

NUTAN RANI AND ANR.

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v.

GURMAIL SINGH AND ORS.

(Civil Appeal No. 6639 of 2018)

JULY 20, 2018

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

Motor Vehicles Act, 1988 – s. 166 – Compensation – Award of – Death in motor accident of 30 years old salesman having salary of Rs.3,000 per month – Computation of income of the deceased – Addition on account of future prospects – Deduction of one-third towards personal expenditure – Propriety of – Held: While computing income of the deceased, an addition of 40% on account of towards future prospects, in view of the age of the deceased, is warranted as also deduction of one-third towards personal expenses is proper – High Court erred in not granting the benefit of future prospects in computing the income of the deceased – Total compensation payable to the legal heirs calculated accordingly.

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A 30 years old salesman died in a motor vehicle accident and his heirs were awarded compensation by the tribunal which was enhanced by the High Court. In the instant appeal, issue arose whether the High Court while computing the income of the deceased was correct in not adding on account of future prospects and deducting 1/3rd of the amount towards personal expenditure.

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Allowing the appeal, the Court

HELD: The High Court erred in not granting the benefit of future prospects in computing the income of the deceased. Having due regard to *National Insurance Company Ltd. v Pranay Sethi's case, an addition of 40% on account of towards future prospects, in view of the age of the deceased, is warranted. The deduction of one-third towards personal expenses is proper. The total compensation payable to the appellants in terms of the judgment in Pranay Sethi is computed as Rs.6,41,200/-. Interest

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A **is allowed on the said amount at 9 per cent per annum from the date of the petition until payment. [Paras 6-8][609-D-F; 610-A-B]**

**National Insurance Company Ltd. v. Pranay Sethi*
(2017) 16 SCC 680 – referred to.

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Case Law Reference

(2017) 16 SCC 680 referred to Para 6

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6639 of 2018.

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From the Judgment and Order dated 23.02.2011 of the High Court of Punjab and Haryana at Chandigarh in FAO No. 1949 of 1998 (O&M).

Siddharth Mittal, Nayan Nepal, Ms. Usha Nandini. V, Advs. for the Appellants.

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The Judgment of the Court was delivered by

DR. D. Y. CHANDRACHUD, J. 1. The appeal is from a judgment of the High Court of Punjab and Haryana at Chandigarh dated 23 February 2011, in a first appeal against a decision of the Motor Accident Claims Tribunal, Chandigarh.

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2. The appellants are the heirs and legal representatives of Ashok Kumar who died as a result of an accident on 31 March 1994. He was 30 years old at the time of the accident and worked as a commission agent/salesman with a firm in Ludhiana. The accident took place while he was travelling in a bus belonging to the Chandigarh Transport Undertaking. While he was alighting from the bus, it moved abruptly which caused him to fall. The fall resulted in serious injuries and led to his death on the following day.

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3. The heirs of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 before the tribunal, to seek compensation of Rs.20 lakhs. The Tribunal held that negligence on the part of the bus driver was not proved. However, an amount of Rs.50,000 was awarded towards no fault liability together with interest at 12 per cent per annum.

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4. In appeal, the High Court drew an adverse inference on account of the non-examination of the bus driver and awarded a total

compensation of Rs 3,98,500. However, the rate of interest was reduced to 6 per cent per annum. Aggrieved by the judgment of the High Court, the heirs are in appeal. A

5. The learned counsel appearing on behalf of the appellants has assailed the award of compensation by urging that:

- i. No addition on account of future prospects was made; B
- ii. The High Court erred in deducting 1/3rd of the amount towards personal expenditure without considering that the income of the deceased was extremely low, at Rs. 3,000 per month. A person earning a low income, who has a family to feed, would not spend 1/3rd of his income towards his personal expenditure; and C
- iii. The rate of interest was reduced from 12% as awarded by the MACT to 6% without adequate reason.

6. We find merit in the submission that the High Court erred in not granting the benefit of future prospects in computing the income of the deceased. Having due regard to the judgment delivered by the Constitution Bench of this Court in **National Insurance Company Ltd. v Pranay Sethi**¹, an addition towards future prospects is warranted. The deduction of one-third towards personal expenses is proper. D

7 The decision of the Constitution Bench in **Pranay Sethi** (supra), warrants an addition of 40 per cent on account of future prospects, having regard to the age of the deceased. The total compensation payable to the appellants in terms of the judgment in **Pranay Sethi** is computed below: E

- Income : Rs 3,000/- F
- Percentage increase towards future prospects : 40%
- $3000 \times 40\% = \text{Rs } 1,200/-$
- Total income : Rs 4,200/-
- One-third deduction : Rs 1,400/- G
- Income after deduction : Rs 2,800/-
- Annual income = Rs 2,800 x 12 = Rs 33,600/-
- Multiplier applied : 17 (since age of deceased was 30 years)
- Loss of dependency : Rs 33,600 x 17 = Rs 5,71,200/-

¹(2017) 16 SCC 680

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- Loss of consortium : Rs 40,000/-
 - Loss of estate : Rs 15,000/-
 - Funeral expenses : Rs 15,000/-
 - Total compensation = Rs 6,41,200/-

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8. Interest is allowed on the aforesaid amount at 9 per cent per annum from the date of the petition until payment.

9. The appeal is allowed in the above terms. There shall be no order as to costs.

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Nidhi Jain

Appeal allowed.