

**SUPREME COURT OF INDIA**

Kanhsingh

Vs.

Tukaram

C.A.No.347 of 2015

(V.Gopala Gowda and C.Nagappan JJ.)

13.01.2015

**JUDGMENT**

**V. GOPALA GOWDA, J.**

1. Leave granted.

2. This appeal has been filed by the appellants against the impugned Judgment and order dated 23.07.2012 passed by the High Court of Madhya Pradesh Bench at Indore wherein the High Court partly allowed and disposed of the Miscellaneous Appeal No.2918 of 2009 filed by the appellants.

3. The necessary relevant facts are stated hereunder to appreciate the case with a view to determine whether the appellants are entitled for relief as prayed in this appeal.

4. On 02.07.2006, Deependra Singh Chouhan, son of the appellants herein, aged 27 years, was driving the motor cycle No. MP-09-LM-8244 along with his friend Ashok Sharma. The aforesaid motor cycle which was being ridden by Deependra met with an accident when it was hit by tanker No. MP-14-B-6645 driven by Tukaram, respondent No. 1 herein. Deependra Singh succumbed to his injuries during the course of treatment.

5. The claimant-appellants, parents of the deceased filed a claim petition before the Motor Accidents Claims Tribunal, Jawra, District Ratlam (M.P.) (in short 'the Tribunal') under Section 166 of the M.V. Act, 1988, for a compensation of Rs.27,85,000/-. The Tribunal by its judgment and award partly allowed the Claim Petition by awarding a total sum of Rs.12,10,014/- .

6. Being aggrieved by the judgment and award passed by the Tribunal, the appellants filed Miscellaneous Appeal No. 2918 of 2009 before the High Court of Madhya Pradesh at Indore. The High Court by its judgment and award dated 23.07.2012 partly allowed the said appeal and disposed of the same with an enhancement of Rs.2,00,000/-. Hence, this appeal.

7. It has been contended by the learned counsel for the appellants that the courts below failed to notice that the deceased was 27 years of age and was posted as the Manager at HDFC Bank at the time of the accident. He would have served for another 35 years if he would have been alive and during that period his salary would have certainly doubled. The learned counsel placed reliance on the decision of this Court in Vimal Kanwar & Ors. v. Kishore Dan & Ors.[1], wherein it was held thus:-

"31. In New India Assurance Co. Ltd. this Court noticed that the High Court determined the compensation by granting 100% increase in the income of the deceased. Taking into consideration the fact that in the normal course, the deceased would have served for 22 years and during that period his salary would have certainly doubled, upheld the judgment of the High Court...."

8. It is further contended that the courts below have erred in the computation of income of the deceased as Rs. 11,146/- p.m. In the case of Raghuvir Singh Matolya & Ors. v. Hari Singh Malviya & Ors.[2] and in Sarla Verma and Others v. Delhi Transport Corporation & Another[3], this Court observed that the deductions made by the Tribunal on account of HRA, CCA and medical allowance are done on incorrect basis and should have been taken into consideration the calculation of the income of the deceased. Therefore, the monthly income of the deceased should have been taken as Rs.15,155/- p.m. On the other hand, the learned Counsel for the respondents contended that the High Court concurred with the findings of the Tribunal on all material issues of fact but observed that the quantum of compensation in respect of loss due to death deserved to be enhanced by Rs.2,00,000/-. Therefore, the High Court has already enhanced the compensation sufficiently, which does not call for interference of this Court with the impugned judgment.

9. We have heard the learned counsel for the parties. In our considered view, the courts below have erred in taking the monthly income of the deceased at Rs.11,146/- p.m. From the facts, circumstances and evidence on record, it is clear that the deceased was 27 years of age, working with HDFC as the Manager earning

Rs.1,81,860/- per annum (i.e. Rs.15,155/- p.m.) and there were definite chances of his further promotion and consequent increase in salary by way of periodical revision of the salary on the basis of cost of living Index prevalent in the area if he would alive and worked in the bank. Therefore, adding 50% under the head of future prospects to the annual income of the deceased according to the principle laid down in the case of Vimal Kanwar & Ors. (supra), the total loss of income comes to Rs.2,72,790/- per annum [Rs. 1,81,860 + (1/2 \* Rs.1,81,860)]. Deducting 10% tax (Rs.27,279/-), net annual income comes to Rs.2,45,511/-. Deducting 1/3rd [Rs.81,837] towards personal expenses since the claimants are the parents of the deceased, loss of dependency comes to 1,63,674 X 11(appropriate multiplier as per the age of the parent) Rs. 18,00,414/-.

10. The Tribunal and the High Court have further erred in law in awarding only Rs.2,000/- towards funeral expenses instead of Rs.25,000/- according to the principles laid down by this Court in Rajesh & Ors. v. Rajbir Singh & Ors.[4]. Hence, we award Rs.25,000/- towards the same.

11. Further, the Tribunal and the High Court have erred in not following the principles laid down by this Court in M. Mansoor & Anr v. United India Insurance Co. Ltd.[5] in awarding a meagre sum of just Rs.30,000/- under the heads of loss of love and affection. Accordingly, we award Rs.1,00,000/- to the appellants towards the same.

Further, we award Rs.5,00,190/- towards medical expenses incurred towards medical treatment.

In the result, the appellants shall be entitled to compensation under the following heads:

1.	Loss of dependency	Rs.18,00,414/-	
2.	Loss of love and affection	Rs.1,00,000/-	
3.	Funeral expenses	Rs.25,000/-	
4.	Medical expenses	Rs.5,00,190/-	
	TOTAL	Rs.24,25,604/-	

12. The Courts below have erred in not granting the interest on compensation at the rate of 9% p.a. as per the principles laid down in the case of Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy[6]. The total compensation payable to the appellants by the respondent-Insurance Company will be Rs.

24,25,604/- with interest at the rate of 9% p.a. from the date of filing of the application till the date of payment to the appellants.

13. Accordingly, we allow this appeal in awarding Rs.24,25,604/- with interest @9% p.a. The respondent-Insurance Company shall either pay by way of demand draft in favour of the appellants or deposit the same with interest as awarded before the Motor Accidents Claims Tribunal, Jawara, District Ratlam, after deducting the amount already paid to the appellants, if any, within six weeks from the date of receipt of the copy of this judgment. No Costs.

[1] (2013) 7 SCC 476

[2] (2009) 15 SCC 363

[3] (2009) 6 SCC 121

[4] (2013) 9 SCC 54

[5] 2013 (12) SCALE 324

[6] (2011)14 SCC 481