

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Civil Miscellaneous Appellate Jurisdiction)

M.A. No. 373 of 2018

Dilip Rana

..... Appellant

Versus

1. Gajadhar Singh, S/o Angrej Singh

2. Prakash Kumar Singh

3. Royal Sundaram Alliance Insurance Co. Ltd.

... Respondents

**CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO
(Through :-Video Conferencing)**

For the Appellant

: Mr. Arvind Kr. Lall, Advocate

For the Respondent nos.1 & 2

: Mr. Prabhash Kumar, Advocate

For the Respondent no.3

: Mr. Ashutosh Anand, Advocate

.....

06/Dated: 26/03/2021.

Heard, learned counsel for the parties.

2. Claimant- Dilip Rana has preferred the instant Miscellaneous Appeal for enhancement of the award dated 06.04.2018 passed by learned District Judge-IV-cum-Motor Vehicle Accident Claims Tribunal-IV, Giridih in M.V. Claim Case No.08 of 2015 whereby the claimant, Dilip Rana has been awarded compensation to the tune of Rs.8,60,000/- along with interest @ 6% per annum from the date of filing of the claim application till the date of realization.

3. Learned counsel for the appellant has submitted that deceased (Chunwa Devi) was working as a labourer and she died in a road accident on 26.05.2014 at about 5.30 P.M. by a Mahindra Maximo VX bearing registration No.JH-11K-7583 (which has been wrongly mentioned at page no.2 of the impugned judgment as NH-11K-7583).

4. Learned counsel for the appellant has further submitted that the offending vehicle was duly insured before the Insurance Company and there is no dispute with respect to the same.

5. Learned counsel for the appellant has further submitted that Insurance Company has not preferred any appeal for shifting the liability upon the owner of the offending vehicle, as such, Insurance Company is liable to pay the compensation amount.

6. Learned counsel for the appellant has further submitted that deceased (Chunwa Devi) was earning Rs.9,000/- per month from working as a labourer and household work, but learned Tribunal has wrongly considered the income of the deceased as Rs.5,000/- per month.

7. Learned counsel for the appellant has further submitted that interest has been awarded @ 6% per annum from the date of filing of the claim application which ought to have been @7.5% from the date of filing of the claim application till the date of realization of the same, in view of Section 171 of the MV Act coupled with the judgment passed by the Apex Court in the case of *Dharampal & Sons Vs. U.P. Transport Corporation*, reported in *(2008) 4 JCR 79 SC*, as such, amount may be enhanced.

8. Learned counsel for the respondent no.3- Insurance Company, Mr. Ashutosh Anand while opposing the prayer has submitted that the learned Tribunal has rightly passed the impugned award.

9. Learned counsel for the Insurance Company has further submitted that deceased was a labourer and no documentary evidence has been brought on record and the Apex Court in the case of *Chameli Devi vs. Jivrail Mian*, reported in *2019 (4) TAC 724 SC*, in absence of any documentary evidence has considered the income of the deceased, who was a carpenter and died in the year, 2002 to be Rs.5,000/- per month, but in the present case also though the incidence is of the year, 2014 and the deceased was a labourer, as such, amount may not be enhanced.

10. Learned counsel for the Insurance Company has further submitted that the learned Tribunal has wrongly used the multiplier of 16 contrary to the judgment passed by the Apex Court in the case of *Sarla Verma (Smt) & others vs. Delhi Transport Corporation & another*, reported in *(2009) 6 SCC 121*, which ought to have been 15 considering the age of deceased to be 40 years.

11. Learned counsel for the Insurance Company has further submitted that since the quantum of compensation has been assailed by the claimant, as such, this Court may compute the compensation in view of the judgment passed by the Hon'ble Apex Court in the case of *Ranjana Prakash & Ors. vs. Divisional Manager & Anr.*, reported in *2011 (14) SCC 639* para 8 of which is profitably quoted hereunder:-

“8. Where an appeal is filed challenging the quantum of compensation, irrespective of who files the appeal, the appropriate course for the High Court is to examine the facts and by applying the relevant principles, determine the just compensation. If the compensation determined by it is higher than the compensation awarded by the Tribunal, the High Court will allow the appeal, if it is by the claimants and dismiss the appeal, if it is by the owner/insurer. Similarly, if the compensation determined

by the High Court is lesser than the compensation awarded by the Tribunal, the High Court will dismiss any appeal by the claimants for enhancement, but allow any appeal by the owner/insurer for reduction. The High Court cannot obviously increase the compensation in an appeal by the owner/insurer for reducing the compensation, nor can it reduce the compensation in an appeal by the claimants seeking enhancement of compensation.”

12. Learned counsel for the respondent no.1 & 2, Mr. Prabhash Kumar has submitted that since it is dispute between the claimant and the Insurance Company and the vehicle was duly insured, as such, he has nothing to say in this case.

13. Considering such evidence and judgment passed by the Apex Court in the case of *Chameli Devi (Supra)*, this Court also considers the income of the deceased as Rs.5,000/- per month.

14. As such, the fresh computation of compensation in view of the judgment passed by the Apex Court in the case of *Ranjana Prakash (Supra)* is as follows:-

Income	Rs.5,000/- per month
Annual Income	Rs.5,000/- x 12 = Rs.60,000 /-
25% Future Prospect Pranay Sethi (Supra) para 59.4 as the deceased was in the age group of 40-50 years)	Rs.60,000 /- + Rs.15,000/- = Rs.75,000/-
1/3 rd Deduction towards personal and living expenses in view of Sarla Verma (Supra) para 30	Rs.75,000/- minus (Rs.75,000/- x 1/3) = Rs.50,000/-
Multiplier of 15 (as the deceased was in the age group of 36-40 years) Sarla Verma (Supra) para 42	Rs.50,000/- x 15 = Rs.7,50,000/-.
Conventional Head Pranay Sethi (Supra) para 59.8	Rs.70,000/-
Total Compensation Amount	Rs.7,50,000/- + Rs.70,000/- = Rs.8,20,000/-

15. Total Compensation Amount comes to Rs.8,20,000/- which is less than the amount already awarded by the learned learned Tribunal.

16. Under the aforesaid circumstances, this Court is not inclined to reduce the same, in view of the judgment passed by the Apex Court in the case of *Ranjana Prakash (Supra)*, in an appeal preferred by the claimant in absence of any appeal preferred by the Insurance Compnay, as such, the instant Miscellaneous Appeal preferred by the appellant/claimant is hereby disposed of.

17. However, the amount of compensation of Rs.8,60,000/- (which has been awarded by the learned Tribunal) shall be paid along with simple interest @ 7.5% per annum from the date of filing of the claim application till the date of realization.

(Kailash Prasad Deo, J.)

R.S-