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

% *Judgment delivered on: 5th May, 2014*

+ **MAC.APP.185/2013**

BIMLA DEVI & ANR. Appellants
Represented by: Mr.O.P.Mannie, Advocate.

Versus

MOHAN SINGH & ORS. Respondents
Represented by: Mr.K.L. Nandwani, Advocate for
Respondent No.3/Insurance
Company.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. The present appeal is directed against the impugned award dated 19.09.2012, whereby the learned Tribunal has granted compensation for a sum of Rs.3,76,000/- with interest at the rate of 7.5 % *per annum* from the date of filing of the claim petition till realization of the amount.

2. Vide the instant appeal, the appellants are seeking enhancement of the compensation noted above.
3. Mr.O.P. Mannie, learned counsel appearing on behalf of the appellants submitted that the deceased was 24 years of age on the date of the accident. He was bachelor and survived by the parents. Despite that the learned Tribunal had not added any amount in his actual income towards future prospects, whereas the appellants/claimants are entitled for addition of 50% towards the same.
4. On this issue, the learned counsel has relied upon a case of ***Rajesh and Ors. Vs. Rajbir Singh and Ors. 2013 (6) SCALE 563.***
5. Mr.Mannie, further submitted that while calculating the compensation on account of loss of dependency, the learned Tribunal had applied the multiplier of 9 keeping in mind the age of the parents, whereas, as per the settled law, the appropriate multiplier ought to have been taken by the learned Tribunal was 18.
6. To support his submissions, the learned counsel has relied upon the case of ***Mohd. Hasnain & Ors. Vs. Jagram Meena & Ors.*** bearing ***MAC. APP. No. 152/2014***, decided on 24.03.2014 by this Court.

7. Mr.Mannie, argued that the deceased died at the very young age, he was a bachelor, left behind his parents, who are deprived of being seen the good days of the family and career of the deceased. However, the learned Tribunal has awarded Rs.10,000/- towards loss of love and affection and Rs.5,000/- for funeral expenses, which is on a very lower side.

8. On the other hand, Mr. K.L.Nandwani, learned counsel appearing on behalf of the respondent No.3/Insurance Company while opposing the submissions made by learned counsel for the appellants/claimants submitted that the appellants have failed to establish that the deceased was in a permanent job, therefore, the learned Tribunal has not added any amount towards future prospects.

9. On this issue, the learned counsel for the respondent No.3/Insurance Company has relied upon the case of *Sarla Verma & Ors.Vs. DTC & Anr., (2009) 6 SCC121*, which has been further affirmed by the Full Bench of the Apex Court in the case of *Reshma Kumari & Ors. Vs. Madan Mohan & Anr.* delivered in *Civil Appeal No. 4646 of 2009* on 02.04.2013.

10. As regards the issue of multiplier is concerned, the learned counsel has argued that while taking note of the settled law and age of the parents of the deceased, the learned Tribunal has rightly applied the multiplier of 9.

11. So far as the non-pecuniary losses are concerned, learned counsel argued that keeping in mind the facts and circumstances of the case, the learned Tribunal had granted sufficient compensation towards loss of love and affection and funeral expenses.

12. I have heard the learned counsel for the parties and have perused the record.

13. As the issue of future prospects is concerned, this Court has dealt with the same in the case bearing MAC. APP No.846/2011 titled as ***ICICI Lombard General Insurance Co. Ltd. Vs. Angrej Singh & Ors.***, decided on 30.09.2013, wherein held as under:-

*“27. In view of above, this court is guided by the legal principles as set out in **Reshma Kumari** and **Rajesh** in order to assess the just compensation as it is envisaged in Section 168 of Motor Vehicles Act, 1988. In **Reshma Kumari**, the Apex Court affirmed the findings of **Sarla Verma**; and in **Rajesh**, the Hon’ble Supreme Court has agreed with the dictum of **Santosh Devi**. Specifically, for the assessment of future prospects in respect of the persons falling under the category of self-employment / fixed wages this court is guided by the dictum laid down in **Rajesh**. In my considered opinion, there is no contradiction in the dictum laid down by the Apex Court in the cases of **Reshma Kumari** and **Rajesh**.”*

14. Therefore, keeping in view the settled position of law and the age of deceased, i.e., 24 years at the time of the accident, I add 50% of the actual income of the deceased towards future prospects.

15. The issue of multiplier has been dealt with by this Court in the case of

Mohd. Hasnain & Ors. (*supra*), wherein held as under:-

“21. The maximum value of the multiplier is fixed at ‘18’, which is fairly representing the purchasing capacity of a victim in a stable economy. In the ascertainment of purchasing capacity of the victim, the age of the claimant has no relevance because of the fact that it has no nexus with the assessment of the loss of dependency.

*22. Moreover, subsequent to the introduction of Section 163A and the Second Schedule of the Act, the Apex Court in **Trilok Chandra**, introduced a structural change by increasing the numerical value of multiplier from ‘16’ to ‘18’, whereas it had been fixed at ‘16’ as per **Susamma Thomas**. Specifically, there was no variation in respect of fundamental premise of ‘multiplier method’ as held in **Susamma Thomas**. In **Trilok Chandra**, the apex court has taken the second schedule as a guiding factor.*

*23. Significantly, the Apex Court in the case of **Reshma Kumari** and **M. Nag Pal** has followed the age of the victim as a factor for selecting the multiplier. Specifically, in the selection of multiplier for the age group up to ‘15’ the Apex Court never considered the age of the claimants as a relevant factor. Therefore, this court finds no reason to adopt a different formula for the victim who is above ‘15’ years of age, whereas the relevant factors have been adopted by the Apex Court such as (i) age of the deceased (ii) income of the deceased and (iii) number of dependents. The Apex Court, while formulating the relevant factors for the assessment of loss of dependency, the age of the claimants never considered as a factor. Finally, in the assessment*

of dependency, the courts / tribunals are computing the purchasing capacity of the deceased; not the claimants. Therefore, I am of the considered opinion that the age of the victim is the proper factor for selecting the correct multiplier.”

16. Thus, keeping in mind the settled position of law, the view taken by this Court in the aforementioned case and the age of deceased, i.e., 24 years at the time of the accident, the appropriate multiplier would be 18.

17. It is ordered accordingly.

18. Undisputedly, the deceased died at the young age of 24 years. He was working as a driver and looking after his parents. Due to sudden death of the deceased, the parents have lost love and affection of their son, deprived of seeing his future progress and lost the support in their old age.

19. In view of the facts noted above and following the dictum of **Rajesh & Ors.**, (*supra*), it is appropriate to grant Rs.1,00,000/- towards loss of love and affection and Rs.25,000/- for funeral expenses.

20. It is ordered accordingly.

21. Thus, the compensation amount comes as under:

Sl. No.	Heads of Compensation	Compensation granted by ld. Tribunal	Compensation granted by this Court
1.	Loss of dependency	Rs.3,51,000/-	Rs.10,53,000/-
2.	Funeral Expenses	Rs. 5,000/-	Rs. 25,000/-
3.	Loss of Love & Affection	Rs. 10,000/-	Rs. 1,00,000/-
4.	Loss of Estate	Rs. 10,000/-	Rs. 10,000/-
	TOTAL	Rs.3,76,000/-	Rs.11,88,000/-

Accordingly, the total compensation amount is assessed at Rs.11,88,000/-.

22. Resultantly, an amount of Rs.8,12,000/- (Rs.11,88,000/- - Rs.3,76,000/-) is enhanced.

23. The enhanced amount shall carry interest @ 7.5% *per annum* from the date of filing of the claim petition till realization of the amount.

24. Accordingly, the respondent No.3/Insurance Company is directed to deposit the enhanced amount with upto date interest accrued thereon with the Registrar General of this Court within a period of five weeks from today, failing which, appellants/claimants shall be entitled for penal interest @ 12% *per annum* on account of delayed payment.

25. On deposit, the Registrar General is directed to release 50% of the same in favour of the appellants/claimants in terms of the award dated 19.09.2012 passed by the learned Tribunal. The balance 50% of the enhanced amount shall be kept in FDR for a period of three years.

26. In view of the above, the appeal is allowed.

SURESH KAIT, J.

MAY 05, 2014

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