

A SARUP SINGH @ RAM SARUP

v.

HDFC ERGO GENERAL INSURANCE COMPANY  
LTD. AND ORS.

B (Civil Appeal Nos. 7283-7284 of 2022)

OCTOBER 17, 2022.

**[M. R. SHAH AND C. T. RAVIKUMAR, JJ.]**

*Motor Vehicles Act, 1988: Compensation – Fatal accident –*

- C *Tribunal considered notional income of the deceased at Rs.10,000 per month and awarded compensation of Rs.20.64 lacs – High Court reduced compensation to Rs.11.34 lacs by considering notional income of Rs.6500 per month – High Court also reduced rate of interest from 9% to 6% p.a. – Appeal by claimants against reduction of compensation – Held: The amount awarded by the High Court*
- D *can be said to be on lower side – While awarding the loss of dependency, the High Court did not award/consider the future prospects at all – Considering the decision in the case of Pranay Sethi and Ors. and the decision in the case of Janabai, the claimant shall also be entitled to Rs. 40,000/- towards parental consortium for minor child; Rs. 40,000/- towards spousal consortium for wife and Rs. 40,000/- towards filial consortium for the father of the deceased – High Court also erred in reducing interest from 9% p.a. to 6% p.a. – Considering the fact that the deceased died in the year 2012, the claimants shall be entitled to the interest @ 7.5% p.a.*

F **Partly allowing the appeals, the Court**

- F **HELD:** The amount awarded by the High Court can be said to be on lower side. While awarding the loss of dependency, the High Court has not awarded/considered the future prospects at all. As per the decision of this Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and Ors.*, there shall be 40% rise towards future prospects. Therefore, even if considering the notional income @ Rs. 6,500/- per month as determined by the High Court and adding 40% towards future prospects and deducting 1/3rd towards personal expense of the deceased and by applying the multiple of 17, the claimant shall

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be entitled to Rs. 12,37,790/- under the head loss of dependency. A  
Considering the decision of this Court in the case of *Pranay Sethi and Ors.* and the recent decision of this Court in the case of *Janabai and Ors. Vs. I.C.I.C.I. Lombard General Insurance Company Ltd.*, the claimant shall also be entitled to Rs. 40,000/- towards parental consortium for minor child; Rs. 40,000/- towards spousal consortium for wife and Rs. 40,000/- towards filial consortium for the father of the deceased. Thus, the claimants shall be entitled to Rs. 1,20,000/- under the head loss of consortium. The claimants shall also be entitled to Rs. 30,000/- under the conventional head (funeral expense and loss of estate). The High Court has also erred in reducing the interest from 9% p.a. to 6% p.a. Considering the fact that the deceased died in the year 2012, the claimants shall be entitled to the interest @ 7.5% p.a. [Para 4][1010-F-H; 1011-A-C]

*National Insurance Company Limited v. Pranay Sethi and Ors. (2017) 16 SCC 680 : [2017] 13 SCR 100; Janabai and Ors. v. I.C.I.C.I. Lombard General Insurance Company Ltd. 2022 ACJ 2003 – relied on.*

#### Case Law Reference

[2017] 13 SCR 100 relied on Para 4 D  
CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 7283-  
7284 of 2022. E

From the Judgment and Orders dated 16.05.2017 of the High Court of Punjab and Haryana at Chandigarh in Cross Objection No. 209-C-II of 2017 and FAO No. 246 of 2015. F

Abhimanyu Tewari, Ms. Eliza Bar, Ms. Sanya Kaushal, Siddhant Saroha, Tushar Bathija, Advs. for the Appellant.

Sukant Vikram, Adv. for the Respondents.

The Judgment of the Court was delivered by G

**M. R. SHAH, J.**

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court reducing the amount of compensation from Rs. 20,64,000/- as awarded by the learned Motor Accident Claims Tribunal (hereinafter referred to as the “Tribunal”) to Rs.11,34,136/- H

- A alongwith interest @ 6% p.a., the original claimants have preferred the present appeals.
2. The deceased at the time of accident was of 28 years of age.
- The original claimants – wife of the deceased, minor daughter, father and sister of the deceased filed the claim petition before the Tribunal.
- B The learned Tribunal considered the notional income of the deceased at Rs. 10,000/- per month and thereafter adding 30% towards the future prospect and thereafter deducting 1/4<sup>th</sup> towards the personal expense of the deceased, awarded Rs. 19,89,000/- under the head loss of dependency. The learned Tribunal also awarded Rs. 25,000/- towards C loss of consortium or loss of love and affection and Rs. 50,000/- under the conventional head (funeral expenses and loss of estate). Thus, the learned Tribunal awarded a total sum of Rs.20,64,000/- with interest @ 9% p.a. towards the compensation for the death of the deceased.
3. In an appeal preferred by the insurance company, the High D Court has reduced the amount of compensation to Rs. 11,34,136/- by considering the notional income @ Rs. 6,500/- per month and thereafter deducting 1/3<sup>rd</sup> towards the personal expense of the deceased and determined/awarded Rs. 8,84,136/- under the head loss of dependency. The High Court has also awarded a further sum of Rs. 1,00,000/- towards loss of consortium and Rs. 1,00,000/- towards loss of love and affection E for the child and Rs. 50,000/- for loss of estate. However, the High Court has also reduced the rate of interest from 9% p.a. to 6% p.a. The impugned judgment and order passed by the High Court is the subject matter of the present appeal.
4. Having heard the learned counsel appearing on behalf of the F respective parties and having gone through the impugned judgment and order passed by the High Court, we are of the opinion that the amount awarded by the High Court can be said to be on lower side. While awarding the loss of dependency, the High Court has not awarded/ considered the future prospects at all. As per the decision of this Court G in the case of **National Insurance Company Limited Vs. Pranay Sethi and Ors., (2017) 16 SCC 680**, there shall be 40% rise towards future prospects. Therefore, even if we consider the notional income @ Rs. 6,500/- per month as determined by the High Court and adding 40% towards future prospects and deducting 1/3<sup>rd</sup> towards personal expense of the deceased and by applying the multiple of 17, the claimant shall be H

entitled to Rs. 12,37,790/- under the head loss of dependency. Considering the decision of this Court in the case of **Pranay Sethi and Ors. (supra)** and the recent decision of this Court in the case of **Janabai and Ors. Vs. I.C.I.C.I. Lombard General Insurance Company Ltd., 2022 ACJ 2003**, the claimant shall also be entitled to Rs. 40,000/- towards parental consortium for minor child; Rs. 40,000/- towards spousal consortium for wife and Rs. 40,000/- towards filial consortium for the father of the deceased. Thus, the claimants shall be entitled to Rs. 1,20,000/- under the head loss of consortium. The claimants shall also be entitled to Rs. 30,000/- under the conventional head (funeral expense and loss of estate). The High Court has also erred in reducing the interest from 9% p.a. to 6% p.a. Considering the fact that the deceased died in the year 2012, the claimants shall be entitled to the interest @ 7.5% p.a. Thus, the claimants shall be entitled to Rs. 13,87,790/- with interest @ 7.5% p.a.

5. In view of the above and for the reasons stated above, the present appeals are allowed in part. The impugned judgment and order passed by the High Court is modified and it is held and directed that the appellants shall be entitled to a total sum of Rs. 13,78,790/- with interest @ 7.5% p.a. from the date of filing of the claim petition till realization towards the compensation for the death of the deceased.

Present appeals are accordingly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.

Devika Gujral

Appeals partly allowed.