

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI

ON THE 26th OF AUGUST, 2025

MISC. APPEAL No. 961 of 2013

MANGILAL AND ANR. AND OTHERS

Versus

HUKUMCHAND AND 2 ORS. AND OTHERS

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Appearance:

Shri Manish Jain, learned counsel for the appellants.

*Shri Mayank Upadhyay, learned counsel for respondent No.3 /
Insurance Company.*
.....

ORDER

The appellants have filed this Misc. Appeal under Section 173(1) of Motor Vehicles Act, 1988 being aggrieved by the award dated 18.09.2012 passed by the Additional Member, Motor Accident Claims Tribunal, Garoth, Link Court, Bhanpura, District Mandsaur (M.P.) in Claim Case No.03/2011, challenging quantum of compensation.

2. The issue regarding the death caused by the accident and the consequential liability of the Insurance Company is not under dispute.

3. The short facts of the case are that on 07.06.2010 at around 9:15 P.M., the deceased Sonam along with some other persons had gone to a Temple located on Garoth-Burhanpura Road. While they were returning to their home in Bhanpura, a mini truck having registration number MP-13-GA-0964 came from the direction of Garoth. The driver was driving the

vehicle in a rash and negligent manner on the wrong side of the road, he struck the group of pedestrians as a result of which all of them sustained grievous injuries. Sonam succumbed to the injuries and died in the accident.

3.1. The appellants filed a claim petition under Section 166 of the Motor Vehicles Act. The Claims Tribunal, after considering the age of the deceased to be 17 years, awarded a total amount of Rs.2,57,000/- by treating the annual income of the deceased on a national basis as Rs 15,000/-.

4. Learned counsel for the appellants submits that the deceased was a bright student aged 17 years. He further submits that the Claims Tribunal erred in treating the income of the deceased as Rs.15,000/- *per annum*. Apart from this, only an amount of Rs.2,000/- was awarded towards funeral expenses and no amount of compensation was awarded under other permissible heads by the Claims Tribunal.

5. Learned counsel further submits, by referring to Exs. P-15 to 17 that these documents are the mark sheets of the deceased girl for Class 5th, 8th and 10th respectively. In particular, he refers to the mark sheets of 8th and 10th Classes and submits that the deceased secured distinctions in Sanskrit, Mathematics and Science in Class 8th and again secured distinctions in Hindi, Mathematics and Science in Class 10th. Thus, he submits that the deceased was a brilliant student with a bright future ahead of her.

5.1 He further submits that the Claims Tribunal, while assessing the compensation, ought to have considered the law laid down by the Hon'ble Apex Court in the cases of *Kishan Gopal and Another vs. Lala and Others* reported in *2013 ACJ 2594*; *Meena Devi vs. Nunu Chand Mahto @*

Nemchand Mahto reported in (2023) 1 SCC 204; *Dinesh and Others vs. Mohd. Ikhelaq and Others* passed in M.A. No.3655/2019 vide order dated 16.07.2025; *The New India Assurance Ltd. vs. Kamalsingh Sisodiya and Others* passed in M.A. No.2698/2023 decided on 07.03.2024; *Radhakrishna and Another vs. Gokul and Others* reported in 2013 ACJ 2860 and *Meena Pawaia and Others vs. Ashraf Ali and Others* reported in (2021) 17 SCC 148.

5.2 He submits that, based on the academic performance shown in Exs. P-16 and 17, the income of the deceased ought to have been assessed accordingly, with the addition of future prospects and compensation under the head of loss of consortium, among others.

6 . *Per contra*, learned counsel for respondent No.3 / Insurance Company submits that the Claims Tribunal has rightly assessed the income of the deceased. He further submits that the deceased was a minor girl and the case law relied upon by the learned counsel for the appellants pertain to major persons. Therefore, he supports the findings of the learned Claims Tribunal and prays for dismissal of the appeal.

7. Heard learned counsel for the respective parties and perused the record.

8. It is seen from the findings recorded by the Claims Tribunal that, apart from the amount of Rs.2,57,000/-, only Rs.2,000/- has been awarded under the head of funeral expenses. No other amount has been awarded under any additional heads. It is seen from the record that the appellants are the mother and father of the deceased; therefore, both are entitled to compensation under the head of loss of consortium, which is quantified at

Rs.80,000/- in total.

9. with respect to other heads, the compensation awarded for funeral expenses is revised from Rs.2,000/- to Rs.15,000/-.

10. As far as the income of the deceased is concerned, the Hon'ble Apex Court while considering this issue in the case of *Kishan Gopal (Supra)* has held in para 18 as under:

"18. Point Nos.2 and 3 are answered together in favour of the appellants for the following reasons:-

The Tribunal having answered the contentious issue No.1, against the appellants in its judgment the same is concurred with by the High Court by assigning erroneous reasons and it has affirmed dismissal of the claim petition of the appellants holding that the accident did not take place on account of the rash and negligent driving of the offending vehicle by the first respondent and therefore the contentious issue Nos.1 and 2 are answered in the negative against the appellants and it has not awarded compensation in favour of the appellants.

Since we have set aside the findings and reasons recorded by both the Tribunal and the High Court on the contentious issue Nos.1 & 2 by recording our reasons in the preceding paragraphs of this judgment and we have answered the point in favour of the appellants and also examined the claim of the appellants to award just and reasonable compensation in favour of the appellants as they have lost their affectionate 10 year old son. For this purpose, it would be necessary for us to refer to Second Schedule under Section 163-A of the M.V. Act, at clause No.6 which refers to notional income for compensation to those persons who had no income prior to accident. The relevant portion of clause No.6 states as under:

"6. Notional income for compensation to those who had no income prior to accident:

.....

(a) Non-earning persons – Rs.15,000/- p.a." The aforesaid clause of the Second Schedule to Section 163-A of the M.V. Act, is considered by this Court in the case of Lata Wadhwa & Ors. v. State of Bihar & Ors.[2], while examining the tortious liability of the tort-feasor has examined the criteria for awarding compensation for death of children in accident between age group of 10 to 15 years and held in the above case that the compensation shall be awarded taking the contribution of the children to the family at Rs.12,000/- p.a. and multiplier 11 has been applied taking the age of the father and then under the conventional heads

the compensation of Rs.25,000/- was awarded. Thus, a total sum of Rs.1,57,000/- was awarded in that case. After noting the submission made on behalf of TISCO in the said case that the compensation determined for the children of all age groups could be double as in its view the determination made was grossly inadequate and the observation was further made that loss of children is irrecoupable and no amount of money could compensate the parents. Having regard to the environment from which the children referred to in that case were brought up, their parents being reasonably well-placed officials of TISCO, it was directed that the compensation amount for the children between the age group of 5 to 10 years should be three times. In other words, it should be Rs.1.5 lakhs to which under the conventional heads a sum of Rs.50,000/- should be added and thus total amount in each case would be Rs.2 lakhs. Further, in the case referred to supra it has observed that in so far as the children of age group between 10 to 15 years are concerned, they are all students of Class VI to Class X and are children of employees of TISCO and one of the children was employed in the Company in the said case having regard to the fact the contribution of the deceased child was taken Rs.12,000/- p.a. appears to be on the lower side and held that the contribution of such children should be Rs.24,000/- p.a. In our considered view, the aforesaid legal principle laid down in Lata Wadhwa's case with all fours is applicable to the facts and circumstances of the case in hand having regard to the fact that the deceased was 10 years' old, who was assisting the appellants in their agricultural occupation which is an undisputed fact. We have also considered the fact that the rupee value has come down drastically from the year 1994, when the notional income of the non-earning member prior to the date of accident was fixed at Rs.15,000/-. Further, the deceased boy, had he been alive would have certainly contributed substantially to the family of the appellants by working hard. In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of Sarla Verma v. Delhi Transport Corporation[3], the multiplier of 15 can be applied to the multiplicand. Thus, $30,000 \times 15 = 4,50,000$ and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in Kerala SRTC vs. Susamma Thomas[4], which is referred to in Lata Wadhwa's case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants. The said amount will carry interest at the rate of 9% p.a. by applying the law laid down in the case of Municipal Council of Delhi v. Association of Victims of Uphaar Tragedy[5], for the reason that the Insurance Company has

been contesting the claim of the appellants from 1992-2013 without settling their legitimate claim for nearly about 21 years, if the Insurance Company had awarded and paid just and reasonable compensation to the appellants the same could have been either invested or kept in the fixed deposit, then the amount could have earned five times more than what is awarded today in this appeal. Therefore, awarding 9% interest on the compensation awarded in favour of the appellants is legally justified."

13. The Hon'ble Apex Court in the case of *Meena Devi (Supra)* has held in para 16 as under:

"16. Thus applying the ratio of the said judgments, looking to the age of the child in the present case i.e. 12 years, the principles laid down in Kishan Gopal [Kishan Gopal v. Lala, (2014) 1 SCC 244 : (2014) 1 SCC (Civ) 184 : (2014) 1 SCC (Cri) 241] are aptly applicable to the facts of the present case. As per the ocular statement of the mother of the deceased, it is clear that the deceased was a brilliant student and studying in a private school. Therefore, accepting the notional earning Rs 30,000 including future prospect and applying the multiplier of 15 in view of the decision of this Court in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002], the loss of dependency comes to Rs 4,50,000 and if we add Rs 50,000 in conventional heads, then the total sum of compensation comes to Rs 5,00,000. As per the judgment of MACT, lump sum compensation of Rs 1,50,000 has been awarded, while the High Court enhanced it to Rs 2,00,000 up to the value of the claim petition. In our view, the said amount of compensation is not just and reasonable looking to the computation made hereinabove. Hence, we determine the total compensation as Rs 5,00,000 and on reducing the amount as awarded by the High Court i.e. Rs 2,00,000, the enhanced amount comes to Rs 3,00,000."

14. Recently, in the case of *Thangavel and Others vs The Managing Director, Tamil Nadu State Corporation Limited* in Civil Appeal No.3595/2024 passed on 08.08.2025, the Hon'ble Apex Court considered the income of deceased boy aged 10 years at Rs.5,000/- per month and awarded a total compensation of Rs.8,70,000/-.

15. Similarly, in the case of *Radhakishna (Supra)*, the Hon'ble Apex Court enhanced the compensation from Rs.2,00,000/- to Rs.7,00,000/-.

While considering the issue of future prospects, it was observed that where the deceased was not earning, income has to be assessed on guess work. The question of whether future prospects can still be awarded in such cases was answered in the affirmative by the Hon'ble Apex Court in the case of ***Meena pawai (Supra)***, where the deceased was a 21 year old individual. The Hon'ble Court held in para 15 of the order as under:

"15. It is not expected that the deceased who was not serving at all, his income is likely to remain static and his income would remain stagnant. as observed in Pranay Sethi to have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. Therefore we are of the opinion that at the time of death, their legal heirs shall also be entitled to future prospects by adding future rise in the income as held by this Court in Pranay Sethi i.e. addition of 40% of the income determined on guesswork considering the educational qualification, family background, etc. where the deceased was below the age of 40 years."

16. In view of the factual and legal analysis of the ratio laid down by the Hon'ble Apex Court in the above cases, this Court is of the considered opinion that the income of the deceased girl aged 17 years is to be taken at Rs.36,000/- per annum.

17. In view of the law laid down by the Hon'ble Apex Court in the case of ***Meena pawai (Supra)***, future prospects at the rate of 40% are added to the income of the deceased. Considering that she was 17 years of age, a multiplier of 18 is applied in accordance with the law laid down by the Hon'ble Apex Court in the case of ***Sarla Verma vs Delhi Transport Corporation and Another*** reported in ***(2009) 6 SCC 121***.

18. The deductions from the income of the deceased are made at 50%, considering that she was unmarried. Accordingly, the amount of compensation would come to Rs. 4,53,600/- . In addition, under all other conventional heads, an amount of Rs.1,00,000/- has also been awarded.

Thus, the total compensation would come to Rs. 6,48,600/-. After deducting the amount of Rs.2,57,000/- already awarded, the appellants are now entitled to a further compensation of Rs. 3,91,600/-.

19. This enhanced amount shall carry interest at the rate of 6% *per annum* from the date of filing of the claim petition before the Claims Tribunal.

20. The appeal has been valued at Rs.1,50,000/-. The appellants are directed to pay the deficit court fee within one month from the receipt of this order.

21. The present appeal stands allowed in above terms.

Certified copy as per rules.

(PAVAN KUMAR DWIVEDI)
JUDGE

Anushree