2025 INSC 675

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S)._____ OF 2025
[@ SPECIAL LEAVE PETITION (CIVIL) NO(S). 22265-22266 OF 2018]

DEEP SHIKHA & ANR **...APPELLANT(S)**

Versus

NATIONAL INSURANCE COMPANY LTD. & ORS. **...RESPONDENT(S)**

J U D G M E N T

SUDHANSHU DHULIA, J.

1. Leave granted.

2. By way of the present appeals, the Appellants challenge the common judgement and order of the Rajasthan High Court at Jaipur passed on 14.05.2018 whereby High Court reduced the compensation payable to Appellant No. 1 and dismissed the claim in so far as it relates Appellant No. 2 in a case arising out of a claim petition filed under the Motor Vehicles Act, 1988.

3. Brief facts giving rise to these appeals are that on 26.01.2008 at around 1:15 pm, the deceased, namely, Smt.

Paras Sharma was on her two-wheeler and when she reached a road crossing where a Roadways bus **("offending vehicle")** stopped to her left and the negligently took a sudden right turn due to which the deceased came under the rear right-side tyre of the offending vehicle and succumbed to her injuries.

4. A claim petition was filed by the Appellants, who are the married daughter of the deceased **("Appellant No. 1")** and mother of the deceased **("Appellant No. 2")**, respectively, seeking compensation of Rs. 54,30,740/-.

5. The Tribunal vide order dated 11.05.2011, however, only allowed the claim petition to the extent of Rs. 15,97,000/- with 6% interest from the date of filing the claim petition and in default of payment within 30 days and had observed that 9% interest shall be payable to the Appellants, holding the driver of the offending vehicle **("Respondent No. 2")**, the owner of the offending vehicle **("Respondent No. 3")** and the insurer of the offending vehicle **("Respondent No. 1"),** jointly and severally liable. The Tribunal assessed the age of the deceased to be between 50 and 55 years and determined her monthly income to be Rs. 24,406/-. It held that the

Appellants were the legal heirs of the deceased and were to some extent dependent on her, presuming 50% dependency. Accordingly, applying a multiplier of 11, the Tribunal computed the loss of income at Rs. 15,84,000/-. In addition, it awarded Rs. 5,000/- to Appellant No. 1 under the head of loss of love and affection, and Rs. 5,000/- to Appellant No. 2 for loss of care and services of the deceased. A further sum of Rs. 3,000/- was granted towards funeral expenses.

6. The Claimants-Appellants and Respondent No.1 - Insurance Company preferred separate appeals before the High Court. The Claimants-Appellants were aggrieved by the amount of compensation awarded, seeking enhancement of the same. On the other hand, Respondent No. 1 was aggrieved by the award to Appellant No.1 i.e. the daughter of the deceased, on the ground that she was entitled to lesser compensation in light of Section 140 of the Motor Vehicles Act, 1988. Insofar as Appellant No.2 i.e. the mother of the deceased is concerned, Respondent No. 1 argued that she is not entitled to any compensation whatsoever because she cannot be considered a legal heir of the deceased.

7. The High Court vide common impugned judgement dismissed the appeal filed by the Claimant-Appellants and partly allowed the appeal filed by the Respondent No.1. Ultimately, the High Court modified the award and reduced the compensation awarded to Appellant No.1 to Rs.50,000/- and set aside the award qua Appellant No. 2 as they could not be considered as dependents of the deceased for the purpose of calculating compensation and in light of this Hon'ble Court's judgement in ***Manjuri Bera & Anr. vs. Oriental Insurance Co. Ltd. & Anr, (2007) 10 SCC 634*** held that only Appellant No.1 was entitled to receive compensation as admissible under Section 140 of the Motor Vehicles Act, 1988.

8. Now the Appellants are before us challenging the impugned order and judgement of the High Court on the grounds that the High Court has misinterpreted this Court's judgement in ***Manjuri Bera***.

9. We have heard all the parties and perused the material on record.

10. It is not disputed that the death of the deceased was caused due to the rash and negligent driving of Respondent No. 2

who was driving the offending vehicle owned by Respondent No. 3 which was insured by Respondent No. 1.

11. The only question before us is whether the Appellants are entitled to compensation as awarded by the Tribunal on account of being dependent on the deceased.

12. The Appellants claim that they were entirely dependent on the deceased. The deceased was married but her husband had left her soon after the birth of Appellant No. 1 (her daughter), after which Appellant No. 2 (her mother) was living with the deceased daughter.

13. Once a daughter is married, logical presumption is that she now has rights on her matrimonial household and is also financially supported by her husband or his family, unless proven otherwise. It is more than likely that her dependence on her natal family, including her mother has now ceased. Sections 166 and 168 of the Motor Vehicles Act, 1988 focus on the financial relationship between the deceased and the Claimant. A married daughter may be considered a legal representative, as per ***Manjuri Bera***, but she will not be eligible for loss of dependency compensation unless it is proven by the daughter that she was financially dependent

on the deceased. Thus, it is clear from the record that Appellant No. 1 has failed to prove that she was being financially supported by her mother post marriage and hence cannot be said to be a dependent of her mother, the deceased.

14. Therefore, it is our opinion the High Court correctly relied on ***Manjuri Bera*** while holding that Appellant No.1, as the legal representative of the deceased, will only be entitled to compensation envisaged in Section 140 of the Motor Vehicle Act, 1988 as liability under the same does not cease to exist in the absence of dependency.

15. However, the High Court erred in setting aside the Tribunal's award as it relates to Appellant No. 2, the mother of the deceased. Appellant No. 2 was aged about 70 years of age at the time of the accident resulting in the death of her daughter, the deceased, and was solely dependent on the deceased as she lived with her and had no independent income, there is no evidence on record to rebut the same.

16. The obligation of a child to maintain their parent in old age is as much of a duty as the obligation of a parent to maintain their child during minority. The deceased, being the only

provider, would be assumed to be fulfilling this obligation, further reinforcing Appellant No. 2's status as a dependent. Therefore, the untimely demise of the deceased may create difficulties for Appellant No. 2 going forward, resulting in hardship. Even if it is assumed that Appellant No. 2 was not dependent on the deceased at the time of the accident, the possibility of future dependency cannot be disregarded.

17. Accordingly, the case of Appellant No. 2 is distinguishable from that of Appellant No. 1, who is the married daughter of the deceased. The judgement of this Hon'ble Court in ***Manjuri Bera*** dealt specifically with the grant of compensation to a legal representative in cases where there was no dependency on the deceased. That decision is not applicable to the present case, insofar as Appellant No. 2 is concerned, for the reasons set out above.

18. The Tribunal vide its order had awarded Rs. 15,97,000/- as compensation to the Appellants. However, in our considered opinion, the Tribunal did not consider all the factors laid down by this Court in ***National Insurance Company Limited vs. Pranay Sethi, (2017) 16 SCC 680*** and ***Sarla Verma (Smt.) and Ors. vs. Delhi Transport Corporation***

and Anr., (2009) 6 SCC 121, such as loss of future income and estate, quantum to be awarded for funeral expenses, loss of consortium. We have done our own calculation for awarding compensation to Appellant No. 2, which is as follows:

Calculation of Compensation	
Income of the deceased [monthly]	Rs. 24,406
Future Prospect	15%
Deduction of personal & living expenses	50%
Total Monthly Income	24,406 + 3660 – 50% = Rs. 14,033
Multiplier [age 51-55]	11
Loss of Future Income	14,033 x 11 x 12 = Rs.18,52,356
Funeral Expenses	Rs.15,000
Loss of Estate	Rs.15,000
Loss of Consortium [filial consortium]	Rs.40,000
Total Compensation	18,52,356 + 15,000 + 15,000 + 40,000 = Rs.19,22,356

19. Thus, taking into consideration all relevant factors such as the total income of the deceased, loss of estate, loss of filial consortium etc, Appellant No. 2 is entitled to compensation of Rs.19,22,356/-.

20. We, therefore, uphold the impugned order insofar as it pertains to the compensation awarded to Appellant No. 1,

finding no reason to interfere with the relief granted in her favour. However, we set aside the impugned order with respect to the dismissal of the claim of Appellant No. 2, which, in our considered view, warrants interference. We have assigned reasons for enhancing the compensation to Rs.19,22,356/-. Accordingly, we direct that a sum of Rs.19,22,356/- be awarded to Appellant No. 2 as compensation.

21. The appeals are disposed of in the above terms.

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

23. Interim order(s), if any, stand(s) vacated.

....., J.
[SUDHANSHU DHULIA]

.....J.
[K. VINOD CHANDRAN]

NEW DELHI,
MAY 13, 2025.