(2025) 03 JH CK 1308

In the Jharkhand High Court

Case No : Misc. Appeal No.419 Of 2014

Smt. Sunita Devi APPELLANT

Vs

Shakti Singh RESPONDENT

Date of Decision : 11-03-2025

Acts Referred:
Motor Vehicle Act, 1988 — Section 166

Citation : (2025) 03 JH CK 1308

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Arvind Kumar Lall, D. Aarti Kumari, Amit Kumar Das, Swati Shalini, Kanishka Deo, Arvind Kumar Lall, D. Aarti Kumari, Amit Kumar Das, Swati Shalini, Kanishka Deo

Final Decision : Allowed

Judgement

Gautam Kumar Choudhary, J

1. Both these appeals arise out of the judgment and award of compensation in Motor Vehicle Claim Case No.30/2010 whereby and whereunder the compensation of Rs.6,47,000/- has been awarded with 9% interest per annum under Section 166 of the Motor Vehicle Act, for the death of Pankaj Kumar aged 35 years in a motor vehicle accident, involving a bus bearing registration no.JH 9E 2290.

2. Claimant is in appeal for enhancement of compensation in M.A. No.419 of 2014, whereas the Insurance Company in M.A. No.363 of 2014 is against the award of compensation on the ground that it was excessive.

3. It is submitted by the learned counsel on behalf of the claimant that the deceased was running a small restaurant with a monthly income of Rs.10,000/-, whereas the learned Tribunal has taken Rs.5000/- as his income. Further, no award has been made under the head of future prospect, and under conventional head only Rs.7000/- has been awarded which is not as per the ratio laid by the

Hon’ble Supreme Court in the case of National Insurance Company Ltd. vs. Pranay Sethi, reported in (2017) 16 SCC 680.

4. Contra, argument advanced on behalf of the Insurance Company that although it has been claimed that the deceased was having restaurant business, but not a chit of paper has been filed to substantiate the pleadings regarding business. Neither income tax return has been filed nor sale/commercial tax or permission to run the restaurant by the Municipal Corporation.

5. I find merit in the argument advanced on behalf the claimants that only Rs.5000/- has been considered by the Tribunal as income of the deceased, therefore, there cannot be any question of filing Income Tax Return for such a meagre income. In any case for small business, documentary evidence cannot be an indispensable proof of monthly income. Learned Tribunal has recorded a finding of monthly income of Rs.5000/- which does not appear to be excessive by any standard.

6. The final compensation amount taking Rs.5000/- as monthly income, and the age of the deceased 35 years with 1/3rd as personal and living expenses and loss of income to the extent of 40% as future prospect, the final compensation amount will work out as under: -

Annual Income 5000 x 12

Rs.60,000/-

Annual dependency after deducting 1/3rd on the living and personal expenses of the deceased

Rs.40,000/-

Loss of dependency on taking a multiplier of 16

Rs.6,40,000/-

Future prospect @ 40%

Rs. 2,56,000/-

Conventional head

Rs.84,000/-

Total

Rs.9,80,000/-

7. The Insurance Company is directed to make final payment of compensation of amount of Rs.9,80,000/- with interest @ 6 % from the date of filing of the claim application. Amount to be deposited within one month from the date of the order with the learned Tribunal, which will be disbursed to the appellant nos. 1 and 2 and substituted respondent no.6- Chandan Kumar of M.A. No.414 of 2014. 50%

of the compensation amount shall go to respondent no.1 and 25% to the daughter (respondent no.2) and 25% to Chandan Kumar (respondent no.6).

M.A. No.414 of 2014 is accordingly allowed, and M.A. No.363 of 2014 stands dismissed. Interlocutory Application, if any, is disposed of.

The statutory amount, which was deposited before this Court at the time of filing of this appeal, shall be remitted to the Tribunal for disbursement to the claimant, which will be adjusted against the compensation amount.

