IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 489 of 2018

Reliance General Insurance Company Ltd.

... Appellant.

Versus

Smt. Geeta Devi and others

... Respondents.

Presence:-

Mr. Pulak Agarwal, learned counsel for the appellant.

Mr. Harshit Bisht, learned counsel holding brief of Mr. D.C.S. Rawat, learned counsel for the respondents.

Hon'ble Siddhartha Sah, J. (Oral)

This appeal has been preferred by the appellant/insurance company against the judgment and award dated 29.09.2018, passed by learned Motor Accident Claims Tribunal / IVth Additional District Judge, Dehradun in Motor Accident Claim Petition No.252 of 2015, Smt. Geeta Devi and others vs. Bhupendra Singh and others, whereby an award of Rs.28,33,850/- with interest @ 6% as compensation has been awarded against the Insurance Company.

2. Facts necessary for the adjudication of the present appeal are as follows:

> The claim petition was filed on account of the death of Smt. Poonam Devi in a motor vehicle accident. As per the Claim Petition, on 05.12.2015, the claimants' mother was standing on the left-hand side of the road when at 12:30 hours, a car bearing no.D.L.4C-A.D./7643 was being driven towards Bhaniyawala by its driver rashly and negligently,

and it hit the deceased, wherein she sustained grievous injuries and on account of the said injuries, she died.

The defendants contested the claim petition by filing their written statement and refuted the claim petition averments.

By virtue of the impugned judgment and award dated 29.09.2018, the claim petition was allowed by the learned Motor Accident Claims Tribunal.

On issue nos. 1 and 2, the learned Tribunal came to the conclusion that the accident occurred on 05.12.2015 on account of the rash and negligent driving of the driver of the car bearing number D.L.4C-A.D./7643, due to which the deceased sustained injuries and consequently died. The deceased had no contributory negligence on her part in the said accident.

On issue no. 3, the learned Tribunal came to the conclusion that the car was duly insured with Reliance General Insurance Company and the driver was having a valid driving license, RC, and valid and effective insurance documents.

On issue no. 4 regarding compensation, the learned Tribunal came to the conclusion that from the pay slip of the deceased Smt. Poonam Devi, the monthly salary is assessed at ₹19,850/- based on the judgment of the Hon'ble Supreme Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. The annual income was assessed at

₹1,58,808/-, and on the basis of the judgment in the case of Pranay Sethi (Supra), the learned Tribunal granted addition on annual income at the rate of 30% and after granting compensation under other heads, the total compensation was worked out to be ₹28,33,850/-.

3. Assailing the aforesaid impugned judgment and award, Mr. Pulak Agarwal, learned counsel for the appellant would submit that the income of the deceased has not been properly determined by the learned Tribunal, and the addition of 30% towards future prospects has been wrongly granted by the learned Tribunal. Thus, he would submit that on account of the aforesaid facts, the resultant increase in the amount of compensation deserves redetermination.

4. Per contra, Mr. Harshit Bisht, learned counsel for the claimants/respondents would draw the attention of the Court to paragraph 32 of the impugned judgment, and he would submit that based on the salary documents of the deceased, due deductions have been made by the learned Tribunal and only thereafter it has come to a conclusion that the deceased would be having a monthly income of ₹19,850 per month.

5. Regarding the second contention as raised by the learned counsel for the appellant, learned counsel for the claimants/respondents would submit that in view of paragraph 59.3 in the case of ***National Insurance Company Ltd. vs. Pranay Sethi and Others,*** *reported in* ***(2017) 16 SCC 680***, since the deceased was aged 49 years 2 months on the date of the accident, the addition towards the income for future prospects should be 30%. For ready reference paragraph no. 59.3 is extracted

hereunder for ready reference.

> "59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax."

6. Having heard learned counsel for the parties and after going through the record, the following points for determination arise for consideration of this Court:

> i. Whether the income of the deceased has not been properly determined as has been contended by the learned counsel for the appellant?
>
> ii. Whether the learned Tribunal committed an error by granting an addition of 30% on the income of the deceased towards future prospects?

7. On the point for determination no.1, though learned counsel for the appellant has contended that the income has not been properly determined, however, a bare perusal of paragraph 32 of the impugned judgment reveals that based on the salary documents and after making due deductions, the learned Tribunal came to the figure of ₹19,850/- as the monthly income of the deceased. The said figure of ₹19,850/- is based on documentary evidence and there is nothing to suggest that any other view can be taken. Hence, point for determination no. 1 deserves to be answered against the appellant.

8. On the point for determination no. 2, the issue regarding the addition of 30% on account of future prospects on the income of the deceased is based on the judgment of the Hon'ble Supreme Court in the case of Pranay Sethi (supra). The said addition is made in view of the judgment of the Hon'ble Supreme Court in Pranay Sethi (supra) in paragraph 59.3 thereof. The position of law is well settled in the said judgment of the Hon'ble Supreme Court in Pranay Sethi (supra), and there is no scope for interference on this aspect. Therefore, point for determination no. 2 also deserves to be answered against the appellant.

9. Since both the points for determination have been answered against the appellant, hence, the appeal deserves to be dismissed, and it is dismissed accordingly.

10. The appellant is directed to deposit the balance amount, after deducting the amount already deposited, and transfer it to the Tribunal concerned within a period of 45 days.

11. The Registry is also directed to transmit the statutory deposit of ₹25,000/- to the Tribunal concerned forthwith.

12. The original record be transmitted to the Tribunal concerned.

13. Pending application, if any, stands disposed of accordingly.

(Siddhartha Sah, J.)
10.09.2026

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