
CASE NOTE: MEENA DEVI V. NUNU CHAND MAHTO @ NEMCHAND MAHTO & OTHERS

Smith John Colaco, Jitendra Chauhan College of Law

CASE NAME: Meena Devi v. Nunu Chand Mahto @ Nemchand Mahto & Others

CITATION: AIR 2022 SC 5006

CASE NUMBER: Civil Petition no 7255 of 2022 arising out of Special Leave Petition (Civil) No 5345 of 2019.

DATE OF JUDGEMENT: 13-10-2022

JUDGES: Sanjiv Khanna & J. K. Maheshwari, JJ.

ADVOCATE ON RECORD:

For Appellant:- S. N. Bhat Sr Adv, D. P. Chaturvedi, Ms. Parvati Bhat, Tarun Kumar Thakur, Ramesh Kumar Mishra AOR.

For Respondent: Anup Kumar, AOR Ms. Shruti Singh, Ms. Anuradha Mutatkar.

AUTHOR OF THE JUDGEMENT: J. K. Maheshwari.

FACTS OF THE CASE:

1. A child, namely Bankee Bihari aged about 12 years on the date of accident i.e. 29-07-2003 was playing in front of his house.
2. He was dashed by the Commander Jeep having the registration No JH-11A 6894 and died on the way to the hospital in Dhanbad.
3. A Claims petition under Section 140 and 166 read with Section 171 of the Motor Vehicle Act 1988 was filed seeking 2,00,000 /- Rs with interest by the appellant who is the mother of the deceased child.

HISTORY OF THE CASE:

1. Motor Accident Claims Tribunal(MACT) granted a compensation of Rs 1,50,000/- in lumpsum.
2. By reason of inadequacy of such an award, the case was appealed to the High Court of Jharkhand at Ranchi under Miscellaneous Appeal No 16 od 2013.
3. The High Court enhanced the amount of compensation to 2,00,000/- equivalent to the value of the claim made in the petition.
4. The adequacy of this award is questioned by filing the current appeal contending that the high court erred in its decision.

CASE ANALYSIS:

A. LIABILITY OF THE RESPONDENTS IS NOT IN QUESTION

1. The court settles the fact that the liability of the respondent number 4 i.e. The United India Insurance Company is not in dispute and only the quantum is questioned by the claimant.
2. The learned counsel appearing for respondent 1 and 2 urged that the compensation as award by the MACT and the High Court are proper and just and the appeal deserves to be dismissed.

B. HIGH COURT ERRED IN INCLUDING ALL THE PARAMETERS WHILE COMPUTING THE AMOUNT OF COMPENSATION

1. It is claimed that the High Court have erred in assessing the amount in the heads pecuniary and non-pecuniary loss. Both have not granted any amount under “loss of prospective happiness” and the amount granted under “loss of dependency” is in adequate. Hence the compensation must be enhanced.
2. Supporting arguments for the concept of future prospects being included while computing compensation is given the said case laws:

- i. **R.K. Malik and Ors v. Kiran Paul & Ors**¹

It is stated in the above-mentioned case that, the error in assessing the less quantum for notional income of the deceased without adding “future prospects” while computation of compensation

- ii. **Kishan Gopal & Ors v. Lala & Ors**² and **Sarla Verma and Ors v. Delhi Transport Corporation & Another**³

¹ (2009) 14 SCC 1 : AIR 2009 SC 2506

² 2013 AIR SCW 5037 : (2014) 1 SCC 244

³ AIR 2009 SC 3104

In the Kishan Gopal case it is stated that the inclusion of future prospects in computation of the compensation is done treating Rs 30,000 as a notional income instead of 15,000/- Rs according to 2nd schedule of Motor Vehicle Act and the Sarla Verma case is used as a landmark case to set the practice for the selection of multiplier.

3. It is claimed by the mother of the deceased child that he was a brilliant student in class 5th studying in Nehru Academy, Giridih Road. It is also claimed that, had accident not happened, the child would have been an officer.
4. In the case of **Lato Wadhwa and Ors v. State of Bihar and Ors**⁴, the precedent was set for enhancements to be made based on prospective loss. Compensation may be awarded by dividing children in the age group of 5 to 10 years and 10 to 15 years. Such a grant will be valid.
5. Lord Atkinson in the **Taff Vale Rly vs Jankins**⁵ stated that, although the two facts that deceased earned money and he or she contributed to the plaintiff are very important pieces of evidence the necessary inference can be drawn from circumstances different from them.

C. CALCULATION OF INCREASED COMPENSATION

1. The calculations of the death of a child is to be decided in accordance to the facts and circumstances of each case.
2. Computation of different compensation based on different facts and circumstances using the following cases:
 - i. In the case of **M. S. Grewal & Ors v. Deep Chand Sood & Ors**⁶, there were 14 school students who died due to drowning in a river. Them being in upper-middle class families, let the compensation to be at 5,00,000/- Rs.
 - ii. In the case of **Kishan Gopal & Ors v. Lala & Ors**⁷, the court made a departure from 2nd schedule of Motor Vehicle Act and accepted the notional income as Rs 30,000 /- instead of Rs 15,000 /- because the value of rupee had come drastically down since 1994 when the notional income was Rs 15, 000 /-. Hence notional income as Rs 30,000/- with the age of parent as 36, multiplier of 15 was used and Rs 4,50,000 /- with a Rs 50,000/- was awarded totaling to Rs 5,00,000/-.

⁴ (2001) 8 SCC 197 : AIR 2001 SC 3218

⁵ 1913 AC 1

⁶ (2001) 8 SCC 151 : AIR 2001 SC 3660.

⁷ 2013 AIR SCW 5037 : (2014) 1 SCC 244.

- iii. In the case of **Kurvan Ansari @ Kurvan Ali & Ors v. Shyam Kishore Murmu & Ors**⁸, a child aged 7 years died in a road accident took place on 06-09-2004. The Court took the notional income as 25,000 Rs applying multiplier of 15 and calculated loss of dependency as Rs 3,75,000/- adding Rs 55,000/- in conventional heads totaling to Rs 4,70,000/-.
3. Hence the judges took 30,000 Rs including future prospects as notional income with the multiplier of 15 in the Sarla Verma case⁹, totaling to Rs 4,50,000/- with Rs 50,000/- in conventional heads totaling to Rs 5,00,000/-.
4. The Court does not consider the compensation by MACT and the High Court as just or reasonable. Hence the enhanced income comes to Rs 3,00,000/-.

D. DISCRETION OF THE COURT TO GIVE MORE COMPENSATION THAN CLAIMED

1. In the case of **Nagappa v. Gurudayal Singh & Ors**¹⁰, it is stated that if the evidence on record justifies the passing of an award higher than the one claimed then, the fact that the claimant restricted the claim cannot be solely be used as ground to reject the claim.
2. It is also stated that the claimant if he feels is entitled to more compensation than what is claimed, it is open to him to amend the claim petition and if the same is in consonance with equity, justice and good conscience there is no reason to not grant the amendment.

JUDGEMENT

1. Appeal is allowed.
2. The amount of compensation claimed is enhanced by Rs 3,00,000/- Rs in addition. The total compensation would be Rs 5,00,000 /-.
3. The enhanced amount will have an interest of 7% Per annum from the date of claim petition till realization.
4. Respondent must pay the due amount in four weeks
5. Parties have to bear their own costs.

⁸ (2022) 1 SCC 317 : AIR 2021 SC (Supp) 1

⁹ Supra Note 3.

¹⁰ (2003) 2 SCC 274 : AIR 2003 SC 674.