2025 INSC 682

R E P O R T A B L E

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO._____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NOS. 2841-2842 OF 2021)

HANUMANTHARAJU B (DEAD) BY LR. ...APPELLANT (S)

VERSUS

M AKRAM PASHA & ANR. ...RESPONDENT(S)

JUDGEMENT

NONGMEIKAPAM KOTISWAR SINGH, J.

Leave granted.

2. The present appeals have been preferred against the common judgment and order dated 14.11.2019 passed by the High Court of Karnataka at Bengaluru, in MFA No.3569/2016 (MV-I) and MFA No.4867/2016 (MV-I) whereby, the appeals preferred against the judgment and order dated 21.03.2016 passed in MVC No. 5024/2010 by the Motor Accident Claims Tribunal, Bengaluru were partly allowed.

The insurance company being Respondent No.2, which filed the MFA No.4867/2016 before the High Court of Karnataka, has not challenged the order of the High Court in the aforesaid MFA No.4867/2016.

3. The facts of the case in brief as can be culled out from the records are that on 10.05.2010, around 1:45 pm, the original appellant (who died during the pendency of this appeal), who was working as a Sub-Inspector (MIN) in the office of DIGP, CRPF, Yelahanka Base, Bangalore, was driving his motor cycle to Yelahanka, on Doddaballapur Main Road, Karnataka, when he met with an accident with an Omni Car bearing registration KA-04/C-826 owned by the Respondent No. 1 at J. Valsal Road, CRPF Campus. When the driver of the said car took a turn towards the right side, the original appellant's motorcycle collided with the car and he fell down, sustaining grievous injuries. On the same day, FIR No. 86/2010 was lodged against the driver of the car u/s 279, 337 IPC at P.S. Yelahanka Tr. The medical record indicates that the original appellant was admitted to the hospital on three different occasions for nearly 15 days immediately after the accident

and he underwent surgery on his left leg. He also suffered heart attack due to stress and injuries.

4. Considering the injuries he suffered, a Medical Board was constituted at the Composite Hospital, Bengaluru to examine his physical fitness which certified him to be suffering from physical disabilities at 61.94%. Because of the aforesaid physical disability, he was unable to perform his duties properly and did not get due promotion and was subsequently discharged from service on 22.03.2012.

5. Prior to his discharge, the original appellant filed Motor Accident Claim MVC No. 5024/2010 on 05.08.2010 claiming compensation of Rs. 74 Lakhs from the Respondents. The MACT, Bangalore awarded an amount of Rs. 3,28,422/- to the original appellant along with 9% interest per annum as compensation vide its order dated 31.01.2014, taking into account his last drawn salary of Rs. 36,231/- at the time of the accident as well as the disability at 61.94% as assessed by the Medical Board.

6. Being aggrieved by the order passed by the MACT, the original appellant preferred an appeal being MFA No.3965/2014(MV) before the High Court of Karnataka,

seeking enhancement of the compensation. In that appeal, it was agreed by both the parties, i.e. the original appellant and insurance company, that the matter would require reconsideration by the Tribunal. Accordingly, the Karnataka High Court, without expressing any opinion on the merits of the case, remanded the matter to the Tribunal with the direction to reconsider, vide order dated 12.01.2015. Accordingly, the matter was again placed before the MACT.

7. When the matter was placed for reconsideration before the MACT, in terms of the direction of the High Court, the Tribunal appointed a Commissioner, namely, Dr. Shankar R. Krupad, who had examined the original appellant in Columbia Asia Referral Hospital where he was initially treated, to give his opinion on the extent of disability of the appellant. Dr. Shankar R. Krupad, who testified as CW1, assessed the total disability of the original appellant at 77.72%. Dr. CS Albal, the then Chief Medical Officer at Composite Hospital, C.R.P.F., Yelahanka, Bengaluru was also examined as PW3, who, as a member of the Medical Board, gave the opinion that the appellant was suffering from total disability of 61.94%.

Thus, two views on disabilities were available before the Tribunal.

8. The MACT, in view of lack of material to show whether the original appellant was wholly rendered incapacitated for any work or whether he was doing any job post-retirement, instead of relying either on the assessment made by the Medical Board (61.94% disability) or the Tribunal appointed Commissioner (77.72%), held that it would be just and proper to take the disability at 50% to meet the ends of justice.

9. The Tribunal also deducted income tax and professional tax from the salary of Rs.36,231/-, thus, assessing the monthly income to be Rs. 33,761/-.

The Tribunal then applied 50% disability to this figure and held that the monthly loss of earning of the original appellant would be Rs. 16,880/-, and Rs. 2,02,560/- annually. Thereafter, by applying the multiplier of 14 to the aforementioned amount as the original appellant was about 43 years, the Tribunal held that the original appellant was entitled to a compensation of Rs.28,35,840/- under the head of disability, which included the loss of income during the period of treatment and loss of amenities in life.

10. As regards future medical expenses, though, CW1 had projected an estimated cost for knee replacement surgery at Rs.2,75,000/-, the Tribunal found the said amount to be on a higher side and fixed it at Rs. 50,000/- as just and proper, even though the opinion of CW1 was not questioned before the Tribunal by any of the respondents as observed by the Tribunal itself.

11. Thus, the MACT, after reconsideration, awarded a total amount of Rs.31,64,896/-, along with interest at the rate of 9% p.a. from the date of filing of the claims petition and after the determination of the compensation under various heads as follows:

Sl. No.	**Head**	**Amount (Rs.)**
1.	Loss of income on account of disability taken @ 50% (including loss of income during the period of treatment and loss of amenities in life (50% of Rs.33,761 X 12 X 14)	28,35,840/-
2.	Injury, pain and suffering	50,000/-
3.	Medical expenditure	2,14,056/-
4.	Future Medical Expenses	50,000/-
5.	Attendant, conveyance & misc. expenses	15,000/-
	Total	**31,64,896/-**

12. Being aggrieved by the aforesaid award made by the MACT on reconsideration, both the opposite parties preferred their respective appeals before the High Court. The original appellant preferred the appeal which was registered as M.F.A.No.3569/2016(MV-I) and the appeal filed by the insurance company was registered as M.F.A.No.4867/2016. Both the appeals were heard together and disposed of by a common judgment and order dated 14.11.2019 by the High Court allowing the appeals partly, which is the subject matter of challenge by the original appellant before this Court.

13. While partly allowing the said appeals, the High Court, reduced the amount of compensation to Rs.27,47,634.25/- rounding off to Rs.27,47,700/-, which is lower than the amount awarded by the MACT, and the interest was awarded at 6% per annum. The original appellant, thus aggrieved, has filed the instant SLP. The insurance company has not challenged the order of the High Court.

14. From a perusal of the impugned order of the High Court, it is evident that there was no dispute that the original appellant was employed as a Sub-Inspector in CRPF with monthly salary of Rs. 36,231/- and due to the accident, he

was on leave for about a year and a half. Subsequently, on the basis of the finding of the Medical Board, the original appellant was discharged from service on which he was given the monthly pension of Rs.15,247/-. Since the original appellant was drawing the monthly pension, to determine the monthly loss of earning, the High Court deducted the said pension amount from the salary. Thus, the High Court held that the effective monthly loss of earnings of the claimant was Rs. 20,984/- i.e. by deducting the pension amount from the salary.

15. The High Court, based on the opinion of the Medical Board which assessed the disability of the original appellant at 61.94%, held that the loss of his earning capacity was 61.94% and accordingly, the same was calculated at Rs.1,55,969.87/- per annum. Since the original appellant was about 43 years of age at the time of the accident, the multiplier of 14 was applied and accordingly, the total loss of earning was calculated as Rs.21,83,178.25/-.

The High Court, thereafter, added the amounts under various heads, and computed the compensation amount at

Rs.27,47,63.25/-, which was less than what had been awarded by the MACT.

16. Before this Court, the original appellant has raised the following grounds in challenging the order of the High Court:

(i) That the High Court has erroneously reduced the loss of earning by deducting the pension amount from the salary.

(ii) Though the total permanent physical disability of appellant was earlier assessed at 61.94% by the Medical Board, it was subsequently revised to 77.8% by the Commissioner appointed by the Tribunal, which ought to have been accepted by the Tribunal and High Court.

(iii) The rate of interest of 9% p.a. which was awarded by the Tribunal was reduced by the High Court to 6% p.a.

(iv) No amount was awarded in respect of loss of future prospects.

17. At this juncture, it may be apposite to examine the legal position regarding the methodology of computation of compensation in motor accident claims. For computation of compensation arising out of injury or death due to motor accidents, a certain amount of uniformity and a consistency

has been arrived at following a series of decisions of this Court, as well as by amendments of the Motor Vehicles Act, 1988 ("Act").

As observed in ***Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr. 2009 6 SCC 121,*** there are certain factual aspects which have to be ascertained for proper calculation of the compensation. ***Firstly,*** the age of the deceased, ***secondly,*** the income of the deceased, and, thereafter, ascertain the loss of earning ***thirdly,*** selection of the proper multiplier to compute the loss and ***fourthly,*** other accidental expenses like travelling/transportation etc.

18. The concept future prospects, though was considered in ***Sarla Verma*** *(supra),* got firmly settled in the case of ***National Insurance Company v. Pranay Sethi (2017) 16 SCC 680.*** Hence, this has to be taken into consideration while computing the loss suffered by the original appellant. In ***Pranay Sethi*** *(supra),* it was held that while determining the income, the addition of 50% of actual salary to the income of the deceased towards future prospects, where deceased had permanent jobs and was below the age of 40 years should be made. This, however, would be reduced to 30% if the age of

the deceased was between 40 to 50 years and in case of the deceased was between the age of 50 to 60 years the addition should be 15%.

However, in the present case, neither the MACT nor the High Court took into account awarded any compensation on account of future prospects.

19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.

For this proposition of law, we may refer to the decision in ***Vimal Kanwar & Ors. v. Kishore Dan & Ors.*** **(2013) 7 SCC 476,** wherein this Court, by referring to the earlier

decision in ***Helen C. Rebello v. Maharashtra SRTC (1999) 1 SCC 90,*** held as follows:-

> ***"19.*** *The aforesaid issue fell for consideration before this Court in Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90: 1999 SCC (Cri) 197]. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. The following was the observation and finding of this Court: (SCC pp. 111-12, para 35)*
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> > *"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co-relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all*

> *a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any co-relation. The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."*

Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in ***Reliance General Insurance Co. Ltd. v. Shashi Sharma & Ors.*** **(2016) 9 SCC 627** and ***National Insurance Company Ltd. v. Birender & Ors.*** **(2020) 11 SCC 356**.

20. Keeping the aforesaid legal position in mind, we shall examine the issues at hand.

21. As regards computing the loss of income, in the light of the above referred decisions, it would not be permissible to deduct the pensionary amount of Rs. 15,247/- from the salary of Rs. 36,231/- as was done by the High Court. Hence, for the purpose of computing the loss of earning, the said monthly salary of Rs. 36,231/- has to be accepted without deducting the pension amount.

22. As far as future prospects is concerned, the same cannot be denied in the teeth of the judgments in ***Sarla Verma (supra)*** and ***Pranay Sethi (supra),*** wherein this Court had held that there should be an addition of 30% of the salary where the age of the claimant is within 40 to 50 years.

As can be seen from the Signal/SELO message dated 09.01.2012, the original appellant was considered for promotion. However, because of his discharge from the service on 22.03.2013, the promotion could not fructify. In any event, in view of the dictum in ***Pranay Sethi (supra)***, the original appellant would be entitled to an addition of 30% of the income

towards loss of future prospects as the original appellant was 43 years when he met with the accident.

23. Coming to the issue of disability, it may be apposite to recollect that while the Medical Board had assessed the disability at 61.94%, the Commissioner appointed by the Tribunal had assessed it to be 77.72% which was rounded off to 78%. It is significant to note that while considering the evidence of the Commissioner (CW1), the Tribunal had noted that the Commissioner was cross-examined by the Counsel for the Insurance Company and the Tribunal proceeded to observe that nothing worth had been elicited to disbelieve or discredit his evidence. Thus, the Tribunal could not have doubted the correctness of the assessment made by the Commissioner and could have accepted the same, yet for a strange reason that there was no material evidence to show that the original appellant was rendered completely incapacitated or that he was doing any job after his discharge from the services, the Tribunal reduced the disability to 50% holding that it would meet the ends of justice.

24. In spite of the credibility of the subsequent medical opinion given by the Commissioner as regards the physical disability of the original appellant not being challenged by the Insurance

Company, nor being doubted by the Tribunal itself, we see no reason as to why the Tribunal did not accept the same to the effect that the disability was 78%. What we have also noted is that the High Court has treated the physical disability of the original appellant at 61.94%, which was the initial assessment made by the Medical Board, by ignoring the assessment by the Tribunal appointed Commissioner, correctness of which was not doubted even by the Tribunal. No reason has been assigned by the High Court why it chose to accept the assessment of 61.94% disability made by the Medical Board over the subsequent assessment of 78% disability by the Commissioner. It may be also noted that the subsequent assessment was made during the pendency of the proceeding before the Tribunal and the concerned Doctor/Commissioner who had treated the original appellant made the assessment and had testified before the Tribunal and cross examined by the Insurance Company and his evidence had remained unshaken.

Under the circumstances, we are of the view that it would be just and proper to accept 78% disability in the present case as assessed by the Tribunal appointed Commissioner.

25. As far as the multiplier is concerned, since there is no dispute about the age of the original appellant at the time of the accident, i.e., 43 years, we are also of the view that the appropriate multiplier would be 14 as had been applied by the Tribunal and the High Court.

26. We, thus, find merit in the submissions made by the appellants for enhancement of the compensation amount.

In order to redetermine the quantum of compensation, the monthly income of the deceased original appellant has to be ascertained by not deducting the pension from the monthly income, consequently, it is fixed at Rs. 36,231/- which is the salary.

Further, since the High Court had failed to award appropriate amount towards future prospects, and as the original appellant lost his promotional opportunities because of the accident and as he was 43 years, we deem it appropriate to add 30% of his annual income to the income.

27. Since, there is no challenge to the compensation with reference to other heads as determined by the High Court, we have not disturbed the same except as regards monthly income,

extent of disability, future prospects and rate of interest. Accordingly, we are of the view that the compensation awarded to the original appellant should be enhanced as per the computation mentioned below –

CALCULATION OF COMPENSATION

(i)	**Monthly Income** Salary Rs. 36,231/- **Annual Income** Rs. 36,231 x 12	**Rs. 4,34,772/-**
(ii)	**Add: Future Prospects @30%** of his annual income. 30% of Rs.4,34,772/-	**Rs. 1,30,432/-**
	Total:	**Rs. 5,65,204**
(iii)	**Apply Multiplier 14 to his annual income** Rs. 5,65,204 x 14	**Rs. 79,12,856/-**
(iv)	**Loss of earning capacity (by applying the disability to the extent of 78%)** **Rs. 79,12,856 x 78%**	**Rs. 61,72,028/-**
(v)	**Add: Injury, pain and suffering as granted by the High Court**	**Rs. 1,00,000/-**
(vi)	**Add: Medical expenditure as granted by the High Court**	**Rs. 2,14,056/-**

(vii)	**Add: Attendant, conveyance & misc. expenses as granted by the High Court**	**Rs. 50,000/-**
(viii)	**Add: Loss of amenities as granted by the High Court**	**Rs. 1,00,000/-**
(ix)	**Add: Future Medical Expenses as granted by the High Court**	**Rs. 1,00,000/-**
	Total Compensation amount	**Rs. 67,36,084/-**

28. As far as the rate of interest is concerned, what we have noted is that Tribunal in the first award made on 31.01.2014 awarded interest of 9% per annum, and subsequently, when it was remanded for fresh consideration the Tribunal again awarded interest at the rate of 9% per annum vide award dated 31.01.2016. However, the High Court, vide the impugned order dated 14.11.2019, reduced the said interest to 6% per annum, which is on a lower side. However, we are of the view that it would serve the ends of justice if the interest is enhanced to 7% per annum.

29. Accordingly, the aforesaid amount of Rs. 67,36,084/- is to be released in the favour of the appellants at the rate of interest of 7% simple interest per annum which, according to our view, would meet the ends of justice, and the interest is to be calculated from

the date of the filing of the claim application till the realization of the enhanced compensation.

30. Since both the respondents are jointly and severally liable, Respondent No. 2 is directed to pay the enhanced compensation of Rs. 67,36,084/-, with simple interest at the rate of 7% per annum as directed above, within a period of six weeks from the date of this order to the appellants. Respondent No. 2 is at liberty to recover its share from the Respondent No. 1, if any, in accordance with law.

31. The appeals are accordingly allowed in the above terms and the common impugned order dated 14.11.2019 passed in MFA No. 3569/2016 and MFA No.4867/2016 by the Karnataka High Court is modified to the extent indicated above.

.....J.
(SURYA KANT)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
MAY 13, 2025