

# Rahul Ganpatrao Sable vs Laxman Maruti Jadhav (Dead) Through Its ... on 5 July, 2023

**Author: Vikram Nath**

**Bench: Vikram Nath, B.R. Gavai**

2023INSC608

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2023  
(arising out of S.L.P.(C) No.26871 of 2019)

RAHUL GANPATRAO SABLE ...APPELLANT(S)

VERSUS

LAXMAN MARUTI JADHAV  
(DEAD) THROUGH  
LRS. AND ORS. ...RESPONDENT(S)

WITH

CIVIL APPEAL NO. OF 2023  
(arising out of S.L.P.(C) No. 27394 of 2019)

JUDGMENT

Vikram Nath, J.

S.L.P.(C) No.26871 of 2019:

Leave granted.

2. This appeal has been preferred by the injured- claimant assailing the correctness of the judgment and order dated 29.03.2019 passed by the High Court in First Appeal No.1162 of 2008 awarding additional compensation of Rs.8,66,787/-, over and above, the compensation of Rs.7,21,895/- awarded by the Motor Accident Claims Tribunal vide judgment dated 06.02.2008 in Motor Accident Claims Petition No.59 of 2000.

3. The Tribunal awarded Rs.5 lakhs as overall compensation and in addition, actual medical expenses incurred Rs.2,21,895/- making a total figure of Rs.7,21,895/-. On appeal, the High Court enhanced the overall compensation to Rs.10,71,000/-. It also enhanced the actual medical expenses incurred to Rs.3,42,682/-. Further, it awarded Rs.1 lakh under the head pain and suffering and

Rs.75,000/- under the head future medical expenses, thus, making a total of Rs.15,88,682/-.

4. Aggrieved by the same, the present appeal has been preferred for seeking compensation under several heads, where no amount has been awarded by the Tribunal or the High Court and also for enhancement of the amounts awarded by the Tribunal and the High Court under different heads.

5. The appellant on the fateful day i.e. 27.04.1994 suffered severe injuries resulting into permanent disability to the extent of 60% as held by the High Court and 85% as declared under the Right to Disability Act, 2016. The major injuries suffered are

(i) compression fractures of seven cervical vertebra. (ii) Paraplegia (iii) loss of bladder function (v) loss of erection of penis and (vi) loss of bowel control.

6. The arguments advanced by the learned counsel for the appellant are summarized hereunder:

(1) The High Court committed an error in deducting 50% towards loss of income considering that there was 60% permanent disability when, in fact, the disability suffered by the appellant actually resulted into 100% loss of income as the appellant had been rendered completely unfit for working and earning. It was submitted that this Court has already in a series of decisions held that even though the victim may have survived the accident but the nature of disability may result into 100% loss of earning and, therefore, it is not correct to hold that where the disability is 60%, the loss of income should be reduced by 50%.

Reliance has been placed upon a judgment of this Court in Lalan D. Vs. Oriental Insurance Company Ltd.<sup>1</sup>.

7. The claim of the appellant that considering his merit, he would have easily earned Rs.25,000/- per month, has not been accepted by the High Court for no justifiable reason and deduction of Rs.10,000/- has been unnecessarily made treating the income of the appellant to be Rs.15,000/- per month. This figure has been reduced by the High Court on the ground of uncertainties in life. According to the learned counsel, the said reasoning is fallacious in (2020) 9 SCC 805 view of the judgment of this Court in case of Leela Gupta Vs. State<sup>2</sup>, wherein, it was held that the multiplier takes into consideration, the uncertainties of life and, therefore, there should not be any further deduction on that account. Learned counsel further relied upon the judgment of this Court in the case of Ashvinbhai Jayantilal Modi Vs. Ramkaran Ram<sup>3</sup> fixing the income of 19 years old medical student to be Rs.25,000/- per month.

8. The next submission advanced is that the High Court erred in deducting 50% amount towards personal expenses. The submission is that it is not a case of death, but it is a case of injury and, as such, there was no question of any deduction towards personal expenses. Once again, reference was made to the judgment of this Court in Lalan D. (supra). (2010) 12 SCC 37 (2015) 2 SCC 180

9. The next argument advanced relates to wrong application of multiplier of 17. The admitted age of the appellant-injured was 19 years at the time of the accident. In the case of Sarla Verma Vs. Delhi Transport Corporation<sup>4</sup> duly approved by the Constitution Bench judgment in the case of National Insurance Company Ltd. Vs. Pranay Sethi<sup>5</sup>, it has been held that multiplier of 18 should be used for age groups of 15 to 20 and 21 to 25.

10. Learned counsel further placed reliance upon the judgment of this Court in the case of Chaus Tausif Almiya etc. Vs. Memon Mohammad Umar Anwarbhai and others passed in Civil Appeal Nos.1241-1242 of 2023 claiming compensation for attendant charges and also towards future medical expenses and loss of marriage prospects. (2009) 6 SCC 121 (2017) 16 SCC 680

11. Lastly, it was claimed that the amount of Rs.1 lakh granted by the High Court under the head pain and suffering was too less and deserves to be suitably enhanced.

12. In response, learned counsel for the respondent no.6 (Insurance Company), submitted that the High Court had correctly decided the appeal and enhanced the compensation after considering all questions and issues involved and the material available on record. It may be noted here that no appeal has been preferred by the Insurance Company, as such, the other issues regarding the accident and the liability etc. have attained finality and the only issue before us is regarding award of further compensation under different heads and enhancement under some of the heads where amount has been awarded.

13. Having considered the submissions and having perused the record, we now deal with each of the issues raised.

Disablement resulting in 100% loss of income.

14. The five injuries which are permanent in nature apparently make him unfit for any employment even though the disability may be 60% or 85%. The compression fractures of seven cervical vertebra resulting into Paraplegia and further loss of bladder function make it absolutely impossible for a person to work and be gainfully employed. Considering the nature of disability, loss of income is, thus, held to be 100% and not 50% as held by the High Court. Uncertainties of life.

15. The High Court deducted 1/3rd towards uncertainties of life, but this has been disapproved in the case of Leela Gupta (supra) as the same is covered while applying the multiplier. Therefore, this deduction by the High Court is held to be incorrect and no deduction should be made for uncertainties in life. We hold accordingly. The income is thus held to be Rs.25,000/- per month.

Deduction towards personal expenses.

16. The High Court deducted 50% of compensation towards personal expenses. The present case being not of death and the claim not being made by the dependents, but the same being by a survivor in the accident with severe injuries resulting into permanent disability, there could not be any justification for deduction of personal expenses. We do not approve the said deduction in view

of the judgment of this Court in the case of Lalan D. (supra). Multiplier.

17. Considering the admitted age of the appellant to be 19 years at the time of the accident in view of the judgment in the case of Sarla Vema (supra), the multiplier to be applied would be 18 and not 17. It is held accordingly.

Attendant expenses.

18. Considering the nature of injuries and the permanent disabilities suffered by the appellant, he would require 24 hours help/assistance of an attendant. In view of the judgment of this Court in the case of Chaus Tausif Almiya (surpa), which had similar facts regarding disability, we award a compensation of Rs.10,80,000/- towards this head. Future Medical Expenses.

19. No compensation has been awarded under the said heading. Medical expenses would continue all his life. Regular consultation and daily medication would require expenses. Once again considering the judgment of this Court in the case of Chaus Tausif Almiya (supra), we award a compensation of Rs.9,72,000/- towards future medical expenses by applying the multiplier of 18.

Loss of Marriage prospects.

20. No compensation has been awarded under the above head. Considering the nature of injuries duly approved and certified, the appellant would be entitled to compensation under loss of marriage prospects. Again, relying upon the judgment of this Court in the case of Chaus Tausif Almiya (supra), we award a fixed compensation of Rs.3 lakhs under the said head.

Pain and suffering.

21. Under the above head, High Court has awarded Rs.1 lakh. The kind of pain, agony and suffering undergone and also for future the amount awarded is less. Considering the amount awarded in other cases namely Master Ayush Vs. The Branch Manager<sup>6</sup>, we award a sum of Rs.3 lakhs under this head. 2022 (7) SCC 738 S.L.P.(C) No. 27394 of 2019:

22. Leave granted.

23. The present appeal assails the correctness of the judgment and order of the High Court dated 23.09.2019 passed in First Appeal No.176 of 2008 partly allowing the appeal and enhancing the compensation from Rs.5,82,628/- awarded by the Motor Accident Claims Tribunal to Rs.9,29,474/- an increase of Rs.3,46,846/-.

24. On the fateful day i.e. 27.04.1994, in an accident between two vehicles around mid-night, the husband of appellant no.1 and father of the other appellants, namely Sri Ganpatrao Sakharam Sable succumbed to the injuries. The appellants being his dependents instituted claim for compensation before the Tribunal, initially claiming Rs.5 lakhs and later on amending it to Rs.10 lakhs. The Tribunal vide judgment dated 16.08.2007 awarded total amount of Rs.5,82,628/- along with

interest of 7.5%. The dependents- appellants preferred an appeal before the High Court, which was partly allowed and a further amount of Rs.3,46,846/- was awarded.

25. The High Court considered the salary of the deceased to be Rs.8100/- per month. It further added an amount of Rs.20,000/- annually towards assessment of examination papers. After deducting 1/3rd amount towards personal expenses, applying the multiplier of 11, determined the total loss of income at Rs.8,59,474/-. It further added an amount of Rs.70,000/- as a consolidated figure under the conventional heads. Thus, totaling the compensation figure to Rs.9,29,476/- along with interest at the same rate as was awarded by the Tribunal.

26. Before this Court, the following additional claims have been made, which according to the learned counsel for the appellants were either incorrectly determined or not allowed by the High Court.

(a) Evidence was led to show that the deceased was drawing a monthly salary of Rs.12,235/- on the date of accident and was further additionally earning Rs.25000/- annually by assessment of examination papers. Further claim was made that from 01.01.1986, UGC pay-scale was applicable and 5th Pay Commissions was made applicable from 01.01.1996, according to which, the salary of the deceased would be Rs.14,940/- per month on 01.01.1996. The High Court had fixed the annual salary at Rs.8100/- per month and additional income of Rs.20,000/- per annum for assessment of examination papers on mere whims and surmises, as such, the salary and the additional income should be considered as per the material available on record.

(b) It is next submitted that despite the settled legal position as laid down by this Court in Pranay Sethi (supra), 15% addition should be made for future prospects, if the deceased was aged between 50-60 years at the time of the death.

(c) It is next submitted that the Tribunal as also the High Court erred in deducting 1/3rd amount towards personal expenses despite the fact that there were five dependents of the deceased. It is also submitted that even if the injured-Rahul Ganpatrao Sable, one of the sons was excluded still there would be four dependents. Applying the law laid down in the case of Sarla Verma (supra) duly approved by the Constitution Bench in the case of Pranay Sethi (supra), the deduction for personal expenses should have been 1/4th and not 1/3rd.

(d) Towards loss of consortium, learned counsel for the appellant submitted that the High Court awarded a meager amount of Rs.70,000/- as against Rs.5000/- awarded by the Tribunal. Relying upon the recent judgment of this Court in the case of Janabai Vs. ICICI Lombard Insurance Co. Ltd.<sup>7</sup>, which further relied upon the Constitution Bench judgment in the case of Pranay Sethi (supra) it was claimed that separate amount towards loss of consortium to each of the dependents should be awarded.

(e) The High Court had awarded a consolidated amount of Rs.70,000/- under conventional heads which included not only loss of consortium but also loss of estate and funeral expenses. According to the learned counsel, compensation for loss of estate and funeral expenses should be separately

awarded and relying upon the Constitution Bench judgment in the case of Pranay Sethi (supra), an amount of Rs.15000/- towards loss of estate and Rs.15,000/- towards funeral expenses be awarded.

27. On the other hand, learned counsel for the respondent no.6 (Insurance Company) has sought to (2022) 10 SCC 512 justify the judgment of the High Court and the compensation awarded by it as a fair and reasonable compensation covering all heads admissible. It was accordingly submitted that appeal be dismissed. It may be noted here that no appeal has been preferred by the Insurance Company, as such, the other issues regarding the accident and the liability etc. have attained finality and the only issue before us is regarding award of further compensation under different heads and enhancement under some of the heads where amount has been awarded.

28. Having considered the submissions and having perused the material available on record, our analysis of the arguments advanced is as follows:

#### Loss of Income.

29. The appellants had produced the Accountant of the Law College where the deceased was working. He had given specific statements that at the time of his death, the deceased was in the Pay Scale of Rs.3700- 5700 and his basic salary was Rs.5250/-. The total salary payable to the deceased was Rs.12235/- in accordance to the UGC scale applicable since 01.01.1986. According to him, the 5th Pay Commission was also made applicable w.e.f. 01.01.1996. According to which, the Pay Scale of Principal would be Rs.12000-18,300. He also produced records relating to arrears of pay given to the dependents of the deceased and also gave details regarding the pension being paid to the family of the deceased. In the cross examination, nothing fruitful was elicited. The Courts below have relied upon the statement of C.W.-1, widow of the deceased and also Ext.52 for determining the monthly salary of the deceased to be Rs.8100/-. We do not find any discussion with regard to the statement of the Accountant which was very specific that at the relevant time, the salary drawn was Rs.12,235/- per month. He had also stated that the UGC scale was applicable and further that the 5th Pay Commission was made applicable from 01.01.1996. The arrears of pay etc. were given to the dependents accordingly and the pension was also fixed accordingly. In view of the above, we do not find any reason not to accept the statement of the Accountant that the salary of the deceased was Rs.12235/- on the date of the accident. We, thus, hold accordingly.

30. In so far as the additional income on account of assessment of examination papers is concerned, C.W.-1, widow of the deceased, had specifically stated that her husband was earning Rs.25,000/- per year under that head. Once, it is accepted that the deceased was additionally earning on account of assessment of examination papers, then the entire benefit as claimed should have been extended rather than reducing it for no justifiable reason. We accordingly take the additional income to be Rs.25,000/- per year.

#### Future prospects.

31. Both the Courts below have not granted any amount towards future prospects. The law is now well settled by the Constitution Bench judgment in case of Pranay Sethi (supra) that future

prospects should be added with the income depending upon the age of the deceased. If the deceased was between the age of 50- 60 years which is the present case, there should be an addition of 15% towards future prospects. We accordingly allow an addition of 15% towards future prospects.

Deduction towards personal expenses.

32. The courts below have deducted 1/3rd amount towards personal expenses of the deceased. The submission of the learned counsel for the appellant that such deduction is excessive and not in accordance to the judgment of Sarla Verma (supra) as approved by the Constitution Bench judgment in the case of Pranay Sethi (supra). If the family members are 2 or 3, then 1/3rd deduction is justified, however, where the dependent family members were 4 to 6, the deduction should be 1/4th and in case of more than 6 dependent family members, the deduction should be 1/5th. In the present case, as the dependent family members are at least 4, the deduction should have been 1/4th. We hold accordingly.

Towards loss of consortium.

33. In the present case, the MACT had granted a meagre amount of Rs.5,000/- towards loss of consortium. However, the High Court granted a total amount of Rs.70,000/- as consolidated amount under all conventional heads, which included loss of consortium, loss of estate and funeral expenses. In the case of Pranay Sethi (supra), Constitution Bench of this Court had provided that all dependents should be separately awarded towards loss of consortium and had actually awarded Rs.40,000/- to each of the dependents. Considering the same, an amount of Rs.40,000/- each is awarded to each of the four dependents towards loss of consortium. Towards Loss of Estate and Funeral Expenses.

34. The Tribunal had awarded Rs.2,500/- towards loss of estate and Rs.2,000/- towards funeral expenses. The High Court had awarded a consolidated amount of Rs.70,000/- under all conventional heads, which we have already set aside above. We are of the view that the amount awarded for loss of estate and loss of funeral expenses is too less and accordingly increase the same to Rs.15,000/- under both the heads separately.

COMMON ORDER IN BOTH THE MATTERS:

35. The appeals are, accordingly, allowed.

36. The Tribunal will calculate the amount afresh in accordance to the amounts awarded by this order within a month of production of this order before it. Interest on the additional amount payable would be 7.5% from the date of filing of the claim petition(s). The amount so quantified shall be deposited within two months of its determination by the Tribunal and paid to the dependent/appellants according to law.

37. There shall be no order as to costs.

38. Pending applications, if any, shall stand disposed of.

.....J. (B.R. GAVAI) .....J. (VIKRAM NATH) NEW  
DELHI JULY 05, 2023