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

% *Judgment delivered on: 11th September, 2013*

+ **MAC.APP. 743/2012**

CHANDER KALA AND ANR. Appellants

Through: Mr. O.P. Mannie, Advocate.

Versus

SATPAL AND ORS. Respondents

Through: Mr. Ram Aashrey, Advocate
for Respondent No.3/Insurance
Company.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. The present appeal is filed by the appellants/claimants for enhancement of compensation amount against the impugned award dated 02.03.2012, whereby the learned Tribunal has awarded a total compensation as under:-

“1.	Loss of dependency (3110X12X13)	= Rs. 4,85,160/-
2.	Loss of Love and affection	= Rs. 25,000/-
3.	For funeral expenses	= Rs. 10,000/-
4.	Loss of estate	= Rs. 10,000/-

Total

Rs. 5,30,160/-
(Rupees Five lacs Thirty
thousand and One hundred sixty only)
”

2. Learned counsel appearing on behalf of the appellants/claimants has argued that at the time of accident, the age of the deceased was 29 years, therefore, the learned Tribunal ought to have applied the multiplier of 17. He submitted that keeping in view the age of the mother of the deceased, the learned Tribunal has wrongly applied the multiplier of 13.

3. To support his contention, learned counsel has relied upon a case of ***P.S.Somanathan & Ors. Vs. District Insurance Officer & Anr., 2011 ACJ 737***, wherein the Apex Court has held as under:-

23. The High Court unfortunately took a very technical view in the matter of applying the multiplier. The High Court cannot keep out of its consideration the claim of the daughter of the first claimant, since the daughter was impleaded, and was 49 years of age. Admittedly, the deceased was looking after the entire family. In determining the age of the mother, the High Court should have accepted the age of the mother at 65, as given in the claim petition, since there is no controversy on that. By accepting the age of mother at 67, the High Court further reduced the multiplier from 6 to 5, even if we accept the reasoning of the High Court to be correct. The reasoning of the High Court is not correct in view of the ratio in Sarla Verma, 2009 ACJ 1298 (SC). Following the same the High Court should have proceeded to compute the compensation on the age of the deceased.”

4. On the other hand, learned counsel appearing on behalf of the respondent No.3/Insurance Company has submitted that taking into

consideration the age of the mother of the deceased, the learned Tribunal has rightly applied the multiplier of 13.

5. I do not find any substance in the submission made by the learned counsel for the respondent No.3/Insurance Company.

6. Therefore, keeping in view the dictum of the Apex Court in the case of ***P.S. Somanathan*** (*supra*), the multiplier of 17 should have been applied by the learned Tribunal as the deceased was aged 29 years at the time of the accident. Moreover, in the case of ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.*** 2009 ACJ 1298, the Supreme Court has held that while applying the multiplier, the age of the deceased has to be considered.

7. In view of the above discussion and keeping in view the age of the deceased, I apply the multiplier of 17.

8. The second ground argued by the learned counsel for the appellants/claimants is that the deceased had left behind two dependents, i.e., widowed mother and unmarried sister. Despite that, the learned Tribunal has erred in deducting one half of the income towards personal expenses of the deceased whereas the learned Tribunal should have deducted one third of the income towards the same.

9. Learned counsel for the respondent No.3/Insurance Company has relied upon the case of ***Sarla Verma*** (*supra*), wherein the Supreme Court has held as under:-

“15. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependant on the father. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependant on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

10. Keeping in view the dictum of **Sarla Verma** (*supra*) and the fact that the deceased was a bachelor at the time of the accident, I am of the considered opinion that the learned Tribunal has rightly deducted one half of the income towards personal expenses of the deceased.

11. Learned counsel for the appellants/claimants submits that the compensation of Rs.25,000/- granted by the learned Tribunal on

account of loss of love and affection is on lower side. He submitted that keeping in view the case of ***Rajesh & Ors. Vs. Rajbir Singh, (2013) Scale 563***, it should have been Rs.1,00,000/- instead of Rs.25,000/-.

12. I find force in the submission of the learned counsel for the appellants/claimants. Therefore, in view of the aforesaid dictum, I grant Rs.1,00,000/- as compensation on account of loss of love and affection.

13. Consequently, the compensation amount would come as under:-

Sr. No.	On account of	Granted by the Id. Tribunal	Granted by this Court.
1.	Loss of dependency	Rs.4,85,160/-	Rs.6,34,440/-
2.	Loss of Love and affection	Rs. 25,000/-	Rs.1,00,000/-
3.	For funeral expenses	Rs. 10,000/-	Rs. 10,000/-
4.	Loss of estate	Rs. 10,000/-	Rs. 10,000/-
	Total	Rs.5,30,160/-	Rs.7,54,440/-

14. Resultantly, the enhanced compensation amount comes to Rs.2,24,280/- (Rs.7,54,440 – Rs.5,30,160/-).

15. Needless to state that the enhanced amount shall also carry interest @ 7.5% per annum from the date of filing of the claim petition till realization.

16. The respondent No.3/Insurance Company is directed to deposit the enhanced compensation amount with the Registrar General of this court within four weeks from today.

17. On deposit the Registrar General is directed to release the amount in favour of the appellants/ claimants in terms of the impugned award dated 02.03.2012 passed by the learned Tribunal.

18. Accordingly, Instant appeal is allowed on the above terms.

SURESH KAIT, J.

SEPTEMBER 11, 2013

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