

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

+ **RFA 276/2015**

% Date of Decision : 9th July, 2015

NEETU KHUBCHANDANI & ORS Appellants

Through: Mr. Puneet Taneja, Mr. Rajesh Mahindroo, Ms. Shahean, Advs. along with appellant nos.1 and 2 in person.

versus

SETHI AUTO SERVICES STATION & ANR Respondents

Through: Mr. Sanjay Jain, ASG with Mr. Kirtiman Singh, CGSC, Ms. Perna Shah Deo, Mr. Waize Ali Noor, Mr. Gyanesh Bharadwaj, Advs. for UOI.
Mr. Rajiv Garg, Mr. K.K. Aggarwal, Advocate for respondent No.1
Mr. Somiram Sharma, Mr. Vishnu Sharma, Advocates for respondent No.2

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellants have challenged the impugned judgment and decree dated 15th December, 2014 whereby the learned Trial Court awarded compensation of Rs.8,00,000/- to the appellants. The appellants are seeking enhancement of the compensation amount.

2. On 22nd July, 1991 at about 3.45 P.M., the deceased Manohar visited Indian Oil Petrol Pump near Ganga Ram Hospital for getting petrol filled up

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digital data is as per the physical file

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in his two wheeler scooter when it started raining heavily whereupon the deceased took shelter under a shed in the petrol pump. The wall of the petrol pump collapsed which resulted into the grievous injuries to the deceased on his head whereupon he was shifted to Sir Ganga Ram Hospital and he collapsed at about 5 P.M.

3. The deceased was aged about 43 years at the time of his death and was survived by his widow, two sons, a daughter and father who filed a suit for recovery of compensation of Rs.15,00,000/-. The deceased was carrying on the business of repair of the air conditioners. The learned Trial Court took his income as Rs.50,000/- per annum, deducted 1/3rd towards his personal expenses and awarded compensation of Rs.8,00,000/-. The learned Trial Court awarded interest @ 6% per annum from the date of the judgment.

4. Learned counsel for the appellants has urged on the following grounds at the time of hearing:

- (i) The future prospects of the deceased have not been taken into consideration.
- (ii) The personal expenses of the deceased have been taken as 1/3rd instead of 1/4th.
- (iii) The compensation has not been awarded towards loss of consortium, loss of estate and funeral expenses.
- (iv) The interest should have been awarded @ 9% per annum.

5. The appellants are entitled to just compensation under Sections 1A and 2 of the Fatal Accidents Act, 1885 which has to be computed according to the multiplier method. Reference may be made to **Gobald Motor Service Ltd. v. Veluswami**, 1962 (1) SCR 929, **Dr. Laxman Balkrishna Joshi v. Dr.**

Trimbak Bapu Godbole, AIR 1969 SC 128, *Ishwar Devi Malik. v. Union of India*, ILR (1968) 1 Delhi 59, *Lachman Singh v. Gurmit Kaur*, AIR 1979 P&H 50, *Bir Singh v. Hashi Rashi Banerjee*, AIR 1956 Cal. 555. The multiplier method has been accepted as legally sound method for determining compensation in death cases by the Supreme Court in *Lata Wadhwa v. State of Bihar*, (2001) 8 SCC 197; *Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy*, AIR 2012 SC 100 and Delhi High Court in *Jaipur Golden Gas Victims Association v. Union of India*, 164 (2009) DLT 346; *Nagrik Sangarsh Samiti v. Union of India*, ILR (2010) 4 Del 293; *Ram Kishore v. MCD*, 2007 (97) DRJ 445; *Ashok Sharma v. Union of India*, 2009 ACJ 1063.

6. In *Lata Wadhwa v. State of Bihar* (supra), a fire broke out in a factory in which sixty people died and one hundred and thirteen got injured. The Supreme Court awarded compensation to the victims on the basis of the multiplier method.

7. In *Jaipur Golden Gas Victims Association v. Union of India* (supra), the Division Bench of this Court awarded compensation to the victims of Jaipur Golden Fire Tragedy by applying the multiplier method.

8. In *Ashok Sharma v. Union of India* (supra), six children lost their lives by drowning during an annual training camp of NCC on account of negligence on the part of respondents. The compensation was awarded by applying the multiplier method.

9. The compensation in death cases according to the multiplier method is based on the pecuniary loss caused to the dependants by the death of the victim of the road accident. The dependency of the dependants is

determined by taking the annual earning of the deceased at the time of the accident. Thereafter, effect is given to the future prospects of the deceased. After the income of the deceased is established, the deduction is made towards the personal expenses of the deceased which he would have spent on himself. If the deceased was unmarried, normally 50% of the income is deducted towards his personal expenses. If the deceased was married and leaves behind two to three dependents, 1/3rd deduction is made; if the deceased has left behind four to six family members, deduction of 1/4th of his income is made and where the number of dependent family members exceeds six, the deduction of 1/5th of the income is made. The remaining amount of income after deduction of personal expenses is taken to be the loss of dependency to the family members which is multiplied by 12 to determine the annual loss of dependency. The annual loss of dependency of the dependants of the deceased is multiplied by the multiplier according to the age of the deceased or claimant whichever is higher. A table of multiplier is given in Schedule-II of the Motor Vehicle Act, 1988 but there was some error in the said table which has been corrected by the Supreme Court in the judgment of *Sarla Verma v. DTC*, 2009 ACJ 1298.

10. The principles relating to computation of compensation by multiplier method are summarized as under:

10.1 Multiplier

Age of the deceased (in years)	Multiplier
Upto 15	
15 – 20	18
21 – 25	18
26 – 30	17
31 – 35	16
36 - 40	15
41 - 45	14

46 - 50	13
51 - 55	11
56 - 60	09
61 - 65	07
Above 65	05

10.2 Deduction for Personal and Living Expenses

10.2.1 Deceased – unmarried

- (i) Deduction towards personal expenses. : 1/2 (50%)
- (ii) Deduction where the family of the bachelor is large and dependent on the income of the deceased. : 1/3rd (33.33%)

10.2.2 Deceased – married

- (i) 2 to 3 dependent family members. : 1/3rd deduction towards personal expenses.
- (ii) 4 to 6 dependent family members. : 1/4th deduction towards personal expenses.
- (iii) More than 6 family members : 1/5th deduction towards personal expenses.

10.3 Future Prospects

- (i) Below 40 years of age : 50% towards future prospects.
- (ii). Between 40 – 50 years : 30% towards future prospects.
- (iii). More than 50 years : No addition for future prospects.

11. Applying the aforesaid well settled principles of law to the present case, the findings of this Court are as under: -

11.1 The deceased was aged 43 years at the time of the accident and therefore 30% is added towards the future prospects and the income of the deceased is taken as Rs.65,000/- (Rs.50,000 + 30%) per annum.

11.2 The deceased has left behind five dependant family members and, therefore, the appropriate deduction towards personal expenses is taken as $\frac{1}{4}$ instead of $\frac{1}{3}$ and annual loss of dependency is taken as Rs.48,750/- (Rs.65,000/- minus $\frac{1}{4}$).

11.3 The deceased was aged 43 years at the time of the incident and appropriate multiplier at the age of 43 is 14. Applying the multiplier of 14, the total loss of dependency is computed to be Rs.6,82,500/-.

11.4 The learned Trial Court has not awarded any compensation for loss of consortium, loss of love and affection, loss of estate and funeral expenses. Rs.1,17,500/- is awarded towards loss of consortium, loss of love and affection, loss of estate and funeral expenses.

11.5 Taking income of the deceased as Rs.65,000/- per annum, adding 30% towards future prospects, deducting $\frac{1}{4}$ towards his personal expenses and applying the multiplier of 14 and adding Rs. 1,17,500/- towards loss of consortium, loss of love and affection, loss of estate and funeral expenses, the total compensation is computed as Rs.8,00,000/-.

12. Although the law with respect to the computation of compensation on the basis of multiplier method is well settled, the learned Trial Court appears to be ignorant of the same and instead of applying well settled multiplier method, the learned Trial Court applied the life expectancy method and computed the loss of dependency upto the age of 67 years. The learned Trial Court took the income of the deceased as Rs.50,000/- per annum, deducted $\frac{1}{3}^{\text{rd}}$ towards his personal expenses and multiplied with 24 to compute the loss of dependency at Rs.8,00,000/- whereas the appropriate multiplier to be applied according to the age of the deceased was 14.

13. Learned counsel for the appellant has referred to and relied upon ***MCD v. Association of Victims of Uphaar Tragedy*** AIR 2012 SC 100 to claim compensation of Rs.10,00,000/-. ***MCD Vs. Association of Victims of Uphaar Tragedy*** (supra) relates to the death of 1997 whereas the present case relates to the year 1991. That apart, the compensation has to be computed according to the well settled principles of law and this Court does not find any case for enhancement of compensation. After some hearing, learned counsel for the appellant accepts the computation of compensation of Rs.8,00,000/- and submits that the interest @ 9% p.a. be awarded to the appellants from the date of filing of the suit.

14. Applying the principles of Section 167 of the Evidence Act, the award of compensation of Rs.8,00,000/- by the learned Trial Court is upheld though not for the reasons mentioned therein but for the reasons mentioned in para 11 above as there is a sufficient evidence on record to justify the amount of compensation awarded by the learned Tribunal. As such, no case for enhancement of compensation is made out.

15. The Trial Court has awarded interest @ 6% per annum which is on a lower side. The Supreme Court has consistently awarded interest @ 9% per annum in ***MCD Vs. Association of Victims of Uphaar Tragedy*** (supra), ***Amresh Kumar v. Niranjana Lal Jagdish Parshad Jain*** (2015) 4 SCC 433, ***Mohinder Kaur v. Hira Nand Sindhi*** (2015) 4 SCC 434 and ***Jitendra Khimshankar Trivedi & Others v. Kasam Daud Kumbhar and Others***. Following the aforesaid judgments, the rate of interest is enhanced from 6% per annum to 9% per annum.

16. For the reasons given above, the appeal is partly allowed. The compensation of Rs.8,00,000/- awarded by the learned Trial Court against

respondent No.2 is upheld. However, the appellants shall be entitled to interest @ 9% per annum on the decretal amount of Rs.8,00,000/- from the date of filing of the suit till realization against respondent No.2.

17. Respondent No.2 has deposited the amount in terms of the decree passed by the learned Trial Court with the Registrar General of this Court in terms of order dated 19th May, 2015. The balance amount in terms of this judgment be deposited by respondent No.2 with UCO Bank, Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank A/c Neetu Khubchandani. After deposit of balance decretal amount, the respondent No. 2 is at liberty to take up the matter with respondent No.1 for recovery in terms of the agreement between respondents No.1 and 2.

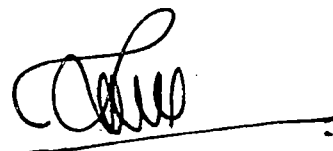
18. The mode of disbursement of the decretal amount shall be taken up after hearing the appellants.

19. List for directions on 23rd July, 2015.

20. The appellants shall remain present in the Court on the next date of hearing.

21. This Court appreciates the assistance rendered by Mr. Sanjay Jain, learned ASG in this matter.

22. Copy of this judgment be given *dasti* to counsel for the parties as well as UCO Bank, Delhi High Court Branch under the signature of the Court Master.


J.R. MIDHA, J.

JULY 9, 2015/ak