

SANTOSH DEVI AND ORS.

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v.

MAHAVEER SINGH AND ORS.

(Civil Appeal No.7279 of 2018)

AUGUST 09, 2018

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

*Motor Vehicles Act, 1988 – s.166 – Death due to motor accident in 1992 – Claim of appellants that the deceased was in the business of selling desi ghee and namkin bhujia and his monthly income was Rs.3,500/- – Tribunal assessed the income of the deceased at Rs.1,200/- p.m. and awarded Rs.1,15,200/- as compensation after applying a multiplier of 12 – High Court applied a multiplier of 15 and increased the compensation to Rs. 1,85,000/- – On appeal, held: Assessment of income by Tribunal at Rs.1,200/- p.m. is on the lower side – Having due regard to the nature of the business, the date of accident and all the circumstances of the case, income should have been assessed at Rs.2,500/- p.m. – Deceased was 38 years old, hence, the correct multiplier would be 16 – Further, in view of decision of Constitution Bench in **Pranay Sethi** case an amount of 40% is added towards future prospects – Compensation recomputed – Appellants entitled to Rs.5,23,000/-.*

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**Person died when his moped was hit by jeep driven by the first respondent. Appellants, wife and children of the deceased claimed that his monthly income was Rs.3,500/-. Tribunal assessed the income of the deceased at Rs.1,200/-p.m. and awarded Rs.1,15,200/- as compensation after applying a multiplier of 12. High Court applied a multiplier of 15 and increased the compensation to Rs. 1,85,000/-. Hence, the present appeal.**

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**Allowing the appeal, the Court**

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**HELD: 1.1 The assessment of income by the MACT at Rs.1,200/- per month was on the lower side. The income should have been assessed at Rs.2,500/- per month having due regard to the nature of the business, the date of accident and all the**

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A circumstances of the case. The deceased was 38 years old and hence the correct multiplier would be 16. In view of the decision of the Constitution Bench in Pranay Sethi case, an amount of 40 per cent is required to be added towards future prospects. Accordingly, the recomputed quantum of compensation is Rs.5,23,000/- with interest @ 9 per cent per annum from the date of the petition until payment. [Paras 6, 7] [501-E-F; 502-C]

*National Insurance Company Limited v Pranay Sethi*  
(2017) 16 SCC 680 : 2017 (13) SCALE 12 – followed.

Case Law Reference

C                   **2017 (13) SCALE 12            followed            Para 6**  
CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7279 of 2018.

D                    From the Judgment and Order dated 15.01.2016 of the High Court of Punjab & Haryana at Chandigarh in FAO No.740 of 1995.

Sanchal Anand, Devendra Singh, Advs. for the Appellants.

The Judgment of the Court was delivered by

E                    **DR. D. Y. CHANDRACHUD, J.** 1. The present appeal arises from a judgment of a learned Single Judge of the Punjab and Haryana High Court at Chandigarh in a first appeal against an award of the Motor Accident Claims Tribunal, Hissar.

F                    2. The appellants are the wife and children of PuranChand, who met with a road accident on 30 December 1992. A government Jeep, bearing Registration No. HYH-100 dashed into his moped, bearing Registration No. HR-20-A-7236. Puran Chand sustained grievous injuries and died.

G                    3. The appellants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 before the MACT, seeking compensation of Rs. 10 lakhs. The MACT found that the Jeep was being driven rashly and negligently by the first Respondent on the wrong side of the road. The deceased was aged 38 years at the time of his death and was in the business of selling *desi ghee* and *namkinbhujia*. The appellants claimed that the monthly income of the deceased was Rs. 3,500. The MACT, however, held that the deceased was working in a small village; his shop

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bore no name; he was not paying tax, hence his income was assessed at Rs. 1,200 per month. Accordingly, the appellants were awarded an amount of Rs. 1,15,200 after applying a multiplier of 12, along with interest at 15 per cent per annum. A

4. In appeal, the High Court applied a multiplier of 15 and increased the compensation to Rs. 1,85,000. However, interest was reduced to 8 per cent per annum. B

5. The learned counsel appearing on behalf of the appellants assailed the judgment of the High Court on the following grounds:

- i. The High Court ought to have applied a multiplier of 16 since the deceased was 38 years of age; C
- ii. The High Court should not have made a deduction of more than 10% for personal expenses;
- iii. The High Court and the MACT erred in determining the income of the deceased at Rs. 1,200 per month whereas the deceased was earning Rs. 3,500 per month out of which, an amount of Rs. 3,000 was being spent for household expenditure; D
- iv. Accordingly, an amount of Rs. 16,34,600 should have been awarded to the appellants.

6. Having considered the record, we are of the view that the assessment of income by the MACT at Rs 1,200 per month is on the lower side. Taking a realistic view, the income should have been assessed at Rs 2,500 per month having due regard to the nature of the business, the date of accident and all the circumstances of the case. The deceased was 38 years old and hence the correct multiplier would be 16. Following the decision of the Constitution Bench in **National Insurance Company Limited v Pranay Sethi**<sup>1</sup>, an amount of 40 per cent is required to be added towards future prospects. Accordingly, the quantum of compensation is recomputed as follows: E

- Monthly income :Rs 2,500
  - Annual income : Rs 30,000
  - Deduction of one-third for personal expenses : Rs 10,000
  - Net annual income : Rs 20,000
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<sup>1</sup>(2017) 16 SCC 680

- A
- Future prospects at 40% : Rs 8,000
  - Total income :Rs 28,000
  - Multiplier : 16
  - Total compensation for loss of dependency :Rs 4,48,000
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- Addition for conventional heads in terms of **Pranay Sethi:**  
Rs.75,000
  - Total compensation : Rs 5,23,000
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7. The appellants would be entitled to interest at the rate of 9 per cent per annum from the date of the petition until payment.
8. The appeal is allowed in the above terms. There shall be no order as to costs.

Divya Pandey

Appeal allowed.