

Seema Rani vs The Oriental Insurance Company Limited on 11 February, 2025

Author: Sanjay Karol

Bench: Prashant Kumar Mishra, Sanjay Karol

2025 INSC 192

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2323 OF 2025
(Arising out of SLP(C)No. 444 of 2025)

SEEMA RANI & ORS.

VERSUS

... APPELLANTS

THE ORIENTAL INSURANCE CO. LTD. & ORS.

... RESPONDENTS

ORDER

Time taken for disposal of the claim petition by of the appeal in this MACT High Court 1 year 6 months 4 months Leave granted.

2. This appeal is directed against the judgment and order dated 27 th April, 2023 in FAO No.995/2017 passed by the High Court of Punjab & Haryana at Chandigarh, which in turn was preferred against the judgment and order dated 9 th November, 2016 passed in MACT Case No.44 of 28.10.2015 by the Motor Accident Claims Tribunal, Bathinda.

3. The brief facts giving rise to this appeal are that on 13 th May, 2015, the RAJNI MUKHI Date: 2025.02.11 18:48:03 IST Reason:

deceased, namely, Dev Raj, aged 50 years, was travelling on his scooter bearing registration No.PB 44A-0962, from his house to village Bhodipura. Near the house of one Mohinder Singh Nambardar, the offending bus bearing registration No.PB 04M-9953 collided with the deceased in a rash and negligent manner. Dev Raj died on the spot. The vehicle was being driven by Respondent No.3, Narinder Singh, who fled from the spot.

4. A claim petition was filed by the Appellants (Wife, daughter and two sons of the deceased) before the Tribunal seeking compensation to the tune of Rs.50,00,000/- submitting that the deceased was employed in the Punjab State Power Corporation Limited, earning more than Rs.50,000/- per

month.

5. The Tribunal vide its order, awarded the Appellants an amount of Rs.24,36,155/- along with interest @ 7% per annum, taking the income of the deceased as Rs.23,345/- per month. The Tribunal further held that all the four Appellants are dependants of the deceased.

6. All the Claimant-Appellants and Respondent No.1 - Insurance Company preferred separate appeals before the High Court. The Claimant-Appellants were aggrieved by the amount of compensation awarded, stating that the Tribunal has not granted any amount under the head 'future prospects'. The Insurance Company was aggrieved by the quantum, stating that Claimant Nos.2 to 4 are major children of the deceased and, therefore, would not be dependents for the purpose of compensation. Consequently, a 50% deduction should have been made instead of 1/4th.

7. The High Court, vide the impugned order, partly allowed both the appeals. The contention of the Claimants for awarding future prospects @ 30% came to be accepted. On the other hand, the Court accepted the contention of the Insurance Company that the major sons and the married daughter of the deceased were not dependent on the deceased for sustenance, and therefore, a deduction of 50% is to be made. The High Court awarded the Appellants an amount of Rs.24,44,183/-.

8. Dissatisfied, the Claimant-Appellants are now before us. The significant point of challenge is that the High Court erred in excluding Appellants herein as dependants of the deceased.

9. We have heard the learned counsel for the Appellants. We are unable to agree with the view taken by the Tribunal on the dependents of the deceased. This Court in National Insurance Company Limited v. Birender & Ors. 1, had expounded that major married and earning sons of the deceased, being legal representatives, have a right to apply for compensation, and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent on the deceased or not. The Court went on to conclude that since the sons, in that case, were earning merely Rs.1,50,000/- per annum, they were largely dependent on the earnings of the deceased and were staying with her.

10. Adverting to the facts at hand, on a perusal of the statement of Shashi Kumar, the son of the deceased (Appellant No.2 herein), annexed as Annexure P6, was working at a petrol pump, while the other son was involved in temporary 1 (2020) 11 SCC 356 employment opportunities only. Both of them were residing with the deceased. In such circumstances, it cannot be said that they were self-sufficient or independent of the deceased. Similarly, applying the exposition in Birender (Supra), there is no reason to exclude a married daughter from compensation. Therefore, in view of this, the High Court erred in excluding these dependants.

11. In view of the aforesaid, the compensation now payable to the Claimant- Appellants would be recalculated as under:

CALCULATION OF COMPENSATION S.No Compensation Heads Amount Awarded
In Accordance . with:

1. Yearly Income Rs.2,80,140/-

National

2. Future Prospects (30%) 2,80,140 + 84,042 Insurance Co.

(Age being 50) = Rs.3,64,182/- Ltd. v. Pranay

3. Deduction (1/4) Rs.2,73,137/- Sethi (2017) 16 SCC

4. Multiplier (13) Rs.35,50,781/- Para 42, 52 & 59

5. Loss of Estate Rs.18,150/-

6. Loss of Funeral Expenses Rs.18,150/-

7. Loss of Consortium Rs.1,93,600/-

Total Rs. 37,80,681/-

Thus, the difference in compensation is as under :

MACT
Rs . 24 , 36 , 000/-

High Court
Rs . 24 , 44 , 183/-

This Court
Rs . 37 , 80 , 681/-

12. The Civil Appeal is allowed in the aforesaid terms. The impugned award dated 9th November, 2016 passed in MACT Case No.44 of 28 th October, 2015 by the Motor Accident Claims Tribunal, Bathinda, as modified vide the impugned order, stands further modified accordingly. Interest is to be paid as awarded by the Tribunal.

Pending application(s), if any, shall stand disposed of.

.....J. (SANJAY KAROL)J. (PRASHANT KUMAR
MISHRA) February 11, 2025;

New Delhi.