

**Bench: Sudhanshu Dhulia**

first respondent-Insurance Company.

#### FACTS IN BRIEF:

3. Mr. K.H.M. Virupakshaiah, the husband of the appellant no.1, son of appellant no.6 and father of appellants no.2 to 5 met with an accident on 05.05.2012, unfortunately resulting in his death. On 05.05.2012 at 12:15 PM, the deceased was riding his Bajaj motorcycle along with a pillion rider near Itagi Village on the Harihar-Hospete road. When they reached near Talakallu Village cross, they were hit by a Ford car bearing Registration No.KA36M1979, which was driven by respondent no.2 and, as claimed, in a rash and negligent manner with high speed. The Ford car hit the motorcycle of the deceased on the right side leading to his death. Crime No.24/2012 was registered initially under Sections 279, 337 and 338 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') and upon the deceased dying, Section 304-A of the IPC was also added. On 07.09.2012, the appellants filed MVC No.73 of 2012 against the respondents, seeking compensation of an amount of Rs.77,15,000/- (Rupees Seventy-Seven Lakhs and Fifteen Thousand). The MACT, by Judgment and Order dated 10.01.2014, awarded a compensation of Rs.25,49,000/- (Rupees Twenty-Five Lakhs Forty-Nine Thousand) with 6% interest per annum from the date of filing of the claim petition till its realization.

4. Aggrieved, the appellants preferred Miscellaneous First Appeal No.6192 of 2014 (MV-D) before the High Court. The respondent- Insurance Company also filed Miscellaneous First Appeal No.2087 of '279. Rash driving or riding on a public way.—Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.' '337. Causing hurt by act endangering life or personal safety of others.—Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.' '338. Causing grievous hurt by act endangering life or personal safety of others.—Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.' '304-A. Causing death by negligence.—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.' 2014 (MV-D). The High Court, by the impugned order, dismissed the appellants'/claimants' appeal and partly allowed the appeal of the respondent-Insurance Company. The High Court reduced the compensation of Rs.25,49,000/- (Rupees Twenty-Five Lakhs Forty- Nine Thousand) to Rs.20,61,320/- (Rupees Twenty Lakhs Sixty-One Thousand Three Hundred and Twenty).

#### SUBMISSION BY THE APPELLANTS:

5. Learned counsel for the appellants submitted that the deceased was aged about 32 years and had an old father, mother, wife, three minor daughters and one minor son at the time of the accident and an income of Rs.40,000/- (Rupees Forty Thousand) per month.

6. It was submitted that the family of the deceased owned 9 Acres 23 Cents of irrigated land on which various varieties of crops and fruits like Banana, Chiku, Anjeer, Cotton etc., with the guidance of officers of the concerned Agricultural Department, was being cultivated from which a yearly income of Rs.6,00,000/- (Rupees Six Lakhs) was raised and the saving was Rs.3,00,000/- (Rupees Three Lakhs) per year. 5 It was further submitted that the deceased was also doing milk-vending 6 Deposition of PW1 Deposition of PW3.

and earned Rs.6,000/- (Rupees Six Thousand) per month therefrom. Further, it was submitted that the family owned a tractor-trailer and the deceased was earning a sum of Rs.9,000 (Rupees Nine Thousand) per month on account of hiring/driving of the tractor-trailer. 7

7. It was submitted that the sudden death of the deceased left the dependants without proper support as he was the main force behind the family's agriculture, milk-vending and hiring/driving businesses. It was pointed out that the wife has to take care of the minor children and the father is old. It was submitted that though it has come on record that there was another brother of the deceased, but that could have lessened the earning of the petitioner by only one-third. It was submitted that initially the MACT has taken the notional income as Rs.10,000/- (Rupees Ten Thousand) per month without looking into the documents which were produced by the Bank Manager/PW5 who admitted to advancing a loan of Rs.4,20,000/- (Rupees Four Lakhs Twenty Thousand) for agriculture purpose and the deposition of the wholesale vendor/PW6 who used to buy the banana crops grown on the field of the deceased along with a list of sales exhibited in the proceedings showing that they varied from Rs.3,00,000/- (Rupees Three Lakhs) a year to almost more than Rs.5,00,000/- (Rupees Five Deposition of PW4.

Lakhs) in a period of only three months. Thus, it was submitted that the monthly income would be Rs.40,000/- (Rupees Forty Thousand), which had been drastically reduced by the MACT to Rs.10,000/- (Rupees Ten Thousand) without giving any reason(s) to justify the same.

8. It was submitted that the High Court had further caused injustice by reducing the monthly income to Rs.8,000/- (Rupees Eight Thousand), without taking into consideration the relevant factors which were required to be taken note of. Learned counsel prayed for this Court's intervention and for justice to be served. SUBMISSIONS BY THE FIRST RESPONDENT:

9. Learned counsel for the respondent-Insurance Company submitted that the deceased was one of the two sons of the loan- holder and thus the income had to be divided among the three, as such Rs.8,000/- (Rupees Eight Thousand) per month was a reasonable and correct assessment of the deceased's earning by the High Court. It was further submitted that the MACT considered the evidence and the High Court has also taken note of it. Learned counsel urged that the High Court has been more practical in assessing the income, which cannot be faulted. Hence, learned counsel prayed for dismissal of the appeals.

**ANALYSIS, REASONING & CONCLUSION:**

10. Having given our anxious thought, this Court finds that both the MACT as also the High Court had not correctly approached the issue. When evidence was there before the MACT with regard to loan being advanced of Rs.4,20,000/- (Rupees Four Lakhs Twenty Thousand) and that of PW6, who purchased the banana crops from the deceased, stating that the latest transaction amounted to more than Rs.5,00,000/- (Rupees Five Lakhs) within a few months, which could not be controverted by the respondent-Insurance Company, coupled with the fact that there was a tractor in the name of the family and also evidence of PW3 to the effect that the deceased used to supply milk, which is also reflected in the passbook of the Milk Producer's Co- operative Society showing payments being made to the mother of the deceased of Rs.6,000/- (Rupees Six Thousand) per month, the MACT and the High Court erred in assessing the income on the lower side.

11. Bearing in mind the evidences adduced by the depositions of PW3, PW4, PW5 and PW6 in totality, it is clear that the deceased had a major role in the businesses referred to supra. Going by the cumulative income on all three sources, it is difficult to accept that the income of the deceased was restricted to Rs.10,000/- (Rupees Ten Thousand) per month as decided by the MACT, much less Rs.8,000/- (Rupees Eight Thousand) per month as decided by the High Court. The fact that the father and the mother of the deceased were also claimants before the MACT and the mother having passed away during the interregnum itself shows that they were advanced in age and thus, the deceased, but obviously, would be presumed to have carried out the major responsibility as is done in such joint family, especially since the businesses of agriculturist, hiring/driving and milk-vending are of a physical and strenuous nature, which cannot be seriously undertaken ordinarily for long periods of time by elder persons.

12. Upon a conspectus of the material on record especially apropos the deceased's income, with the MACT, it is clear that the fixation of monthly income ultimately as Rs.8,000/- (Rupees Eight Thousand) per month by the High Court cannot be justified in any manner. At the same time, even the claim of the appellants of the income being Rs.40,000/- (Rupees Forty Thousand) per month is also not borne out.

13. Thus, on an overall circumspection of the entire facts and circumstances of the cases and material on record, we opine that it may be reasonably assumed that the deceased was having a monthly income of Rs.15,000/- (Rupees Fifteen Thousand) per month. The compensation awarded by the High Court under the other heads, being in conformity with the law laid down by this Court in the decisions in *Smt. Sarla Verma v Delhi Transport Corporation*, (2009) 6 SCC 121 and *National Insurance Company Ltd. v Pranay Sethi*, (2017) 16 SCC 680, does not require any interference. In *K Ramya v National Insurance Co. Ltd.*, 2022 SCC OnLine SC 1338, after taking note of, inter alia, *Ningamma v United India Insurance Co. Ltd.*, (2009) 13 SCC 710, the Court held that the '... Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future. ...' The present coram has respectfully restated the said

observations in S Vishnu Ganga v Oriental Insurance Company Limited, 2025 SCC OnLine SC 182.

14. Accordingly, the Impugned Order is modified to the extent that the monthly income of the deceased would be taken as Rs.15,000/- (Rupees Fifteen Thousand) per month instead of Rs.8,000/-(Rupees Eight Thousand) per month. Further, the rate of interest shall be 7.5% per annum from the date of filing of the claim petition till realisation, instead of 6% per annum. Thus, the compensation will be as follows:

S. No. Head of Compensation Compensation awarded

1. Income Rs.15,000

2. 40% addition towards future Rs.15,000 + Rs.6,000 = prospects Rs.21,000

3. 1/5th deduction towards personal and Rs.21,000 - Rs.4,200 = living expenses Rs.16,800

5. Compensation for loss of dependency Rs.16,800 x 12 x 16 = Rs.32,25,600

6. Conventional Heads Rs.33,000

i) Funeral expenses

ii) Loss of estate

7. Loss of Consortium Rs.3,08,000

8. Total Compensation Rs.35,66,600

15. Accordingly, the appeals stand partly allowed in the aforesaid terms.

16. Parties to bear their own costs.

17. I.A. No.65015/2024 seeking permission to file additional documents is allowed; permission as prayed for is granted. I.A. No.65016/2024 [Exemption from filing Official Translation] is dismissed as infructuous.

.....J. [SUDHANSHU DHULIA] .....J.  
[AHSANUDDIN AMANULLAH] NEW DELHI MARCH 17, 2025