

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

+ **FAO 501/2000**

RANJU DEVI SATIA & ORS. Appellants
Through: **Mr. Sugriva Dubey, Advocate**

versus

**M/S CHANDANA STONE CRUSHER MILL
& ORS.** Respondents
Through: **Ms. Hetu Arora, Advocate for the
respondent No.3**

% **Date of Decision : FEBRUARY 11, 2011**

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?

ORDER (ORAL)

: REVA KHETRAPAL, J.

1. This appeal is directed against the judgment and award dated 12.10.2000 passed by the Motor Accident Claims Tribunal, Karkardooma, Delhi in Suit No.110/99/92 whereunder the Claims Tribunal awarded a sum of Rs.1,58,000/- with interest @ 12% per annum from the date of the filing of the petition till realization in

favour of the appellants and against the respondent No.3-M/s. National Insurance Company Limited.

2. Briefly stated the facts are that a road accident took place on 29.03.1992 near Banskandi Road, Kumbhirgram Road Junction within the jurisdiction of Police Station Silchar in District Cachar, which resulted in the death of two persons, namely, Sh. Prakash Chand Satia (husband of the appellant No.1 and father of the appellants No.2 and 3) and Sh. Gulab Chand, being the driver and pillion rider respectively of a Bajaj scooter, which was hit by a mini truck. Initially, a claim petition was filed by the appellants (being the widow and the children of the deceased) in the Claims Tribunal at Silchar but by the order dated February 01, 1999, passed in Transfer Petition (Civil) No.868/1998, the said Claim Petition was transferred to the Claims Tribunal at Delhi. The Claims Tribunal, after recording the evidence of the witnesses summoned by the appellants, held that the accident had been caused by the rash and negligent driving of the mini truck owned by respondent no.1 herein, M/s. Chandana Stone Crusher Mill and driven by respondent No.2, Badrul Islam and, accordingly, held the respondent No.3 – Insurance Company with which the said truck

was insured, liable to pay compensation to the claimants in the claim petition.

3. Dissatisfied with the amount of compensation awarded to them, the appellants-claimants have preferred the present appeal.
4. The sole contention of Mr. Sugriva Dubey, the learned counsel for the appellants, in the instant case is that a very meager amount of compensation was awarded to the appellants keeping in view the fact that the appellant No.1 in her deposition as PW-1 had testified that her husband was in the business of tea and was earning ₹ 3,000/- to ₹ 3,500/- per month. Ms. Hetu Arora, the learned counsel for respondent No.3, on the other hand, urged that the learned Claims Tribunal had rightly assessed the income of the deceased for the purpose of computation of loss of dependency of the appellants by resorting to the minimum wage rate on the date of accident for an unskilled workman which was ₹ 1,009/- p.m. The Tribunal after deducting one third towards the personal expenses of the deceased assessed the loss of dependency at ₹ 675/- per month, i.e., ₹ 8100/- per annum and after taking into account the future prospects of advancement in the life and career of the deceased, assessed the loss of dependency of the appellants

at ₹ 12,150/- per annum. Thereafter keeping in view the principles laid down in the case of ***General Manager, Kerala State RCT Vs. Susamma Thomas*** AIR 1994 SC 1631, the multiplier of 12 was taken to augment this multiplicand and the total loss of dependency of the appellants was assessed to be in the sum of ₹ 1,46,000/-. A further sum of ₹ 12,000/- was awarded by the Tribunal towards loss of consortium and funeral expenses, thereby arriving at the total figure of ₹ 1,58,000/-.

5. The appellant No.1, in her testimony as PW1, undoubtedly stated that her husband was earning ₹ 3,000/- to ₹ 3,500/- per month from the business of tea, but I find from the record that there is not an iota of evidence in this regard. There is also no evidence on record with regard to the educational or other qualifications of the deceased or as to any particular skills acquired by him during his lifetime. PW-1, in her deposition, admitted that her husband was not assessed to income tax, and that she had no documentary proof to show that her husband was earning ₹ 3,000/- to ₹ 3,500/- per month. It is also clear from the record that there is a total dearth of documentary proof in the shape of any bills, invoices etc. or by way of any registration certificate to show that the deceased was

engaged in the business of tea, and, as rightly observed by the Tribunal, there is not even an averment as to under what name and style, the deceased was conducting his aforesaid tea business. The Tribunal, thus, rightly observed that the stand taken by the appellant no.1 that her husband was engaged in the business of tea, and earning the aforesaid sum of ₹ 3,000/- to ₹ 3,500/- per month did not inspire confidence and rightly took the minimum wages of an unskilled worker as on 1.8.92 to be the yardstick for assessing the income of the deceased.. Deducting one-third therefrom towards personal expenses and maintenance of the deceased, the Tribunal worked out the contribution of the deceased to his family at ₹ 675/- per month or say ₹ 8,100/- per year. Keeping in view the fact that the deceased was admittedly 28 years of age on the date of the accident, a 50% increase was made to the income of the deceased taking into account his future prospects and, thus, the Tribunal arrived at the figure of ₹ 12,150/- per annum. Thus far, the method of calculation adopted by the Tribunal, in my view, cannot be faulted and the income of the deceased on the date of the accident must be held to be in the sum of ₹ 12,150/- per annum after deducting one-third therefrom towards his personal expenses

and maintenance and after adding 50% thereto towards future prospects.

6. As regards the multiplier adopted by the learned Tribunal for augmenting the multiplicand of ₹ 12,150/-, which represented the annual loss of dependency of the appellants, it is urged by the learned counsel for the appellants and, I think rightly so, that the Tribunal erred in applying the multiplier of 12 for arriving at the total loss of dependency of the appellants. A glance at the Second Schedule of Motor Vehicles Act shows that for the age group of victims between 25 and 30 years of age, the appropriate multiplier would be the multiplier of 18. However, keeping in view the fact that in case of *Sarla Verma (Smt.) and Ors. Vs. Delhi Transport Corporation and Anr.* (2009) 6 SCC 121, the multiplier of 17 is stated to be the appropriate multiplier for the age group of victims between 26 and 30 years of age, it is deemed expedient to adopt the said multiplier. Thus calculated, the total loss of dependency of the appellants works out to ₹ 2,06.550/-, i.e., ₹ 12,150/- per annum x 17. A further sum of ₹ 10,000/- is awarded towards the loss of consortium, ₹ 10,000/- towards the loss of love and affection and ₹ 5,000/- towards the funeral expenses of the

deceased. In all, a sum of ₹ 2,31,550/-, which may be rounded off to ₹ 2,32,000/- is awarded to the appellants.

7. In view of the aforesaid, the award amount is hereby enhanced by a sum of ₹ 74,000/- which is held to be payable by the respondent No.3 to the appellants No.1 to 3 alongwith interest @ 12% per annum from the date of the institution of the petition, that is, from 5.5.92 till the date of realization, as awarded by the Tribunal, within a period of 30 days from the date of receipt of this order by the respondent No.3.
8. The appeal is disposed of accordingly. A copy of this order be sent to the counsel for respondent no.3 for compliance.
9. Records of the Claim Tribunal be sent back forthwith.

**REVA KHETRAPAL
(JUDGE)**

February 11, 2011
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