

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

+ MAC.APP.No.547/2004

% Date of decision : 05th October, 2012

NATIONAL INSURANCE CO. LTD. Appellant
Through : Mr. L.K. Tyagi, Adv.

versus

VIRENDER KANWAR & ORS. Respondents
Through : Mr. B. Badrinath, Adv.

CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT(ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of `6,80,000/- has been awarded to claimants. The appellant seeks reduction of the award amount.
2. The accident dated 10th May, 1994 resulted in the death of Manish Kanwar. The deceased was survived by his parents and brother who filed the claim petition before the Claims Tribunal. The deceased was aged 26 years at the time of the accident. It was claimed that he was earning `5,000/- per month. The Claims Tribunal took the minimum wages of `3,000/- per month, added 50% towards future prospects, deducted 1/3rd towards his personal expenses and applied the multiplier of 18 to compute the loss of dependency at `6,48,000/-. `2,000/- has been awarded towards funeral expenses and `30,000/- towards loss of love and affection. The Claims Tribunal computed the total compensation as

`6,80,000/- along with interest @ 8% per annum from the date of filing of the petition till realization.

3. *Vide* order dated 10th December, 2004, this Court issued notice of the appeal on the limited question as to whether correct multiplier has been applied by the Claims Tribunal.

4. Learned counsel for the appellant submits that the deceased was unmarried and, therefore, the multiplier should have been applied according to the age of the parents. In the recent case of *Amrit Bhanu Shali v. National Insurance Company Ltd.*, 2012 (6) SCALE 1, the Supreme Court has held that in the case of death of an unmarried person, the multiplier has to be applied according to the age of the deceased and not according to the age of the parents. The submission of the learned counsel for the appellant, therefore, has no merit and is hereby rejected. It is next contended by learned counsel for the appellant that the deceased was aged 26 years and the appropriate multiplier according to the judgment of *Sarla Verma v. Delhi Transport Corporation*, (2009) 6 SCC 121 is 17 whereas the Claims Tribunal has applied multiplier of 18. It is submitted that the multiplier is, therefore, liable to be reduced to 17. There is merit in this contention. Following the judgment of the Supreme Court in *Sarla Verma* (supra), the multiplier is reduced from 18 to 17.

5. Learned counsel for the appellant submits that he has raised other grounds in the appeal. However, since the notice of this appeal was issued on the limited ground as to the applicability of the correct multiplier, the appellant is not entitled to urge the other

grounds.

6. Taking the income of the deceased as `4,500/- per month deducting 1/3<sup>rd</sup> towards the personal expenses and applying the multiplier of 17, adding `2,000/- towards funeral expenses and `30,000/- towards loss of love and affection, the total compensation is computed to `6,44,000/-.

7. The appeal is allowed and the award amount is reduced from `6,80,000/- to `6,44,000/- along with interest @ 8% per annum from the date of the filing of the claim petition till realization.

8. The appellant has deposited the entire award amount with the Claims Tribunal, out of which 50% amount has been released to the claimants in terms of order dated 10th December, 2004 and the remaining amount is with the Claims Tribunal in fixed deposit. The Claims Tribunal is directed to release the balance award amount in terms of this judgment to the claimants and the remaining amount in terms of this judgment be released to the appellant.

9. Learned counsel for the claimants submits that respondent No.1 Virender Kanwar has since expired on 14th July, 2012 and his rights have devolved upon the respondent No.2 alone. Respondent No.2 is, therefore, substituted in place of respondent No.1. The balance award amount be released to respondent No.2 alone.

10. Learned counsel for respondent No.2 further submits that respondent No.2 is mentally unsound and is presently living in mental asylum Raheja Hospital at Dwarka. In that view of the matter, it would be appropriate to keep the balance award amount

in fixed deposit and the monthly interest be released to respondent No.2 through his guardian/next friend. The respondent No.2 may file appropriate application before the Claims Tribunal and the Claims Tribunal shall ensure that the fixed deposit as well as the interest amount is utilized for the benefit of respondent No.2.

11. The statutory amount deposited by the appellant be released to the appellant.

J.R. MIDHA, J

OCTOBER 05, 2012

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