

**\* HIGH COURT OF DELHI : NEW DELHI**

**MAC APP.No.354 of 2008**

% Judgment reserved on: 30<sup>th</sup> May, 2008

Judgment delivered on: 4<sup>th</sup> July, 2008

1. Smt. Chander Bati  
W/o Sh. Ramesh Pal

2. Ramesh Pal  
S/o Sh. Taleram

Both R/o. E-123, Jeevan Park,  
Pankha Road, Uttam Nagar,  
New Delhi-110059 ..... Appellants  
Through: Mr.Varun Goswami, Adv.

Versus

1. Sh. A.Sai  
S/o Unknown  
C/o Sh. K.B. Krishnamurthy,  
M.P. (Lok Sabha), New Delhi.

2. Sh.K.B. Krishnamurthy,  
M.P. (Lok Sabha)  
Service to the effected through Secretary,  
Lok Sabha, Parliament House,  
New Delhi.

3. Sh.N. Srinivas Rao,  
S/o Sh.N. Venkate  
R/o Flat No.29, Madhvah Nagar,  
Hyderabad, (A.P.) .....Respondents  
Through: Nemo.

Coram:

**HON'BLE MR. JUSTICE V.B. GUPTA**

1. Whether the Reporters of local papers may  
be allowed to see the judgment? Yes

- |                                                           |     |
|-----------------------------------------------------------|-----|
| 2. To be referred to Reporter or not?                     | Yes |
| 3. Whether the judgment should be reported in the Digest? | Yes |

**V.B.Gupta, J.**

The present appeal under section 173 of the Motor Vehicles Act, 1988 (for short as the "Act") has been filed against the award dated 20.03.08 passed by Sh. Suresh Chand Rajan, Judge, Motor Accidents Claims Tribunal (for short as the "Tribunal"), Delhi.

2. Brief facts leading to the dispute are that Sohan Lal, the deceased suffered fatal injuries in a road accident on 02.11.2000. The deceased was riding on his Yamaha motor cycle, bearing registration no. DL4S-U-3845 on the road, on which Hotel Taj Mansingh was on his left side. Around 6.45 pm, a car Premier NE, bearing registration no. AP-9K-7542, being driven by Respondent no.1, came at a fast speed and was being driven in a rash and negligent manner and collided with the motor cycle of the deceased with great force and impact and after hitting the motor cycle, it stopped at a distance, when the general public gathered at

the spot. Under the pressure of the gathered public, the occupants of the car, after assuring of providing adequate treatment to Sohan Pal took him to the hospital. However, instead of getting the injured admitted to the hospital, they dropped him outside the hospital. On account of the aforesaid negligent and inhuman act of Respondents, Sohan Lal finally expired on account of his fatal injuries and excessive bleeding.

3. Vide impugned judgment, the tribunal awarded a compensation of Rs.4,24,230/- along with the interest @7% per annum for forbearance and detention of money from the date of filing of the petition till its realization.

4. It has been contended by Ld. Counsel for the Appellant that the Tribunal has not applied the provisions of multiplier and other calculations, properly and correctly, as envisaged under the Act. Further, the Tribunal has erred in holding that  $\frac{1}{2}$  is required to be deducted, on account of personal expenses of the deceased, being unmarried at the time of death. The Tribunal was wrong in granting a meager interest of 7% per annum for forbearance and

detention of money, thus the rate of interest is also liable to be increased.

5. Smt. Chander Bai, mother of the deceased appeared as PW1 and deposed that deceased was 24 years old at the time of alleged accident and left behind herself being his mother and Sh. Ramesh Pal, being his father. She further stated that his son was graduate and had passed three year course of studies prescribed by the Board of Technical Education, Delhi and awarded the Diploma in Electronics and Communication Engineering in First Division. After completion of his education, he joined M/s North Bridge Computers Communication Systems P. Ltd. and was getting a stipend of Rs.2,500/- per month.

6. However, no documentary evidence with regard to qualification and earnings of deceased has been placed on the file; therefore, the Tribunal adopted the minimum wages of a graduate to assess the earnings of the deceased.

7. In ***Sarla Dixit v. Balwant Yadav, AIR 1996 SC 1274***, the Apex Court has observed as under;

“So far as the adoption of the proper multiplier is concerned, it was observed that the future prospects of advancement in life and career should also be sounded in terms of money to augment the multiplicand. While the chance of the multiplier is determined by two factors, namely, the rate of interest appropriate to a stable economy and the age of the deceased or of the claimant whichever is higher, the ascertainment of the multiplicand is a more difficult exercise. The average gross future monthly income could be arrived at by adding the actual gross income at the time of death to the maximum which he would have otherwise got had he not died a premature death and dividing that figure by two. Thus the average gross monthly income spread over his entire future career, had it been available, would have been the gross monthly average income available to the family of the deceased had he survived as a bread winner.”

8. In a recent decision of this Court ***Sh. Narinder Bishal and Anr. v. Sh. Rambir Singh and Ors., MAC App. 1007-08/2006***, decided on 20.02.08 by Kailash Gambhir, J., it has been observed as under;

“For determining the earning of the deceased or victim of the accident, the claimants are supposed to prove the exact income of the deceased by leading some cogent and reliable documentary

evidence as to the nature of his employment or trade or business or in any other activity he was involved in and then the said income can be taken into consideration for determining the quantum of compensation and if in such a case, the claimants are further able to establish the future prospects as well, then the criteria laid down in Sarla Dixit's case would get attracted. There can be another category of cases where the claimants are able to establish the future prospects of the deceased by quantifying the amount to be earned by the deceased in future with the help of cogent, reliable and convincing evidence and in all such cases the tribunal can take into consideration such future increase as has been established by the claimants on record. The difficulty however, would arise in all those cases where although the claimants are able to sufficiently establish on record the educational qualification of the deceased or the nature of his employment whether skilled, semi-skilled or unskilled but fail to establish by any reliable evidence to prove the exact income of the deceased. In such cases, question arises whether the Tribunal can take into consideration the minimum wages and the periodical revision of minimum wages as are fixed by the Government under the Minimum Wages Act. To examine this question, it will have to be considered whether the revision which takes place under the Minimum Wages Act can be equated with the future prospects of a deceased. As would be evident from catena of judgments of the Supreme Court, the future prospects

have no correlation with the price index, inflation or denunciation of currency value. The future prospects would necessarily mean advancement in future career, earnings and progression in one's life. It could be considered by seeing, from which post a person began his career, what avenues or prospects he has while being in a particular avocation and what targets he/she would finally achieve at the end of his career. The promotional avenues, career progression, grant of selection grades etc. are some of the broad features for considering one's future prospects in one's career.

The minimum wage, in the very context of economy has a correlation with the growth and development of the nation's economy, postulating increase in the price index, reduction of purchasing power with the denunciation of currency value and consequent fixation of minimum wages giving some periodical increase so as to ensure sustenance and survival of the workman class. Keeping this in view, under no circumstance the revision of minimum wages can be treated on the same footing with the factor of future prospects.”

9. Thus, it is clear that once the income of the deceased is determined under the Minimum Wages Act, then increase in the Minimum Wages can also be taken into consideration as the minimum wages are revised by the

Government every year so as to meet the increase in the price index, inflationary trends and other economic factors.

10. A perusal of the minimum wages notified under the Minimum Wages Act shows that to neutralize increase in inflation and cost of living, minimum wages virtually increase more than double within a span of about 10 years. For example, minimum wages for a Graduate in the year 1991 were Rs. 1,215/- but in the year 2000, the same got increased to Rs. 3,284. Therefore, it can be safely said that the income of the deceased would have at least doubled with the passage of time.

11. After taking judicial facts and circumstances, the Ld. Tribunal has taken into consideration future advancement prospects of deceased while assessing the loss of dependency and held;

“Taking into account the method laid down in **Sarla Dixit v. Balwant Yadav AIR 1996 SC 1274 and General Manager, Kerala State Road Transport Corporation v. Susamma Thomas & Ors.**, the income of the deceased at the time of his death should be minimum be doubled so as to get the income which he would have been earning after 17 years. Thus this figure comes out to Rs.6,568/-. Now, the average of these two have to be taken

for assessing the average income of the deceased. It comes out to Rs.4,926/-. Out of this  $\frac{1}{2}$  is required to be deducted on account of personal expenses of the deceased as he was unmarried at the time of his death. Thus, after deducting Rs.2,463/- on account of personal expenditure the average annual dependency to the petitioners come to Rs.4,926/- - Rs.2,463/- x 12 + Rs.29,556/-."

12. Thus, under these circumstances, the Tribunal has rightly assessed the income of the deceased.

13. As regard the contention of applying appropriate multiplier is concerned, in ***Sarla Dixit (supra)***, the Apex Court has observed as under;

"It is necessary to reiterate that the multiplier method is logically sound and legally well-established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and awarded the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was. say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years - virtually adopting a multiplier of 45 - and even if one-third

or one-fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible. We are, aware that some decisions of the High Courts and of this Court as well have arrived at compensation on some such basis. These decisions cannot be said to have laid down a settled principle. They are merely instances of particular awards in individual cases. The proper method of computation is the multiplier-method. A departure, except in exceptional and extraordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability for the assessment of compensation. Some judgments of the High Courts have justified a departure from the multiplier method on the ground that Section 110-B of the Motor Vehicles Act, 1939 insofar as it envisages the compensation to be 'just', the statutory determination of a 'just' compensation would unshackle the exercise from any rigid formula. It must be borne in mind that the multiplier method is the accepted method of ensuring a 'just' compensation which will make for uniformity and certainty of the awards. We disapprove these decisions of the High Courts which have taken a contrary view. We indicate that the multiplier method is the appropriate method, a departure from which can only be justified in rare and extraordinary circumstances and very exceptional cases."

14. In this regard, the Apex Court has observed in ***New India Assurance Co. Ltd. v. Kalpana, I (2007) ACC 356 (SC)*** as under;

“The multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalising the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the multiplicand by way of annual interest. In ascertaining this, regard should also be had to the fact that ultimately the capital sum should also be consumed-up over the period for which the dependency is expected to last.”

15. In the present case, the age of the father of deceased is 48 years and the multiplier for the age of 48 is 13 as per Schedule II of the Act. Thus, the Tribunal has rightly adopted the multiplier of 13.

16. Further, I do not find any force in the contention of the Counsel for the Appellant that the Tribunal has wrongly deducted ½ of the income of the deceased towards the personal expenses, in ***New India assurance Co. Ltd. V.***

***Charlie and another, AIR 2005 Supreme Court 2157,***

the Apex Court has observed as under;

“What would be the percentage of deduction for personal expenditure cannot be governed by any rigid rule or formula by universal application. It would depend upon circumstances of each case.”

17. In the present case, the deceased, a young boy of 24 years old, was unmarried and the claimants are his father and mother. Therefore, the dependency has to be calculated on the basis that within two or three years the deceased would have married and raised his own family and the monthly allowance he was giving to his parents would have been cut down. Thus, in my view, the Tribunal has awarded just and reasonable compensation to the claimants.

18. As regards the award of interest @ 7% per annum by the Tribunal, in ***Abati Bezbaruah v. Deputy Director General, Geological Survey of India, (2003) 3 SCC 148,*** the Apex Court has observed as under;

“The question as to what should be rate of interest, in the opinion of this Court, would depend upon the facts and

circumstances of each case. Award of interest would normally depend upon the bank rate prevailing at the relevant time.”

19. In view of the above decision, I am of the opinion that the award of interest @ 7% cannot be considered to be lower side. I am, therefore, not inclined to interfere in the discretion exercised by the Tribunal in awarding 7% interest on the award amount.

20. In the light of the above discussion, I find myself in agreement with the Judgment of the Ld. Tribunal. I, therefore, do not find any infirmity in the impugned Judgment and the compensation awarded by the learned Tribunal is just and fair.

21. As a result, the present appeal is hereby dismissed.

**V. B. GUPTA  
(JUDGE)**

**4<sup>th</sup> July, 2008  
ac**