

RELIANCE GENERAL INSURANCE COMPANY LTD. A

v.

SHALU SHARMA & ORS.

(Civil Appeal No. 767 of 2018)

FEBRUARY 02, 2018 B

**[DIPAK MISRA, CJI, A. M. KHANWILKAR AND
DR. D. Y. CHANDRACHUD, JJ.]**

*Motor Accidents Act, 1988 – Compensation – Award of –
Death of self-employed (businessman) aged 42 years in a motor
accident – Award of future prospects to the extent of 30% – In appeal,
before the High Court, plea of the insurer-appellant that increase
in the gross total income of the deceased as shown in income tax
return would not justify award of future prospects – High Court
held that having due regard to the progressive increase in the income
of the deceased, the award of future prospects by the tribunal could
not be faulted – On appeal, held: Future prospects cannot be denied
in case the deceased was self-employed – Deceased being of 42
years of age at the time of the accident, an addition of 25% on the
ground of future prospects would be warranted instead of 30%
computed by the tribunal.* C D E

**A self employed (businessman) aged 42 years died in an
accident caused due to the negligence of the driver of the
offending vehicle, insured by the appellant. The tribunal awarded
30 per cent towards the loss of future prospects in assessing
compensation and awarded compensation of Rs. 30,26,810/-. In
appeal, the insurer-appellant contended that the increase in the
gross total income of the deceased as shown in income tax return
would not justify award of future prospects. The High Court held
that having due regard to the progressive increase in the income
of the deceased, the award of future prospects by the tribunal
could not be faulted. Hence, the instant appeal.** F G

Disposing of the appeal, the Court

**HELD: 1. Since the deceased was 42 years of age, an
addition of 25% on the ground of future prospects would be
warranted instead of 30% computed by the tribunal. The tribunal
held that the annual income of the deceased (on the basis of the** H

A income tax returns for 2010-11, 2011-12 and 2012-13) would be Rs 1,81,500. Adding a component of 25% for future prospects, the income would stand at Rs 2,26,875. Deducting an amount of one fourth towards personal expenses, the loss of dependency per annum works out to Rs 1,70,156. Applying a multiplier of 14, the total loss of dependency would work out to Rs 23,82,187.

B The tribunal awarded a sum of Rs 3,14,335 towards medical expenses. An addition of Rs 70,000 would be required to be made in terms of the decision in **Pranay Sethi* case on account of the conventional heads of loss of estate (Rs 15,000), loss of consortium (Rs 40,000) and funeral expenses (Rs 15,000). Hence,

C the total compensation is quantified at Rs 27,66,522 on which the claimants would be entitled to interest @ 9% p.a. from the date of the filing of the claim petition. The apportionment shall be carried out in terms of the award of the tribunal. [Paras 4-5][405-G-H; 406-A-B]

D **National Insurance Company Limited v. Pranay Sethi*
(2017) 13 SCALE 12 - relied on.

Case Law Reference

(2017) 13 SCALE 12 relied on Paras 4, 5

E CIVIL APPELLATE JURISDICTION: Civil Appeal No. 767 of 2018.

From the Judgment and Order dated 24.05.2016 of the High Court of Delhi at New Delhi in MAC Appeal No. 343 of 2016.

Ms. Prerna Mehta, Adv. for the Appellant.

F Syed Mehdi Imam, Bhopal Singh, Tabrez Ahmed, Javed Muzaffar, D. K. Sharma, Advs. for the Respondents.

The Judgment of the Court was delivered by

G **DR. D. Y. CHANDRACHUD, J.** 1. The present appeal arises from the judgment of a Single Judge of the Delhi High Court in an appeal against an award of the Motor Accident Claims Tribunal (MACT).

H 2. Narinder Sharma died in an accident which occurred on 14 September 2013. The accident involved a motor vehicle which was insured against third party risks by the appellant. The dependents filed a claim for compensation before the MACT. The Tribunal held that the accident

was caused due to the negligence of the driver of the offending vehicle. A
Compensation of Rs 30,26,810 was awarded together with interest at 9
per cent per annum. The Tribunal factored in a component of 30 per
cent towards the loss of future prospects in assessing the compensation.

3. The High Court has observed that the only issue which was B
raised by the insurer was in regard to the award of future prospects to
the extent of 30 per cent. The deceased was conducting his own business
in the name and style of M/s Mahak Cable Networks at East Punjabi
Bagh, New Delhi. He was 42 years old on the date of the
accident. According to the appellant, the increase in his gross total income
as shown in the income tax returns for 2010-11, 2011-12 and 2012-13 C
would not justify the award of future prospects, or at least to that extent.
The High Court negated the submission of the insurer and held that
having due regard to the progressive increase in the income of the
deceased, the award of future prospects by the Tribunal could not be
faulted.

4. The judgment of a Constitution Bench of this Court in **National D
Insurance Company Limited v Pranay Sethi**¹ settles the issue. The
deceased was self-employed. In such a case, future prospects cannot
be denied. The grant must be in accordance with the following principle
set down in the judgment:

“(iv) In case the deceased was self-employed or on a fixed salary, E
an addition of 40% of the established income should be the warrant
where the deceased was below the age of 40 years. An addition
of 25% where the deceased was between the age of 40 to 50
years and 10% where the deceased was between the age of 50
to 60 years should be regarded as the necessary method of F
computation. The established income means the income minus
the tax component.”

Since the deceased was 42 years of age, an addition of 25% on
the ground of future prospects would be warranted instead of 30%
computed by the Tribunal. G

5. The Tribunal has held that the annual income of the deceased
(on the basis of the income tax returns for 2010-11, 2011-12 and 2012-
13) would be Rs 1,81,500. Adding a component of 25% for future
prospects, the income would stand at Rs 2,26,875. Deducting an amount

¹(2017) 13 SCALE 12

A of one fourth towards personal expenses, the loss of dependency per annum works out to Rs 1,70,156. Applying a multiplier of 14, the total loss of dependency would work out to Rs 23,82,187. The Tribunal has awarded a sum of Rs 3,14,335 towards medical expenses. An addition of Rs 70,000 would be required to be made in terms of the decision in **Pranay Sethi** (supra) on account of the conventional heads of loss of estate (Rs 15,000), loss of consortium (Rs 40,000) and funeral expenses (Rs 15,000). Hence, the total compensation is quantified at Rs 27,66,522 on which the claimants would be entitled to interest @ 9% p.a. from the date of the filing of the claim petition. The apportionment shall be carried out in terms of the award of the Tribunal. We order accordingly.

B
C 6. When the Special Leave Petition was entertained by this Court, the following order was passed on 12 August 2016:

“Issue notice.

D Since the objection in this special leave petition is mainly to enhancement of the income of the deceased by 30% as prospective earning capacity, the petitioner shall deposit 75% of the awarded amount along with interest accrued thereupon before the Tribunal, within six weeks.

E If such deposit is made within the stipulated time, execution proceedings against the petitioner shall remain stayed.

The amount so deposited, shall be released to the respondent forthwith.”

F The appellant shall deposit the balance computed in terms of the present judgment within a period of eight weeks before the Tribunal which shall be disbursed to the claimants upon due verification. If the amount withdrawn by the claimants in terms of the order of this Court dated 12 August 2016 exceeds the amount to which they are entitled under the present judgment, no recoveries shall be made. The appeal is accordingly disposed of. There shall be no order as to costs.

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