

(2025) 04 SC CK 0293

In the Supreme Court Of India

Case No : Civil Appeal Nos. 5662-5663 Of 2025 (@Special Leave Petition (Civil) Nos. 22192-93 Of 2018)

Amarveer Kaur And Ors

APPELLANT

Vs

Reliance General Insurance Company Limited And Ors

RESPONDENT

Date of Decision : 29-04-2025

Acts Referred:

Citation : (2025) 04 SC CK 0293

Hon'ble Judges : Sudhanshu Dhulia, J;K. Vinod Chandran, J

Bench : Division Bench

Advocate : C.B.Gururaj, Prakash Ranjan Nayak, Animesh Dubey, Vikas Verma, Sapna Verma, Shafik Ahmed, Anamay Mishra, Kavita Verma, Aakriti Yunas, Divya Goyal, Vikas Verma, Aditya Singh, Kamal Kishor, Anubhav Singh, Prerna Mehta, C.B.Gururaj, Prakash Ranjan Nayak, Animesh Dubey, Savita Devi, Savita Devi, Shashank Singh, Gaurav Gupta, Ankita Kashyap

Final Decision : Allowed

Judgement

K. Vinod Chandran, J

1. Leave granted.

2. The Motor Accidents Claims Tribunal awarded an amount of ₹ 23,15,000/-, for the death of the husband of the first claimant, who left behind him, five dependents: his wife, two minor children, and both his parents. The liability was cast on the Insurance Company who had insured the vehicle, rejecting their contention that the driver of the vehicle, the 1st respondent in the claim petition did not have an effective license and the license produced was fake.

3. The Insurance Company filed an appeal against the liability cast on them and claimants sought enhancement of compensation, in two different appeals, in which cross objections were filed by the registered owner of the offending vehicle. The High Court disposing of the appeals and the cross objections reduced the compensation for loss of income to ₹ 7,92,540/- and awarded

amounts for loss of consortium to the widow @ ₹ 40,000/-, funeral expenses and loss of estate respectively @ ₹ 15,000/- each as has been held by a Constitution Bench of this Court in *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680.

4. We heard Mr. Anamay Mishra and Mr. C.B. Gururaj, learned counsels for the claimant who pointed out that there was clear evidence through the employer that the deceased was getting a monthly salary of ₹ 15,000/- which was accepted by the Tribunal; reduced to ₹ 3,700/- by the High Court. It was also argued that since there were six members of the family, for personal expenses, only 1/5th of the compensation for loss of income ought to have been deducted as personal expenses. It is also argued that loss of consortium to parents and children also are to be awarded as has been found in *Pranay Sethi*1.

5. Ms. Perna Mehta, learned counsel for the Insurance Company argued that the compensation awarded by the High Court was just compensation. The appeal of the insurer was filed insofar as the liability cast on the Insurance Company. It was clearly established by examining an employee of the motor vehicle department that the license was fake. Even if the Insurance Company is directed to pay the amounts awarded, they should be given the right to recover the award amounts with interest from the owner of the vehicle.

6. The owner of the vehicle argued against the liability cast on him by the Tribunal and the High Court placing reliance on the decision of this Court in *IFFCO Tokio General Insurance Co. Ltd. v. Geeta Devi* 2023 SCC OnLine SC 1398. Even if a fake license is produced by the driver, if it is a seemingly valid driving license, unless such license is demonstrably fake on the face of it, no employer would make enquiries as to its genuineness and in such circumstance when clear breach by the insured is not proved, the insurer has the liability, held this Court, in the cited decision.

7. In the quantum appeal, we must notice the contention raised on the income determined and the loss of consortium, as was applicable to the children and the parents. Before the Tribunal, the claimants had raised a contention that the deceased was employed in a rice mill as an accountant, and he was paid ₹ 15,000/- per month. One Jagdish Rai was examined as PW3 who asserted that he was the proprietor of the rice mill, but in his cross examination he specifically stated that he did not maintain any books of accounts in the mill and though he was paying provident fund for all his employees, there was no such payment made with respect to the deceased. The educational qualification of the deceased to enable him to work as an accountant was also not proved. The High Court hence rightly rejected the evidence of PW3. The High Court then proceeded to compute the income at ₹ 3,700/- as applicable to an unskilled worker looking at the minimum wages fixed by the State of Punjab for such workers. It is not clear as to from which document or notification such income was taken by the Tribunal.

8. As far as the income for an unskilled labourer is concerned, this Court in

Ramachandrappa v. Royal Sundaram Alliance Insurance Co. Ltd. (2011) 13 SCC 236 fixed the notional income of a coolie at ₹ 4,500/-per month in the year 2004. In *Pranay Sethi*¹ the Constitution Bench recognized the principle that there would be incremental enhancement in the case of even self-employed individuals in the unorganized sector and also proposed an increase in the income of such persons, as future prospects. Applying the said logic, we are of the opinion that even if the deceased was working in an unspecified job like a coolie considering the increase of cost of living and economic advancements over the years, it can be safely assumed that even a coolie would be eligible for incremental enhancement of wages of least ₹ 500/- per month in every subsequent year. In the present case the accident occurred in the year 2010, 6 years from 2004 in which year this court had fixed ₹ 4,500/- as income per month for a coolie. Hence it can be safely presumed that a coolie in the year 2010 would have earned an income of ₹ 7,500/-.

9. The deceased though was asserted to be 23 years of age in the claim petition, the postmortem report showed his age as 30 years and hence the multiplier taken at 17 is perfectly in order. The deduction for personal expenses should be 1/4 since, along with the deceased, the family comprised of six members. The loss of dependency hence comes to ₹ $7,500 \times 12 \times 17 \times 140\% \times 3/4 =$ ₹ 16,06,500/-. The self-employed person also must be deemed to have had the future prospects at the rate of 40%, as held in *Pranay Sethi*¹.

10. As far as loss of consortium it has been held in *New India Assurance Company v. Somwati* (2020) 9 SCC 644 apart from spousal consortium, filial and parental consortium loss also must be compensated, thus entitling children and parents of the deceased.

11. Hence, ₹ 40,000/- each is payable to the children as also to the parents, hence an amount of ₹ 1,60,000/- will have to be added bringing it to ₹ 2,00,000/- for all the five members. The compensation payable will be ₹ 18,06,500/-, to which shall be added compensation for loss of estate and funeral expenses @ ₹ 15000/- each taking the total award to ₹ 18,36,500/-.

12. Insofar as the appeal of the owner is concerned, we need not investigate whether the petitioner has a valid license. Admittedly, the driving license produced indicates that so far as the non-transport vehicle is concerned, the license is valid from the date of issuance 04.09.2006 to 03.09.2026 as is seen from the driving license produced alongwith the counter affidavit of the insurer. However insofar as the transport vehicle is concerned, the validity is shown as between 23.06.2014 to 29.06.2017. Obviously transport vehicle licenses are issued only for three years, and it needs to be renewed every three years. The offending vehicle provided by the petitioner admittedly was a goods vehicle, being a Eicher/Canter vehicle. We need not hence go into the question of whether the license was fake or not since it was not established that as on the date of accident, there was a valid license for driving a transport vehicle, as held by the driver. We hence find no reason to interfere with the order of the Tribunal

and the High Court, wherein the liability to pay the compensation though cast on the Insurance Company, they were given the authority to recover the same from the owner of the vehicle.

13. The appeals are allowed with the above modification.

14. Pending applications, if any, shall stand disposed of.