

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. \_\_\_\_\_ OF 2025**  
**(Arising out of SLP (C) No. 26620 of 2023)**

**PRAMOD KUMAR TIWARI**

**Appellant (s)**

**VERSUS**

**PREMLAL GAUTAM & ORS.**

**Respondent(s)**

**O R D E R**

1) Leave granted.

2) Assailing order dated 21.03.2023 passed by the High Court<sup>1</sup> in Miscellaneous Appeal No. 783 of 2020 filed by the appellant-claimant impugning the Award dated 29.08.2019 passed by the MACT<sup>2</sup> in Claim Case No. 2000443 of 2016, the present appeal has been filed.

3) In the facts of the case, the short question that arises for our reconsideration is whether on death of an employee during subsistence of

<sup>1</sup> High Court of Madhya Pradesh.

<sup>2</sup> Second Additional Motor Accident Claims Tribunal, Rewa, District Rewa (M.P.)

employment due to vehicular accident, the amount of family pension can be deducted from his/her salary while calculating compensation under Motor Vehicles Act, 1988?

4) We have perused the judgment of the High Court and gone through the records. In appeal, the High Court vide impugned judgment has concluded as under:

*"11. It is true that the wife of a deceased employee would get the family pension even if the death of an employee takes places in a normal course, but said analogy cannot be made applicable in the motor accident claim cases.*

*12. During the lifetime of an employee, he is entitled for salary only and not pension and similarly, during the lifetime of an employee, his wife is not entitled for pension. The family pension is payable only after the death of an employee. However, for calculating the loss of income, the salary which was otherwise payable to the employee had he not died in a vehicular accident, has to be taken into consideration.*

*13. If the salary of the deceased is taken into consideration for assessing the loss of dependency and at the same time, the family pension received by his wife is not deducted, then it would create a very awkward situation. This aspect can be understood in a very*

simple manner. If the monthly salary of an employee is Rs.30 000/-, then after his retirement he will be entitled for a pension of Rs.15,000/- and after death of the employee, his wife would be entitled for family pension at the admissible rate. If the family pension is not excluded from the loss of dependency, then it would mean as under: -

Salary of the deceased employee -  
personal expenses + family pension +  
future prospects”

5) The issue whether deduction of pension amount from the salary can be made has been settled by the judgment of this Court in the case of ***'Helen C. Rebello (Mrs.) and Others Vs. Maharashtra State Road Transport Corporation and Another, (1999) 1 SCC 90'***, wherein, this Court drawing an analogy in para 35 observed as under -

“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 corelation 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 corelation 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 correlation. The insured (deceased) contributes his own money for which he receives the amount which has no correlation 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."

(emphasis supplied)

6) Later, in a recent judgment in the case of **'Sebastiani Lakra and others Vs. National Insurance Company Limited and Another, (2019) 17 SCC 465'**, this Court observed that deductions cannot not be allowed from amount of compensation either on account of insurance or pensionary benefits or gratuity or grant of employment to kith and kin of the deceased. The Court in para 12 noted as thus -

"12. The law is well settled that

*deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to "just compensation" under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his lifetime cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death.*

7) In view of the settled proposition of law, the question posed above is answered in negative. Hence, order impugned passed by High Court affirming the findings recorded by the MACT is hereby set-aside.

8) Now reverting to the issue of computation of compensation, in the present case, the deceased was

working as Principal and was in Government employment. His monthly salary was Rs. 48,196/-, which annually comes to Rs. 5,78,352/-. Further, on adding 30% towards future prospects (i.e., Rs. 1,73,505/-), the total sum comes to Rs. 7,51,858/-. Looking at the number of dependents, if 1/4<sup>th</sup> (i.e. Rs. 1,87,964/-) of the said amount is deducted, the total loss of dependency comes to Rs.5,63,893/-.

9) If 10% income tax is deducted on the said amount, the annual loss of dependency comes to Rs. 5,06,093/-. On applying the multiplier of 13, the total loss of dependency comes to Rs. 65,79,212/-. For funeral expenses and transportation of dead body, Rs. 75,000/- is added and further Rs. 40,000/- for love and affection is granted, then the total sum comes to Rs. 66,94,212/-.

10) In view of the foregoing, the appeal is allowed in part. The sum of Rs. 66,94,212/- is directed in substitution to the compensation as awarded by the MACT and affirmed by High Court. The said amount shall carry interest at the rate of 6% from the date of filing of the claim petition till its

realization. Insurance company shall pay the amount as directed above within a period of eight weeks.

11) Pending applications(s), if any, shall stand disposed of.

....., J.  
[J.K. MAHESHWARI]

....., J.  
[ARAVIND KUMAR ]

New Delhi;  
April 08, 2025.

ITEM NO.3

COURT NO.5

SECTION IV-C

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No. 26620/2023

[Arising out of impugned final judgment and order dated 21-03-2023 in MA No. 783/2020 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

PRAMOD KUMAR TIWARI

Petitioner(s)

VERSUS

PREMLAL GAUTAM & ORS.

Respondent(s)

[MEDIATION REPORT RECEIVED]

(IA No. 237516/2023 - EXEMPTION FROM FILING O.T.)

Date : 08-04-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI  
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) :

Mr. Vineet Dwivedi, AOR

For Respondent(s) :

Ms. Laxmi Chauhan, Adv.  
Mr. Anith Jonshan, Adv.  
Ms. Mrinal Gopal Elker, AOR

UPON hearing the counsel the Court made the following  
O R D E R

- 1) Leave granted.
- 2) The appeal is allowed in part in terms of the signed order. Pending application(s), if any, shall stand disposed of.

(NIDHI AHUJA)  
AR-cum-PS

(NAND KISHOR)  
ASSISTANT REGISTRAR

[Signed order is placed on the file.]