

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **MAC APP. NO.548/2007**

SATYA DEVI

.... Appellant

Through: Mr.Lalit Kumar Jha and Mr.
D.Rajeshwar Rao, Advocates.

versus

SH. SANTOSH LAXMAN TAWA & ORS.

..... Respondents

Through: Mr.D.K. Sharma, Advocate, for the
respondent no.3.

CORAM:

HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

J U D G M E N T (O R A L)

27.10.2010

: REVA KHETRAPAL, J.

By way of this appeal, the appellant seeks enhancement of the amount of compensation awarded to her by the Motor Accident Claims Tribunal by its Award dated 3rd October, 2006.

MAC APP NO. 548/2007

Page 1 of 6

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been compared and the digital data is as per
the physical file and no page is missing.

2. The facts briefly delineated are that on 7th February, 2003, one Ms. Nidhi Tibetia (hereinafter referred to as 'the deceased') aged 22 years and selected as a Captain in the Army died in a motor vehicular accident, when her scooty was hit by truck bearing number HM 12-FA-9191. The appellant, who is the mother of the deceased, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming a sum of ₹ 70,00,000/- (Rupees Seventy Lakhs) as compensation for the death of her daughter on account of the rash and negligent driving of the driver of the offending truck.

3. The Motor Accident Claims Tribunal after considering the evidence adduced by the appellant awarded to the appellant a sum of ₹ 14,36,000/-, less the amount of the interim award along with interest @ 7.5% per annum from the date of the petition till the date of the award (excepting for the periods not specifically allowed). Future interest @ 9% per annum was also awarded to the appellant after one month from the date of the award till realization.

4. Aggrieved and dissatisfied by the aforesaid award, the widowed mother of the deceased, who is the appellant herein, has

preferred the present appeal on three grounds. The first ground is that the Tribunal has wrongly deducted two-thirds from the total income of the deceased towards the personal expenses of the deceased and the amount which the deceased would have spent on her family, which in due course of time she would have raised. The second ground is that the multiplier factor should be considered at 18 instead of 11 as has been considered by the Tribunal, in view of the fact that the deceased was 23 years of age. The third ground is that no amount has been awarded by the learned Tribunal towards loss of estate of the deceased.

5. At the time of hearing, however, the sole ground pressed by the learned counsel for the appellant relying upon the decision of the Supreme Court in the case of *Sarla Verma and Ors. vs. DTC and Anr. (2009) 6 SCC 121* was the first ground. The other two grounds raised in the appeal, it may be noted, were rightly not pressed at the time of hearing as the award shows that the multiplier was rightly taken to be 11 in view of the fact that the age of the mother of the deceased was 52 years. The award also shows that non-pecuniary

damages for the loss of estate of the deceased were taken into account by the Tribunal though clubbed together with damages awarded for transportation of the body and funeral expenses, which too are non-pecuniary in nature.

6. As regards the first ground, it was urged by the learned counsel for the appellants, Mr.Lalit Kumar Jha that the Tribunal erred in deducting two-thirds of the income of the deceased while computing the amount of compensation payable to the appellant, as it was well settled that only one-half (50%) of the income of the deceased was liable to be deducted if the deceased was unmarried. Mr. D.K. Sharma, the learned counsel for the respondent no.3, New India Assurance Company Ltd. was unable to deny, as indeed he could not have, that the deduction liable to be made for a bachelor (which expression includes 'spinster') had been standardized by the Supreme Court in the case of *Smt.Sarla Verma (supra)* at one-half (50%) of the income of the deceased.

7. In view of the aforesaid, it is deemed expedient to recalculate the compensation awardable to the appellant, taking note of the fact

that her income has been assessed by the Tribunal to be ₹ 31,500/- per month. After taking into account her future prospects, one-half (50%) of the said income comes to ₹ 15,750/- per month, i.e. ₹ 1,88,000/- per annum. Applying the multiplier of 11 to the multiplicand of ₹ 1,88,000/-, the total pecuniary loss to the appellant comes to ₹ 20,68,000/-.

8. As regards the non-pecuniary damages, I find from the record that the learned Tribunal has cumulatively awarded a sum of ₹ 50,000/- on expenses of transportation of the dead body, funeral expenses and the loss of estate. The appellant, who appeared as PW1 in the witness-box, had testified that a sum of ₹ 40,000/- had been spent by her for transportation of the dead body from Pune to Delhi. To the said amount, a sum of ₹ 10,000/- appears to have been added by the Tribunal towards the loss of estate and towards funeral expenses though not specifically so stated. I see no cogent reason to vary the amount of non-pecuniary damages.

9. Thus, the appellant is held entitled to receive compensation in the sum of ₹ 21,23,000/-. The appellant shall also be entitled to

interest @ 7.5% per annum, from the date of petition till the date of award (excepting for the periods not specifically allowed).

10. The appeal is allowed to the above extent. The rest of the terms of the award shall remain the same. Trial Court records be sent to the concerned Tribunal immediately.


REVA KHETRAPAL
(JUDGE)

October 27, 2010
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