Bench) relied by learned Counsel for the Insurance Company in the case of *Smt. Munnai Bai and Others vs. Mujaffar Hussain and Another*, decided on 11th of December, 2023 passed in MA No. 4544 of



2019). The said enhanced amount be paid within a period of three months from the date of receipt of certified copy of this order. Rest of conditions as imposed by Claims Tribunal shall remain intact. If the enhanced amount of compensation is in excess to the valuation in the misc. appeal, the difference of Court fee (if not already paid) shall be deposited by the appellants-claimants within a period of one month and proof thereof, shall be submitted before the Registry and thereafter, the Registry shall issue the certified copy of the order passed today.

20. The instant misc. appeal **stands disposed of** to the extent indicated hereinabove.

(HIRDESH)
JUDGE