

**HIGH COURT OF TRIPURA  
AGARTALA**

Mac App No.89 of 2018

National Insurance Company Ltd., represented by its Senior Divisional Manager, Agartala Divisional Office, Agartala, West Tripura, Pin-799001.

.....Appellant(s)

Versus

1. Smt. Debika Shil, W/o. Lt. Nityananda Shil.

2. Sri Deepraj Shil (minor), S/o. Lt. Nityananda Shil (represented by his natural guardian respondent No.1).

3. Smt. Bakul Rani Shil, W/o. Lt. Narayan Shil.

All are residents of Amarpur, P.S. Birganj, P.O. Amarpur, Pin-799101, District- Gomati Tripura.

4. Smt. Champati Reang, W/o. Singhajoy Reang, resident of Chandrasing Para, P.S. Karbook, P.O. Karbook, Pin- 799104, District- Gomati Tripura.

.....Respondent(s)

**\_B\_E\_F\_O\_R\_E\_  
HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI**

For Appellant(s) : Mr. A.L. Saha, Advocate.

For Respondent(s) : Mr. T.D. Majumder, Advocate.

Date of hearing  
& judgment : 29<sup>th</sup> May, 2020.

Whether fit for reporting : NO.

**JUDGMENT & ORDER (ORAL)**

This appeal is filed by the insurance company to challenge the computation of compensation awarded by the Motor Accident Claims Tribunal, West Tripura, Agartala in Case No. T.S (MAC) 356 of 2014 by the impugned award dated 20<sup>th</sup> September, 2017.

[2] Brief facts are as under :

One Nityananda Shil was travelling from Amarpur to Dalak Bazar on 19<sup>th</sup> June, 2014 at about 6.45 in the morning. He was riding on a motorcycle. His son was sitting behind him. Near Kawamara bridge, the vehicle collided with the Maruti Omni bearing registration No.TR-03-D-0255 coming from the opposite direction causing fatal injuries to the motorcyclist. His widow, minor son and aged mother, therefore, filed the said claim petition claiming compensation of Rs.37,26,440/- from the owner and insurer of the motor car involved in the accident.

[3] The Claims Tribunal held that the accident occurred due to sole negligence of the driver of the car. With respect to computation of compensation, the Tribunal noted that the deceased was a life insurance agent. His income tax returns for the assessment years 2012-13, 2013-14 and 2014-15 were produced on record. On the basis of such income tax returns the Tribunal came to the conclusion that the deceased was earning Rs.22,336/- per month. The Tribunal referred to the decision of the Supreme Court in case of *Rajesh and others Vs. Rajbir Singh and others* reported in **2013 ACJ 1403** and granted 30% rise for future income to arrive at the prospective income of the deceased at Rs.29,037/- per month. The Tribunal deducted 1/3<sup>rd</sup> for the personal expenditure of the deceased and applied a multiplier of 14 looking to the age of the deceased which was shown to be 44 years at the time of accident. The Tribunal

thus awarded a sum of Rs.32,52,144/- towards loss of dependency benefits to the claimants. The Tribunal then added a sum of Rs.1,00,000/- for the widow as loss of consortium, Rs.25,000/- for funeral expenses and Rs.25,000/- in favour of a minor son towards loss of affection, care and guidance. The Tribunal thus arrived at a grand total of Rs.34,02,144/- to be paid to the claimants with simple interest @ 6% per annum from the date of claim petition till actual payment.

[4] This award the insurance company has challenged mainly on two grounds. First contention of the insurance company is that the 30% rise for future income is not in consonance with the judgment of the Supreme Court in case of *National Insurance Company Limited versus Pranay Sethi and others* reported in (2017) 16 SCC 680. He further submitted that awarding a total of Rs.1,50,000/- towards conventional heads is also not in tune with the judgment of the Supreme Court in case of *Pranay Sethi (supra)*.

[5] On the other hand, Mr. T.D. Majumder, learned counsel for the claimants opposed the appeal contending that the Claims Tribunal has awarded appropriate compensation and no interference is necessary. He pointed out that the age of the deceased was 44 years at the time of accident which was ascertained from the reliable documents. The appeal may, therefore, be dismissed.

[6] Both the grievances of the insurance company shall have to be judged in light of the judgment of the Supreme Court in case of ***Pranay Sethi*** (*supra*). In the said case in the context of future rise in income, the Supreme Court had made following observations :

*“In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”*

[7] As per this decision thus since the deceased was self employed and was in the age group of 40 to 50 years, future rise in income should have been 25% and instead of 30% as adopted by the Tribunal.

[8] Regarding the compensation for conventional heads, the Supreme Court in the said judgment had provided as under :

*“Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”*

[9] Thus, awarding Rs.1,50,000/- towards conventional heads was also not in tune with the decision of the Supreme Court in case of

**Pranay Sethi** (*supra*). Said figure shall have to be substituted by a sum of Rs.70,000/-.

**[10]** The revised calculation of the compensation payable to the claimants would work out as under :

The income of the deceased at the time of accident after rounding off may be taken as Rs.22,400/-. 25% thereof would come to Rs.5,600/-. His prospective income would therefore be Rs.28,000/- per month or Rs.3,36,000/- per annum. 1/3<sup>rd</sup> thereof or Rs.1,12,000/- would be deducted for the personal expenditure of the deceased. A sum of Rs.2,24,000/- per annum would be available for the dependents. Applying a multiplier of 14, the loss of dependency benefits would come to Rs.31,36,000/-. A sum of Rs.70,000/- would be added towards conventional heads to this to arrive at the gross compensation payable at Rs.32,06,000/-.

**[11]** In the result, the appeal is disposed of by modifying the award of the Claims Tribunal holding that the claimants shall receive total compensation of Rs.32,06,000/- with simple interest @ 6% per annum from the date of the claim petition till actual deposit before the Claims Tribunal. Such amount shall be apportioned in the proportion of 60% as to 20% as to 20% in favour of the widow, minor son and mother of the deceased. If the insurance company has not deposited the entire amount

so far, it shall do so within a period of 2(two) months from today. If by chance the insurance company has deposited excess amount as per the award of the Claims Tribunal, it would be entitled to refund of the excess amount. The directions of the Claims Tribunal for investing the compensation in fixed deposit remain unchanged. The amount of Rs.25,000/- deposited by the insurance company before the Registry of this Court at the time of filing the appeal shall be transmitted to the Claims Tribunal.

[12] With these directions, the appeal is disposed of. Pending application(s), if any, also stands disposed of. Records may be transmitted to the trial Court.

(AKIL KURESHI), CJ



सत्यमेव जयते

*Dipesh*