

High Court noted that while at one stage he had stated that the deceased was brought dead, at another place he stated that he was referred to the government hospital for further treatment. The circumstance that no post-mortem was conducted is an extremely significant aspect of the case which in our view has justifiably weighed with the High Court. Moreover, the High Court found that if there were three passengers in the tractor, all of whom had known that driver Dharampal had by his negligent act run over Ram Kanwar, the most natural conduct would have been to lodge a complaint. The person who died was the brother of the owner of the tractor. Hence, the fact that a complaint was not lodged for nearly one month is a significant omission in the case. The High Court has also noticed that there were no hospital records to indicate, from the nature of the injuries, that death had occurred due to an accident of the nature alleged. The deceased was conducting a transport business with his brother and was an income tax assessee. The fact that proper medical records were not available has, in this background, weighed with the High Court. Besides the above aspects, the High Court has found that the assessment of compensation by the Tribunal is perverse.

4. On a careful analysis of the judgment of the High Court and the material on the record, we find no reason to take a view at variance with that of the High Court. The reasoning contained in the award of the Tribunal was perfunctory. The Tribunal failed to notice crucial aspects of the case which have a bearing on the question as to whether the death of Ram Kanwar was caused as a result of the accident caused by the tractor. Each of the circumstances relied upon by the High Court is germane to the ultimate conclusion that a false case was set up to support a claim for compensation. The appellants have not been able to displace the careful analysis of the evidence by the High Court and the findings which have been arrived at.

5. For the above reasons, we find no merit in the appeals. The appeals are accordingly dismissed. There shall be no order as to costs.

**Appeals dismissed.**

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#### **SUPREME COURT OF INDIA**

**Before: Dipak Misra, CJI., A.M. Khanwilkar & Dr. D.Y. Chandrachud, JJ.**

Civil Appeal No. 448 of 2018

Decided on : 19.01.2018

[Arising out of SLP(C) No.26853 of 2016]

Shri Nagar Mal and ors

Appellants

Versus

The Oriental Insurance Company Ltd. and ors

Respondents

**Motor Vehicles Act, 1988 (59 of 1988), Section 166 -- Compensation in motor vehicle accident case -- Bachelor/Deceased was aged 20 years in 2008 and was pursuing C.A. -- Assessment of income of Rs. 6,000/- p.m sustained -- Multiplier should be 17 -- Addition of 40% towards future prospects would also be warranted -- Since the deceased was a bachelor, the loss of dependency would work out to Rs 8,56,800/- -- Rs 15,000/- towards loss of estate and Rs 15,000/- towards funeral expenses also**

**awarded -- Compensation stands quantified at Rs 8,86,800/- -- Interest @7.5% p.a. from the date of the filing of the petition allowed.**

**(Para 3,6,7)**

**Cases referred:**

1. National Insurance Company Limited v Pranay Sethi 2018(1) L.A.R. 1 (SC).
2. Sarla Verma v Delhi Transport Corporation [(2009) 6 SCC 121].

**JUDGMENT**

**Dr D Y CHANDRACHUD, J. –**

1. The present appeal has arisen from a judgment of the High Court of Judicature for Rajasthan at its Jaipur bench confirming the award of the Motor Accident Claims Tribunal (M.A.C.T.).

2. An accident took place on 15 November 2008 when at about 9 p.m. Sonu Kumar Goyal was proceeding on a motor cycle from Mandi Neem Ka Thana to his home. A truck bearing Registration No.RJ-32-GA-0398 dashed against the motor cycle as a result of which Sonu Kumar sustained grievous injuries and died on the spot. The third respondent is the registered owner of the motor vehicle which was insured with the first respondent. The appellants filed a claim for compensation before the Tribunal. By its order dated 16 July 2013 the Tribunal held that the accident was caused due to the negligence of the driver of the truck. The insurer was held jointly and severally liable together with the owner and driver.

3. While assessing the claim of compensation, the Tribunal noted that the deceased was a bachelor, aged 20 years. On the income of the deceased, the Tribunal did not accept the certificates for the months of August, September and October 2008 produced by the first appellant who is the father of the deceased in support of the case that the deceased had a monthly earning of Rs 15,000/-. The Tribunal indicated that the certificates have not been duly proved. The deceased was pursuing the professional Chartered Accountancy course. The Tribunal adopted an income of Rs.6,000/- per month and since the deceased was a bachelor, it deducted a sum of Rs 3,000/- per month towards personal expenses. A multiplier of 11 was applied on the basis of the age of the parents of the deceased. Accordingly, the loss of dependency was computed at Rs 3,96,000/- and after addition of conventional heads, a total compensation of Rs.4,31,000/- was awarded.

4. The appellants as well as the insurer filed the appeals before the High Court. By its judgment dated 30 May 2016 the High Court has declined to interfere with the award of the Tribunal.

5. Learned counsel appearing on behalf of the appellants has assailed the award of compensation by urging that :

- (i) Both the Tribunal and the High Court erred in declining to accept the income certificates produced to indicate that the deceased had a monthly income of Rs 15,000/-;
- (ii) No addition on account of future prospects was made;

- (iii) The multiplier to be adopted should have been based on the age of the deceased and not on the age of the parents; and
- (iv) interest should have been awarded @ 9% p.a. instead of 6% p.a.

On the other hand, the learned counsel appearing on behalf of the insurer has supported the view which has been taken by the Tribunal and by the High Court and submitted that no case has been made out for interference by this court with the concurrent findings of both the courts below.

6. The Tribunal has given cogent reasons for declining to accept the income certificates which were relied upon by the father of the deceased. No witnesses were examined on behalf of the companies which were alleged to have issued the certificates to prove the certificates. Evidently there was a failure to establish that the deceased, who was a student pursuing his C.A. was in receipt of a monthly income of Rs 15,000/-. Hence, we are of the view that the assessment of income by the Tribunal cannot be faulted.

7. However, we find merit in the submission which has been urged on behalf of the appellants that the Tribunal failed to apply the correct multiplier and erred in not granting the benefit of future prospects in computing the income of the deceased and the loss of dependency. Having due regard to the judgment delivered by the Constitution Bench of this Court in **National Insurance Company Limited v Pranay Sethi**<sup>1</sup> [(2017) 13 SCALE 12 = 2018(1) L.A.R. 1 (SC)] and in **Sarla Verma v Delhi Transport Corporation**<sup>2</sup> [(2009) 6 SCC 121] the correct multiplier should be 17 having regard to the age of the deceased. An addition of 40 per cent towards future prospects would also be warranted in terms of the judgment of the Constitution Bench. On this basis and since the deceased was a bachelor, the loss of dependency would work out to Rs 8,56,800/-. The appellants would be entitled to an amount of Rs 15,000/- towards loss of estate and Rs 15,000/- towards funeral expenses. The award of compensation accordingly stands quantified at Rs 8,86,800/-. The appellants are allowed interest @7.5% p.a. from the date of the filing of the petition before the M.A.C.T. till realization.

8. The appeal is accordingly allowed. There shall be no order as to costs.

**Appeal allowed.**

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# SUPREME COURT OF INDIA

**Before: Arun Mishra & Mohan M. Shantanagoudar, JJ.**

Civil Appeal No.487 of 2018

Decided on : 19.01.2018

(Arising from SLP(C) No.7181 of 2016)

Sunita Singh

Appellant

Versus

State of Uttar Pradesh and others

Respondents

**Constitution of India, Article 15, 29(2), 142 -- Scheduled Caste by Birth/Marriage -- There cannot be any dispute that the caste is determined by birth and the caste cannot be changed by marriage with a person of**